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FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1637]

RIN 7100–AF 28

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1030

[Docket No. CFPB–2018–0035]

RIN 3170–AA31

Availability of Funds and Collection of Checks (Regulation CC)

AGENCY: Board of Governors of the Federal Reserve System (Board) and Bureau of Consumer Financial Protection (Bureau).

ACTION: Final rule.

SUMMARY: The Board and the Bureau (Agencies) are amending Regulation CC, which implements the Expedited Funds Availability Act (EFA Act), to implement a statutory requirement in the EFA Act to adjust the dollar amounts under the EFA Act for inflation. The Agencies are also amending Regulation CC to incorporate the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amendments to the EFA Act, which include extending coverage to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam, and making certain other technical amendments.

DATES: This rule is effective September 3, 2019, except for the amendments to 12 CFR 229.1, 229.10, 229.11, 229.12(d), 229.21, and appendix E to part 229, which are effective July 1, 2020.

FOR FURTHER INFORMATION CONTACT:

Board: Gavin L. Smith, Senior Counsel, (202) 452–3474, Legal Division, or Ian C.B. Spear, Manager, (202) 452–3959, Division of Reserve Bank Operations and Payment Systems.

Bureau: Joseph Baressi and Marta Tanenhaus, Senior Counsels, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Regulation CC (12 CFR part 229) implements the EFA Act and the Check Clearing for the 21st Century Act (Check 21 Act).[1] Subpart B of Regulation CC implements the requirements set forth in the EFA Act regarding the availability schedules within which banks[2] must make funds available for withdrawal, exceptions to those schedules, disclosure of funds availability policies, and payment of interest. The EFA Act and subpart B of Regulation CC contain specified dollar amounts, including: (1) The minimum amount of deposited funds that banks must make available for withdrawal by opening of business on the next day for certain check deposits (''minimum amount'');[3] (2) the amount a bank must make available when using the EFA Act's permissive adjustment to the funds-availability rules for withdrawals by cash or other means (''cash withdrawal amount'');[4] (3) the amount of funds deposited by certain checks in a new account that are subject to next-day availability (''new-account amount'');[5] (4) the threshold for using an exception to the funds-availability schedules if the aggregate amount of checks on any one banking day exceed the threshold amount (''large-deposit threshold'');[6] (5) the threshold for determining whether an account has been repeatedly overdrawn (''repeatedly overdrawn threshold'');[7] and (6) the civil liability amounts for failing to comply with the EFA Act's requirements.[8]

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) made certain amendments to the EFA Act, and these amendments were effective on July 21, 2011.[9] Section 609(a) of the EFA Act,[10] as amended by section 1086(d) of the Dodd-Frank Act, provides that the Board and the Director of the Bureau shall jointly prescribe regulations to carry out the provisions of the EFA Act, to prevent the circumvention or evasion of such provisions, and to facilitate compliance with such provisions.

Additionally, section 1086(f) of the Dodd-Frank Act added section 607(f) of the EFA Act, which provides that the dollar amounts under the EFA Act shall be adjusted every five years after December 31, 2011, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $25.[11]

Finally, the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) made amendments to the EFA Act to extend its application to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.[12] The effect of these statutory amendments is to subject banks in American Samoa, the

[1] Expedited Funds Availability Act, 12 U.S.C. 4001 *et seq.;* Check Clearing for the 21st Century Act, 12 U.S.C. 5001 *et seq.*

[2] Section 229.2(e) of Regulation CC defines ''bank'' to include banks, savings institutions, and credit unions.

[3] The minimum amount is currently $200. See section 1086(e) of the Dodd-Frank Act; 12 U.S.C. 4002(a)(2)(D).

[4] The cash withdrawal amount is currently $400. 12 U.S.C. 4002(b)(3)(B).

[5] The new-account amount is currently $5,000. 12 U.S.C. 4003(a)(3).

[6] The large-deposit threshold is currently $5,000. 12 U.S.C. 4003(b)(1).

[7] The repeatedly overdrawn threshold is currently $5,000. 12 CFR 229.13(d). This dollar amount is not specified in the EFA Act, but is a result of the authority of the Board and the Bureau under section 604(b)(3) of the EFA Act (12 U.S.C. 4003(b)(3)) to establish reasonable exceptions to time limitations for deposit accounts that have been overdrawn repeatedly. The Board and the Bureau proposed to use their authority under section 604(b)(3) and also their authority under section 609(a) (12 U.S.C. 4008(a)), which is discussed below, to index the repeatedly overdrawn threshold in the same manner as the other dollar amounts. The Board and the Bureau stated that they believe that indexing the repeatedly overdrawn threshold would be consistent with the need identified by Congress to prevent such dollar amounts from being eroded by inflation. The Board and the Bureau did not receive comments suggesting that they should treat the repeatedly overdrawn threshold differently from the other dollar amounts, and they finalize this aspect of the proposal for the reasons stated in the proposal.

[8] The civil liability amounts are currently ''not less than $100 nor greater than $1,000'' for an individual action and ''not more than $500,000 or 1 percent of the net worth'' of a depository institution for a class action. 12 U.S.C. 4010(a).

[9] Public Law 111–203, sections 1062, 1086, 1100H, 124 Stat. 2081 (2010); 75 FR 57252 (Sept. 20, 2010).

[10] 12 U.S.C. 4008(a).

[11] 12 U.S.C. 4006(f).

[12] Public Law 115–174, section 208 (2018). The amendments that section 208 of the EGRRCPA made to the EFA Act became effective on June 23, 2018. *See* section 208(b) of the EGRRCPA.

Commonwealth of the Northern Mariana Islands, and Guam to the EFA Act's requirements related to funds availability, payment of interest, and disclosures. Banks in those territories would be able to avail themselves of the one-day extension of the availability schedules permitted by the EFA Act and § 229.12(e) of Regulation CC.

II. Summary of Proposed Rule, Comments Received, and Final Rule

On December 10, 2018, the Agencies published a notice of proposed rulemaking (proposal) to implement the statutory requirement in the EFA Act to adjust the dollar amounts under the Act for inflation and to implement the EGRRCPA amendments to the EFA Act.[13] The Agencies received 32 responses to their proposal from a variety of commenters, including depository institutions, service providers, trade associations, clearinghouses, consumer organizations, and private individuals.[14] Nine commenters explicitly expressed general support for the proposal, two additional trade association commenters specifically supported the proposal's calculation methodology and timeframes, and twelve commenters specifically supported the proposed one-year effective date. As discussed in more detail below, three institutions opposed basic tenets of the statutory requirements based on concerns about loss to institutions due to customer fraud: the first disagreed altogether with need to make inflationary adjustments for purposes of funds availability; the second disagreed with adjusting the statutory dollar amounts every five years; and the third opposed basing the hold amount on the CPI, stating that individual check amounts are not reflective of inflation.[15] Some commenters addressed other specific aspects of the proposal. As discussed in more detail below, the Agencies considered all of the comments received and are adopting the amendments to Regulation CC described below.

A. Effective Dates for Inflation Adjustments

The Agencies continue to believe, as stated in the proposal, that section 607(f) of the EFA Act is reasonably interpreted to provide for five years to elapse between a given set of adjustments and the next set of adjustments, with the first set of adjustments occurring sometime after December 31, 2011. The Agencies believe that Congress intended to balance its concern about changes being too frequent or abrupt with the need to prevent the EFA Act's dollar amounts from being eroded by inflation. As regulators of depository institutions, the Agencies are likewise familiar with the challenges that institutions can face if changes to regulatory requirements are too frequent or abrupt. Congress balanced these concerns by providing that the adjustments would be effective at five-year intervals; by providing that the first set of adjustments would not occur until after December 31, 2011, which ensured that at least a full calendar year would elapse after the Dodd-Frank Act's enactment in mid-2010; and by providing that the adjustments would be rounded to the nearest multiple of $25.

In their December 2018 proposal, the Agencies stated they expected to publish the first set of adjustments as a final rule in the first quarter of 2019, with a proposed effective date of April 1, 2020. The Agencies further stated they expected to publish the second set of adjustments in the first quarter of 2024, with an effective date of April 1, 2025. For each subsequent set of adjustment, the Agencies proposed an effective date of April 1 of every fifth year after 2025. The Agencies stated their belief that the proposed effective dates would provide institutions with sufficient time to make any necessary disclosure and software changes and the Agencies requested comment on the proposed effective dates for the adjustments.

Fourteen commenters addressed the amount of time between the Agencies' publication of a final rule setting forth the inflation adjustments and the rule's effective date. Of those, twelve commenters supported the Agencies' proposed one-year interim, one commenter requested 18 months, and another requested two years. Two of the commenters that supported the one-year interim recommended that, if the Agencies do not release the final rule by April 1, 2019, the effective date should be extended such that it is at least one year after the release date of the final rule.

For the reasons set forth in the proposal and above, the Agencies are finalizing as proposed the one-year interim between publication of the first set of adjustments and the adjustments' effective date. Because the Agencies are releasing this final rule in June 2019, the effective date for the final rule is July 1, 2020. Further, the Agencies anticipate carrying this one-year interim forward for future adjustments. Specifically, § 229.11(a) of the final rule states that the relevant EFA Act dollar amounts, as reflected in Regulation CC, shall be adjusted effective on July 1, 2020, on July 1, 2025, and on July 1 of every fifth year after 2025. The Agencies anticipate issuing a rule in the **Federal Register** setting forth the inflation adjustments at least one year before the effective date of each ensuing adjustment. For example, the Agencies anticipate publishing in the first half of 2024 the second set of inflation adjustments, which will become effective July 1, 2025.[16]

In addition to expressing general support for the timeframes in the proposal, one commenter specifically stated that the industry will benefit from having a predetermined schedule for making future updates to the EFA Act dollar amounts. Two commenters additionally requested that the Agencies tie the inflation adjustment effective dates to the effective dates of any other disclosure changes so depository institutions would not have to make other changes to disclosures in the interim years.

The Agencies believe that institutions will benefit from having their implementation of the statutorily-required inflation adjustments occur on a predetermined five-year cycle and, as noted above, that section 607(f) of the EFA Act is reasonably interpreted to provide for five years to elapse between a given set of adjustments and the next set of adjustments. Thus, the Agencies are finalizing the rule as proposed with the five-year cycle between inflation adjustments. Nonetheless, as stated above, the Agencies are cognizant of the potential burden on institutions if

[13] 83 FR 63431, Dec. 10, 2018. In their December 2018 **Federal Register** notice, the Agencies also provided an additional opportunity for public comment on certain amendments to the funds-availability provisions in Regulation CC that the Board proposed in 2011. The Agencies are not herein addressing the Board's 2011 proposal or the comments received thereon.

[14] The Board received 18 comments and the Bureau received 23. Of the 41 total comments received, nine commenters submitted identical comment letters to both Agencies.

[15] Because the statute is clear in its directives to make inflationary adjustments to dollar amounts under the EFA Act every five years based on the CPI–W, the Agencies are finalizing the rule as proposed with regard to these fundamental statutory requirements.

[16] The effective dates are consistent with section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160, 12 U.S.C. 4802). That section provides that new regulations and amendments to regulations prescribed by Federal banking agencies, including the Board (but not the Bureau), that impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form (with certain exceptions).

regulatory changes are too frequent or abrupt. Accordingly, the Agencies recognize the benefit of making efforts, if appropriate and feasible, to coordinate the effective dates of future rulemakings effecting changes to disclosures required by the funds-availability provisions in Regulation CC subpart B with the predetermined effective dates for the inflation adjustments to the dollar amounts in Regulation CC subpart B that are set forth herein.

B. Methodology for Inflation Adjustments

1. Measurement of Underlying Inflation

EFA Act section 607(f) does not specify which month's CPI–W should be used to measure inflation. The Agencies proposed to use the July CPI–W, which is released by the Bureau of Labor Statistics in August. The Agencies proposed to use the aggregate percentage change in the CPI–W from July 2011 to July 2018 as the initial inflation measurement period for the first set of adjustments. The Agencies proposed that the second set of adjustments would be based on the aggregate percentage change in the CPI–W for an inflation measurement period that begins in July 2018 and ends in July 2023. And, the Agencies proposed that each subsequent set of adjustments would be based on the aggregate percentage change in the CPI–W for an inflation measurement period that begins in July of every fifth year after 2018 and ends in July of every fifth year after 2023. The Agencies stated in their proposal that this use of July CPI–W, starting with the July 2011 CPI–W, aligns with section 607(f)'s effective date of July 21, 2011. The Agencies specifically requested comment on this approach.

Most commenters that addressed the issue supported the Agencies' proposed inflation calculation methodology. However, one commenter recommended that the Agencies base the calculation of inflation on the change in the CPI–W from July 2013 to July 2018 on the grounds that it would result in a lower aggregate percentage change for the first set of adjustments. The Agencies are finalizing the rule as proposed with the first set of inflation adjustments—published herein and effective July 1, 2020—based on inflation, as measured by the CPI–W, from July 2011 to July 2018. As discussed in the proposal, the Agencies continue to believe it is appropriate for the inflation adjustments to be based on underlying inflation since the effective date of the relevant Dodd-Frank Act provisions, which is July 21, 2011. The Agencies do not believe that the need identified by Congress to prevent the relevant dollar amounts from being eroded by inflation would be served by omitting the period of July 2011 to July 2013 from the Agencies' calculation, as the commenter advocated. The second set of inflation adjustments—which the Agencies anticipate publishing in the first half of 2024 and which will be effective July 1, 2025—will be based on underlying inflation from July 2018 through July 2023. The third set of adjustments—which the Agencies anticipate publishing in the first half of 2029 and which will be effective July 1, 2030—will be based on inflation from July 2023 through July 2028.

2. Aggregate Percentage Increase

Section 607(f) of the EFA Act provides that the adjustments must be based on the ''annual percentage increase'' in the CPI–W, but does not specify how the adjustment must be made in the event that the CPI–W is negative for one or more years in the inflation measurement period. The Agencies maintain their position from the proposal [17] that it is a reasonable interpretation of section 607(f) to account for negative movements in the CPI–W on a year-to-year basis and to include those movements when measuring the underlying inflation that is the basis for calculating adjustments to the dollar amounts in subpart B of Regulation CC. Of the few commenters that addressed this issue, most supported the Agencies' proposed approach, and the Agencies are adopting it in the final rule.

Further, the Agencies proposed an approach under which the five-year adjustments to the dollar amounts in Regulation CC subpart B would always be zero or upward, never downward. Specifically, the Agencies proposed that if there is no aggregate percentage increase (zero increase) in the CPI–W or an aggregate percentage decrease (negative increase) in the CPI–W during the five-year inflation measurement period, then there would be no downward adjustments to the dollar amounts in Regulation CC subpart B.

One depository institution commented that the proposed approach could cause funds-availability risks to institutions under certain economic scenarios of sustained deflation (negative inflation). Another institution characterized the Agencies' proposed approach as being somewhat arbitrary but generally agreed that the aggregate change would most likely be zero or positive. Conversely, a consumer organization explicitly agreed with the proposed approach and stated that negative inflation should not result in decreased funds availability to consumers.

Under the Agencies' final rule, as proposed, the adjustments to the dollar amounts in Regulation CC subpart B will always be zero or upward, never downward. The Agencies continue to believe this approach is a reasonable interpretation of the phrase ''annual percentage increase'' in EFA Act section 607(f), in that reading out the word ''increase'' from the statute would not be consistent with the statutory scheme. Further, as noted in their proposal,[18] the Agencies reiterate that, since 1939, no aggregate change in the CPI–W across a five-year period has been negative. Nonetheless, if it were to become necessary and appropriate in the future, the Agencies could consider steps to address the funds-availability risks to institutions that could be associated with a sustained—*i.e.,* more-than-five-year—period of deflation, if any such period of deflation were ever to actually occur.

3. Rounding to the Nearest Multiple of $25

EFA Act section 607(f) states that the dollar amounts under the Act shall be adjusted every five years for inflation, as measured by the CPI–W, ''rounded to the nearest multiple of $25.'' In keeping with that statutory directive, the Agencies proposed that, if there is an aggregate percentage increase in any five-year inflation measurement period, then the aggregate percentage change would be applied to the dollar amounts in Regulation CC, and those amounts would be rounded to the nearest multiple of $25 to determine the new adjusted dollar amounts that appear in the regulation.[19]

Two depository institutions and two trade associations recommended rounding to a different value than $25, including rounding to the nearest $100 or to the nearest place value or setting the minimum amount at $300, on the grounds of reducing institutions' costs by reducing the frequency of the inflation adjustments and reducing consumer confusion. The Agencies

[17] *See* 83 FR 63431 at 63433, Dec. 10, 2018.

[18] *See* 83 FR 63431 at 63433 footnote 14, Dec. 10, 2018.

[19] For example, if the CPI–W in July of Year X and in July of Year X + 5 were 100 and 114.7, respectively, the aggregate percentage change that results from the change in the CPI–W would be 14.7%. If the applicable dollar amount in the regulation was $200 for the prior period, then the adjusted figure in the regulation would become $225, because the calculated change of 14.7 percent of $200, which is $29.40, results in rounding to $225 as that would be the nearest multiple of $25.

believe that this suggested approach would be inconsistent with the language of section 607(f) of the EFA Act that expressly refers to ''rounded to the nearest multiple of $25.'' Accordingly, the Agencies are adopting a final rule under which the adjusted dollar amounts in the regulation are rounded to the nearest multiple of $25.

4. Notice and Comment

One depository institution suggested that the Agencies allow for public comment each time the Agencies adjust the dollar amounts in the regulation for inflation. The commenter stated that this approach would allow institutions and the Agencies to consider whether the adjustments continue to be cost effective and to ensure that the adjustments benefit consumers enough to justify the additional costs to institutions.

Congress has required the Agencies to adjust dollar amounts under the EFA Act for inflation. If, as the commenter suggests, the Agencies were to obtain public comment in advance of future five-year inflation adjustments, those comments could not serve as a legal basis for the Agencies to override the fundamental statutory requirement to effectuate inflation adjustments. In addition, the Agencies are herein adopting the methodology for the calculations underlying the statutorily-required inflation adjustments, including future five-year adjustments, and the Agencies have adopted that methodology through notice-and-comment rulemaking. Accordingly, and as stated in the Agencies' proposal,[20] with respect to future inflation adjustments for subsequent five-year periods, the Agencies continue to expect to find that notice and opportunity for public comment for the adjustments is impracticable, unnecessary, or contrary to the public interest, because the calculation methodology for the adjustments is set forth herein and future execution of the adjustments will be technical and non-discretionary. *See* 5 U.S.C. 553(b)(B). For example, the Agencies have determined in the final rule set forth herein that the second set of inflation adjustments to the dollar amounts in Regulation CC will be based on inflation as measured by the CPI–W from July 2018 through July 2023. As noted above, the Agencies anticipate publishing those adjustments in the **Federal Register** in the first half of 2024, to be effective July 1, 2025, so that institutions will have sufficient time to implement the inflation adjustments. Further, the Agencies are always open to feedback about how their rules could be improved, and they take appropriate steps in response to such feedback.

C. Burden on Institutions From Implementing the Inflation Adjustments

Many commenters, including credit unions and credit union trade associations, expressed concern regarding the burden imposed on institutions to implement the inflation adjustments. Several credit union commenters stated that the cost burden imposed on institutions to implement the inflation indexing could exceed the Agencies' estimate in the proposal, noting in particular the printing and distribution costs associated with sending notices to customers of the changes in the institutions' funds-availability policies (commonly referred to as ''change-in-terms'' notices).[21] One credit union commenter summarized this position by stating that the Agencies' cost estimate constitutes a ''basic approximation'' that left out other potential costs, including communication with members before each change. This section discusses commenter concerns and suggestions regarding the burden imposed by the inflation indexing. Those concerns are also discussed below in the Agencies' analyses pursuant to the Regulatory Flexibility Act, the Board's analysis pursuant to the Paperwork Reduction Act, and the Bureau's analysis pursuant to section 1022 of the Dodd-Frank Act.

1. Notices to Customers of Changes to Institutions' Funds-Availability Policies

As noted above, commenters expressed concern regarding the burden associated with the requirement to send customers a change-in-terms notice reflecting the inflation-adjusted Regulation CC funds-availability amounts. One commenter specifically voiced concern about the disproportionate cost impact on smaller credit unions for printing and mailing notices in general and, in specific, the change-in-terms notice. To reduce that burden, the commenter also urged the Agencies to reduce the length of the required funds-availability disclosures or permit them to accompany monthly account statements. Another commenter suggested reducing burden by establishing an exception within the Regulation CC provision, § 229.18(e), that requires the change-in-terms notice. Specifically, the commenter suggested that an institution not be required to provide a change-in-terms notice when its funds-availability policy changes due to the periodic inflation adjustments to the Regulation CC funds-availability dollar amounts that are mandated by section 607(f) of the EFA Act.

The Regulation CC change-in-terms provision (§ 229.18(e)) mirrors the statutory change-in-terms provision, which is set forth in EFA Act section 605(c)(2). That statutory provision requires an institution to send a written notice to consumer account holders at least 30 days before implementing a change to the institution's funds-availability policy and further states that ''any change which expedites the availability of such funds shall be disclosed not later than 30 days after implementation.'' *See* EFA Act section 605(c)(2) (12 U.S.C. 4004(c)(2)).

In their final rule, the Agencies decline to establish in Regulation CC an exception to the requirement to send a change-in-terms notice, as this requirement is established by statute. However, the Agencies note several ways that depository institutions may lower their costs under the rule, including providing the required notice electronically and sending it with the monthly account statement, as follows.

Electronic delivery is permitted where the institution has complied with the requirements of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 *et seq.* (''E-Sign Act'')). *See* comment 229.15(a)–1. Further, the regulation already permits an institution to send a required change-in-terms notice on or with a monthly account statement, and this is so irrespective of whether the institution sends the notice and statement electronically or in paper form. *See* comment 229.18(e)–1 (stating that the change-in-terms notice required by § 229.18(e) ''may be given in any form as long as it is clear and conspicuous''). In addition, an institution need not set forth the entirety of its revised funds-availability policy in its change-in-terms notice. If an institution chooses to provide the notice by sending a complete new availability disclosure, the institution must direct the customer to the changed terms in the disclosure by use of a letter or insert, or by highlighting the changed terms in the disclosure. *See* comment 229.18(e)–1. And finally, as discussed above, the Agencies anticipate providing one year between the date of publication in the **Federal Register** of the inflation-adjusted amounts and the

[20] *See* 83 FR 63431 at 63433 footnote 17, Dec. 10, 2018.

[21] Regulation CC § 229.18(e) requires a depository institution to send customers a written notice regarding a change to the bank's funds-availability policy. The changes to the availability policies to reflect the statutorily-required inflation adjustments, as implemented by this final rule, would trigger the requirement to send a change-in-terms notice.

date on which the adjusted amounts become effective. The Agencies believe that this one-year timeframe provides institutions with a sufficient interim in which to plan to send their change-in-terms notices in a way that minimizes the burden associated with doing so. In light of all of these factors, and given that the inflation adjustments are statutorily required and will occur only once every five years, the Agencies do not believe that the burden concerns raised warrant any modification to the requirement to send change-in-terms notices.

2. Minimum Availability Amounts Required by the Regulation

To obviate the need to send a change-in-terms notice to consumers every five years when the dollar amounts in Regulation CC are adjusted for inflation, one depository institution commented that the regulation should permit institutions to provide to customers a funds-availability policy disclosure that includes a phrase such as ''minimum amount required by regulation,'' rather than setting forth an actual dollar figure that potentially (if inflation is sufficient) must be updated every five years. The Agencies decline to adopt this approach because they believe it would result in consumer confusion. Specifically, the Agencies believe that one of the purposes of the statute, that consumers be informed of the specific amount of deposits available to them under an institution's funds-availability policy, would be foreclosed under the commenter's suggested approach.

3. Overall Opposition to the Inflation Adjustments

Three commenters opposed making inflation adjustments altogether. One commenter disagreed with adjusting the statutory dollar amounts every five years, because it opens institutions up to increased losses from fraud. Another stated that it does not make sense to base the funds-availability hold amounts on the CPI–W, because individual check amounts are not reflective of inflation. And, another stated that making higher dollar amounts available would end up imposing costs on consumers, because institutions would inevitably pass on to consumers their higher costs from fraud losses that would result from the higher funds-availability amounts.

While the Agencies are cognizant of the burden regulations place on institutions, the inflation adjustments to the dollar amounts under the EFA Act are required by statute. The Agencies understand that Congress, in providing for a five-year cycle between inflation adjustments, intended to balance concerns regarding burden with the need to prevent the EFA Act's dollar amounts from being eroded by inflation.[22] Congress also specified that the CPI–W should be used.

D. Regulation CC Changes To Implement the EGRRCPA Amendments to the EFA Act

Two commenters supported the Agencies' proposed changes to Regulation CC to implement the EGRRCPA amendments to the EFA Act that extended its application to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. The proposed changes included updating the definitions of ''state'' and ''United States'' in Regulation CC to include these territories as well as other conforming amendments. No commenters opposed the proposed changes. In their final rule, the Agencies adopt these changes as proposed.

E. Technical Amendments to Appendix A of Regulation DD

The Bureau proposed a technical, non-substantive amendment to its Regulation DD, 12 CFR part 1030, to add a new paragraph (e) to § 1030.1 that would cross-reference the Bureau's joint authority with the Board to issue regulations under certain provisions of the EFA Act that are codified within Regulation CC. The Bureau also proposed related technical, non-substantive amendments to § 1030.7(c), and the commentary thereto, which states that interest shall begin to accrue not later than the business day specified for interest-bearing accounts in the EFA Act and Regulation CC. In addition, the Bureau proposed to fix technical errors in Appendix A to Regulation DD within the formulas that demonstrate how to calculate annual percentage yield (APY) and annual percentage yield earned (APYE). Specifically, certain terms within the formulas should be shown as exponents but currently are erroneously not shown as exponents. These typographical errors were inadvertently introduced into the APY and APYE formulas in Appendix A when the Bureau issued its restatement of Regulation DD in December 2011.[23]

The Bureau received one comment regarding its proposed correction of technical errors in Appendix A to Regulation DD, recommending that the Bureau consult with the National Credit Union Association (NCUA) to determine whether it is necessary to amend Appendix A within credit unions' equivalent regulation under the Truth in Savings Act (TISA), specifically, Appendix A to 12 CFR part 707. The technical errors that are present in Appendix A to Regulation DD are not present in Appendix A to 12 CFR part 707. Thus, the Bureau has no reason to believe it is necessary for the NCUA to amend Appendix A to 12 CFR part 707. In addition, as described below, the Bureau has performed interagency consultations regarding this final rule, including with the NCUA.

The Bureau is adopting as proposed the above-described technical, non-substantive amendments to Regulation DD and Appendix A thereto.

III. Legal Authority

In issuing the final rule, the Agencies are exercising their authority under section 609(a) of the EFA Act (12 U.S.C. 4008(a)) to amend subpart B and, in connection therewith, subpart A, of Regulation CC to prescribe regulations to carry out the provisions of the EFA Act, to prevent the circumvention or evasion of such provisions, and to facilitate compliance with such provisions.[24] Additionally, with respect to the technical amendments to Regulation DD, the Bureau is exercising its authority under section 269(a) of TISA (12 U.S.C. 4308(a)) to prescribe regulations to carry out the purpose and provisions of TISA.

IV. Administrative Law Matters

A. Bureau's Dodd-Frank Act Section 1022(b)(2)(A) Analysis

1. Overview

Section 1022(b)(2)(A) of the Dodd-Frank Act provides that in prescribing a rule under the Federal consumer financial laws, the Bureau shall consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule; the impact on depository institutions and credit unions with $10 billion or less in total

[22] Consistent with this view, the EFA Act's legislative history shows that one intent of the Act was to ''provide a fairer balance between the banks' interest in avoiding fraud and consumers' interests in having speedy access to their funds.'' S. Rep. No. 100–19, at 28 (1987); see also H.R. Rep. No. 100–52, at 14 (1987) (describing the efforts ''to protect depository institutions while furthering the original goals of the legislation to provide shorter time periods for funds availability.'')

[23] 76 FR 79276 (Dec. 21, 2011).

[24] Additionally, section 604(b)(3) of the EFA Act (12 U.S.C. 4003(b)(3)) authorizes the Agencies to establish reasonable exceptions to time limitations for deposit accounts that have been overdrawn repeatedly. As noted above, the Agencies also rely on this authority in adjusting the repeatedly overdrawn threshold in 12 CFR 229.13(d).

assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.[25] The Bureau requested comment on the preliminary analysis as well as the submission of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the rule. The Bureau received four comments on the preliminary analysis, which it has considered in developing this final analysis.

This analysis considers the benefits, costs, and impacts of this final rule using a pre-statutory baseline. That is, the Bureau's analysis below considers the benefits, costs, and impacts of the relevant provisions of the EGRRCPA combined with this final rule relative to the regulatory regime that pre-dates the EGRRCPA.[26]

2. Potential Benefits and Costs to Consumers and Covered Persons

This final rule adjusts for inflation the funds that must be available as required by the EFA Act and Regulation CC. Moreover, depository institutions located in American Samoa, the Northern Mariana Islands, and Guam will now be required to comply with the provisions in the EFA Act and subpart B of Regulation CC related to funds availability, payment of interest, and disclosures to their customers. The final rule keeps the expected losses to depository institutions constant in real terms by adjusting for inflation the funds that must be available. Thus, the Bureau does not expect any potential benefits, costs, or impacts to consumers or covered persons as a result of the adjustment methodology, other than the paperwork costs discussed below. The adjustments and methodology in this rule are technical, and they merely apply the statutory method for adjusting amounts that must be available to consumers.

The Bureau estimates that covered persons will face an average paperwork cost of approximately $2,241 every five years to update notices already sent to consumers.[27] Specifically, the Bureau estimates that compliance will require 60 hours every five years. The Bureau further assumes an average hourly wage of $37.35, as explained below.

In the proposed 1022(b)(2) analysis, the Bureau used the average hourly wage rate for compliance officers of $33.17. The revised average hourly wage rate reflects two adjustments. First, the Bureau is using figures reported in the Occupational Employment Statistics for May 2018 instead of May 2016. Second, two commenters observed that implementation requires staff besides compliance officers to make system updates and that technical staff might have a higher average hourly wage. The Bureau does not have representative data on the combinations of staff that would be used in recurring system changes of the type required by this rule. The Bureau agrees, however, that the prior estimate likely underestimated the average hourly cost. The second adjustment takes some account of differences in staff and costs to mitigate any underestimation.[28]

Two commenters stated that the rule would trigger the regulation's requirement to provide a change-in-terms notice and that this would create costs for printing and mailing. However, the change-in-terms notice can be provided on the monthly account statement (the notice can also be provided electronically if the institution has the consumer's E-Sign consent). The Bureau therefore does not agree that the rule would necessitate an increase in printing and mailing costs.

Additionally, the EGRRCPA made amendments to the EFA Act to extend its application to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.[29] The final rule implements the EGRRCPA by extending the application of Regulation CC's requirements related to funds availability, payment of interest, and disclosures to institutions in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. Consumers of depository institutions in American Samoa, Guam, and the Northern Mariana Islands will generally receive the same benefits of consumers of institutions already complying with subpart B of Regulation CC. This includes policies and other disclosures regarding funds availability and timely access to their funds. Consumers will generally not experience any costs associated with changes to existing policies or with receiving these disclosures.

Based on regulatory filings, the Bureau has identified five institutions headquartered in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam that are newly subject to Regulation CC as a result of the amendments made to the EFA Act by the EGRRCPA, and that may therefore face compliance costs associated with this final rule. Although these institutions will incur costs to comply with the requirements of Regulation CC, the Bureau does not have data on the impact of the requirements of this final rule on these institutions. The Bureau specifically requested information from commenters on the costs of complying with Regulation CC for institutions in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam and on those institutions' pre-statutory practices regarding funds availability. No comments provided data or other information in response to this request.

3. Impact on Depository Institutions With No More Than $10 Billion in Assets

The final rule's inflation adjustments and changes to disclosures will impact all depository institutions, including those with no more than $10 billion in assets. The Bureau expects that all depository institutions will experience an average cost of approximately $2,241 to update quinquennial notices.

The EGRRCPA amended the EFA Act to extend its application to institutions in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. The Bureau identified five institutions that are now required to comply with Regulation CC, and all have no more than $10 billion in assets. The Bureau requested information from commenters on the total cost that would be experienced by these depository institutions to comply with Regulation CC. No comments provided data or other information in response to this request.

[25] 12 U.S.C. 5512(b)(2)(A). Although the manner and extent to which section 1022(b)(2)(A) applies to a joint Bureau and Board rulemaking under the EFA Act is unclear, to inform this rulemaking more fully the Bureau performed the described analysis.

[26] The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking. Also note that the Bureau's analysis excludes the Board's final amendments to subpart C of Regulation CC. Additionally, the Bureau's amendments to Regulation DD are technical and non-substantive and so do not affect the benefits, costs, or impacts of the final rule.

[27] In the proposed 1022(b)(2) analysis, the Bureau stated that covered persons would face an average paperwork cost of $398.04 every five years. The Bureau received comments that the total and the assumed number of hours were too low. To be consistent with the PRA analysis, the Bureau should have stated that covered persons would face an average paperwork cost of $398.04 every year, which would be $1,990.20 every five years.

[28] *See* Bureau of Labor Statistics, *National Occupational Employment and Wage Estimates* (May 2018), *available at https://www.bls.gov/oes/current/oes_nat.htm.* The average hourly wage is a weighted average of 40% of the average annual wage for compliance officers ($34.86), 40% for operations staff ($36.98), and 20% for computer programmers ($43.07). In addition, one commenter said that the wage should take into account benefits as well as salary. Given that the required changes occur just once every five years, the Bureau expects that there would be large differences across institutions in use of contractors and salaried employees. The Bureau does not have the data required to take these differences into account.

[29] Public Law 115–174, section 208 (2018).

4. Impact on Access to Credit

The Bureau does not expect the final rule to affect consumers' access to credit. The scope of this rulemaking is limited to funds availability in depository accounts and is not directly related to credit access.

5. Impact on Rural Areas

The Bureau does not believe that the final rule will have a unique impact on consumers in rural areas.

B. Regulatory Flexibility Act

Board: The Regulatory Flexibility Act (RFA) requires an agency to publish a final regulatory flexibility analysis with a final rule or certify that the rule will not have a significant economic impact on a substantial number of small entities. Based on its analysis, and for the reasons stated below, the Board believes that the rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

1. *Statement of the need for, and objectives of, the proposed rule.* The final rule memorializes the calculation method used to adjust the EFA Act dollar amounts every five years in accordance with section 607(f) of the EFA Act, as amended by section 1086(f) of the Dodd-Frank Act. The final rule also implements the statutory amendments to the EFA Act to extend its application to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

2. *Small entities affected by the proposed rule.* The final rule applies to all depository institutions regardless of their size. Pursuant to regulations issued by the Small Business Administration (13 CFR 121.201), a ''small banking organization'' includes a depository institution with $550 million or less in total assets. Based on call report data, there are approximately 9,460 depository institutions that have total domestic assets of $550 million or less and thus are considered small entities for purposes of the RFA. All institutions will be required to update existing disclosures to their customers with any adjustments in the dollar amounts and update their software to adjust the availability amounts where necessary. As discussed above, while some commenters suggested the cost burden on institutions implementing the inflation indexing could be greater than the proposal estimated, the Board does not believe the final rule will have a significant economic impact on the entities that it affects. Specifically, the extent of impact on small entities may depend on the contents of the institution's funds availability policy and the frequency of the institution's regularly scheduled re-prints of its availability policy disclosures. Small depository institutions that already make funds available the next day and do not utilize the exceptions for new accounts, large deposits, or repeated overdrafts may be less affected by the final rule. The economic impact on small entities from the final rule may include technology, labor, and other associated costs incurred to update their disclosures with the adjusted dollar amounts, if those cannot be accomplished within the institution's regular cycle. However, as noted above, the Agencies anticipate providing one year between the date of publication in the **Federal Register** of the inflation-adjusted amounts and the date on which the adjusted amounts become effective. The Agencies believe that this one-year timeframe provides institutions with a sufficient interim in which to plan to send their change-in-terms notices in a way that minimizes the burden associated with doing so. In addition, depository institutions located in American Samoa, the Northern Mariana Islands, and Guam will now be required to comply with the provisions in the EFA Act and Regulation CC related to funds availability, payment of interest, and disclosures to their customers.

3. *Recordkeeping, reporting, and compliance requirements.* The final rule requires institutions to update their existing EFA Act disclosures to their customers with the adjusted dollar amount as well as update software that determines availability, as applicable. No other additional recordkeeping, reporting, or compliance requirements would be required by the proposed rule.

4. *Other Federal rules.* The Board has not identified any likely duplication, overlap and/or potential conflict between the final rule and any other Federal rule.

5. *Significant alternatives to the proposed revisions.* As discussed above and after reviewing the comments submitted, the Board has not identified any significant alternatives that would reduce the regulatory burden of this rule on small entities.

Bureau: The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements.[30] These analyses must ''describe the impact of the proposed rule on small entities.'' [31] Neither an IRFA nor FRFA is required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[32] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.

At the proposed rule stage, the Bureau determined that an IRFA was not required because the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. For this final rule, the Bureau continues to believe that that determination is accurate. As discussed in the Bureau's section 1022(b)(2) analysis above, the Bureau believes the final rule's inflation adjustments hold real expected losses fixed by adjusting for inflation the amount of funds that must be made available for withdrawal in accordance with the EFA Act and Regulation CC. Accordingly, these adjustments for inflation do not introduce costs for entities, including small entities, other than the paperwork costs discussed below. In addition, the final rule would implement in Regulation CC the EGRRCPA extension of the EFA Act's requirements to institutions in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. The Bureau identified five institutions that will be required to comply with Regulation CC due to the EGRRCPA amendments to the EFA Act. Thus, the Bureau concludes that a substantial number of small entities is not impacted by the proposal to implement in Regulation CC the EGRRCPA amendments to the EFA Act.

The Bureau recognizes that the final rule will have some impact on some entities, including those that are small. The Small Business Administration (SBA) defines small depository institutions as those with less than $550

[30] 5 U.S.C. 601 *et seq.*

[31] Id. at 603(a). For purposes of assessing the impacts of the final rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. Id. at 601(6). A ''small business'' is determined by application of Small Business Administration regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. Id. at 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Id. at 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. Id. at 601(5).

[32] Id. at 605(b).

million in assets.[33] Following guidance from the Small Business Administration, the Bureau averaged the total assets reported in quarterly call reports during quarters 1 through 4 of 2018. The Bureau identified 9,460 entities that had average total assets less than $550 million. These are considered small for the purposes of the RFA. Using the methodology outlined in the Board's Paperwork Reduction Act analysis, the Bureau estimates that the quinquennial adjustments will have an average quinquennial cost of approximately $2,241 for depository institutions. The Bureau estimates that about 3% of small entities face a significant economic impact from the quinquennial information collection.

In addition, the Bureau estimates the impact of all subpart B provisions for those covered persons required to comply with subpart B of Regulation CC as a result of the amendments the EGRRCPA made to the EFA Act. The EGRRCPA amended the EFA Act to extend its application to institutions in American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam. The Bureau identified five institutions that will be required to comply with Regulation CC due to the EGRRCPA amendments to the EFA Act.

Thus, the Bureau concludes that a substantial number of small entities is not impacted by the proposal to implement the EGRRCPA amendments to the EFA Act in Regulation CC.

Accordingly, the Bureau Director, by signing below, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

Board: Certain provisions of the final rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the Board 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 OMB control number for the Board is 7100–0235 and will be extended, with revision. The Board reviewed the final rule under the authority delegated to the Board by OMB. The Board invited comments on: (a) Whether the collections of information are necessary for the proper performance of the Board's functions, including whether the information has practical utility; (b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; (d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Eight commenters, including credit unions and credit union trade associations, expressed concern regarding the burden imposed on institutions to implement the inflation adjustments. Several credit union commenters stated that the cost burden imposed on institutions to implement the inflation indexing could exceed the Agencies' estimate in the proposal, noting in particular the printing and distribution costs associated with sending notices to customers of the changes in the institutions' funds-availability policies (commonly referred to as ''change-in-terms'' notices). One commenter specifically voiced concern about the disproportionate cost impact on smaller credit unions for printing and mailing notices in general and, in specific, the change-in-terms notice. To reduce that burden, the commenter also urged the Agencies to reduce the length of the required funds-availability disclosures or permit them to accompany monthly account statements. Another commenter suggested reducing burden by establishing an exception within the Regulation CC provision, § 229.18(e), that requires the change-in-terms notice. Specifically, the commenter suggested that an institution not be required to provide a change-in-terms notice when its funds-availability policy changes due to the periodic inflation adjustments to the Regulation CC funds-availability dollar amounts that are mandated by section 607(f) of the EFA Act.

In their final rule, the Agencies decline to establish in Regulation CC an exception to the requirement to send a change-in-terms notice, as this requirement is established by statute. However, the Agencies note several ways that depository institutions may lower their costs under the rule, including providing the required notice electronically and sending it with the monthly account statement, as follows.

Electronic delivery is permitted where the institution has complied with the requirements of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 *et seq.* (''E-Sign Act'')). *See* comment 229.15(a)–1. Further, the regulation already permits an institution to send a required change-in-terms notice on or with a monthly account statement, and this is so irrespective of whether the institution sends the notice and statement electronically or in paper form. *See* comment 229.18(e)–1 (stating that the change-in-terms notice required by § 229.18(e) ''may be given in any form as long as it is clear and conspicuous''). In addition, an institution need not set forth the entirety of its revised funds-availability policy in its change-in-terms notice. If an institution chooses to provide the notice by sending a complete new availability disclosure, the institution must direct the customer to the changed terms in the disclosure by use of a letter or insert, or by highlighting the changed terms in the disclosure. *See* comment 229.18(e)–1. And finally, as discussed above, the Agencies anticipate providing one year between the date of publication in the **Federal Register** of the inflation-adjusted amounts and the date on which the adjusted amounts become effective. The Agencies believe that this one-year timeframe provides institutions with a sufficient interim in which to plan to send their change-in-terms notices in a way that minimizes the burden associated with doing so. In light of all of these factors, and given that the inflation adjustments are statutorily required and will occur only once every five years, the Agencies believe that the burden on institutions to send change-in-terms notices reflecting the inflation-adjusted amounts is reasonable.

Proposed Information Collection

Title of Information Collection: Disclosure Requirements Associated with Availability of Funds and Collection of Checks (Regulation CC).

Frequency of Response: Quinquennial.

Affected Public: Businesses or other for-profit.

Respondents: State member banks and uninsured state branches and agencies of foreign banks.

Abstract: Regulation CC (12 CFR part 229) implements the Expedited Funds Availability Act of 1987 (EFA Act) and the Check Clearing for the 21st Century Act of 2003 (Check 21 Act). The EFA Act was enacted to provide depositors of checks with prompt funds availability and to foster improvements in the check

[33] Small Business Administration, *Table of Small Business Standards* (2016), *available at https://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.*

collection and return processes. Subpart B of Regulation CC implements the EFA Act's funds-availability provisions and specifies availability schedules within which banks must make funds available for withdrawal. Subpart B also implements the EFA Act's rules regarding exceptions to the schedules, disclosure of funds-availability policies, and payment of interest.

Current Action: The Agencies are adding § 229.11 to provide the CPI–W calculation methodology, which includes an explanation of how annual and cumulative changes (positive or negative) in the CPI–W will be taken into account, for the dollar amounts in § 229.10(c)(1)(vii) regarding the minimum amount, § 229.12(d) for the cash withdrawal amount, section 229.13(a) for the new-account amount, § 229.13(b) for the large-deposit threshold, § 229.13(d) for repeatedly overdrawn threshold, and § 229.21(a) for the civil liability amounts.

PRA Burden Estimates

Number of respondents: 940 respondents (100 respondents for changes in policy).

Estimated average hours per response: Specific availability policy disclosure and initial disclosures, .02 hours; Notice in specific policy disclosure, .05 hours; Notice of exceptions, .05 hours; Locations where employees accept consumer deposits, .25 hours; Quinquennial inflation adjustments for disclosures (annualized), 8 hours; Annual notice of new ATMs, 5 hours; Changes in policy, 20 hours; Notification of quinquennial inflation adjustments, 4 hours; Notice of nonpayment on paying bank, .02 hours; Notification to customer, .02 hours; Expedited recredit for consumers, .25 hours; Expedited recredit for banks, .25 hours; Consumer awareness, .02 hours; and Expedited recredit claim notice, .25 hours.

Estimated annual burden hours: Specific availability policy disclosure and initial disclosures, 9,400 hours; Notice in specific policy disclosure, 32,900 hours; Notice of exceptions, 94,000 hours; Locations where employees accept consumer deposits, 235 hours; Quinquennial inflation adjustments for disclosures (annualized), 7,520 hours; Annual notice of new ATMs, 4,700 hours; Changes in policy, 4,000 hours; Notification of quinquennial inflation adjustments, 3,760 hours; Notice of nonpayment on paying bank, 658 hours; Notification to customer, 6,956 hours; Expedited recredit for consumers, 8,225 hours; Expedited recredit for banks, 3,525 hours; Consumer awareness, 5,640 hours; and Expedited recredit claim notice, 5,875 hours.

Current Total Estimated Annual Burden: 176,114 hours.

Proposed Total Estimated Annual Burden: 187,394 hours.

Bureau: As noted in the proposal, the Bureau was not required to seek OMB approval for the information collection requirements already accounted for by the Board above, or for which other agencies are responsible. Moreover, the Bureau's technical, non-substantive amendments to Regulation DD as discussed above in Section II.E do not impose any new or additional information collection requirements that would require OMB approval.[34]

D. Plain Language Used

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board sought to present the proposed rule in a simple and straightforward manner, and invited comment on the use of plain language and whether any part of the rule could be more clearly stated. No commenters commented on use of plain language in the proposed rule, and the Board has adopted proposed plain language in the final rule.

E. Interagency Consultations

The Board and the Bureau have performed interagency consultations regarding this final rule consistent with section 609(e) of the EFA Act, section 269(a)(1) of TISA, and section 1022(b)(2)(B) of the Dodd-Frank Act. Section 609(e) of the EFA Act provides that in prescribing regulations under section 609(a), the Board and the Director of the Bureau shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.[35] Section 269(a)(1) of TISA provides that in prescribing regulations under section 269(a)(1), the Bureau shall consult with each agency referred to in TISA section 270(a) (12 U.S.C. 4309(a)).[36] Section 1022(b)(2)(B) of the Dodd-Frank Act provides that in prescribing a rule under the Federal consumer financial laws, the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies.[37]

F. Bureau Congressional Review Act Statement

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in

12 CFR Part 229

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

12 CFR Part 1030

Advertising, Banks, Banking, Consumer protection, National banks, Reporting and recordkeeping requirements, Savings associations.

Board of Governors of the Federal Reserve System

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System amends Regulation CC, 12 CFR part 229, as set forth below:

PART 229—AVAILABILITY OF FUNDS AND COLLECTIONS OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001–4010, 12 U.S.C. 5001–5018.

Subpart A—General

* * * * *

■ 2. In § 229.1, paragraph (a) is revised to read as follows:

§ 229.1 Authority and purpose; organization.

(a) *Authority and purpose*—(1) *In general.* This part is issued by the Board of Governors of the Federal Reserve System (Board) to implement the Expedited Funds Availability Act (12 U.S.C. 4001–4010) (EFA Act) and the

[34] The OMB control number for the information collection requirements contained in Regulation DD is 3170–0004.

[35] 12 U.S.C. 4008(a).

[36] 12 U.S.C. 4308(a)(1).

[37] 12 U.S.C. 5512(b)(2)(B). Although the manner and extent to which section 1022(b)(2)(B) applies to a rulemaking of this kind is unclear, in order to inform this rulemaking more fully, the Bureau performed the described consultations.

Check Clearing for the 21st Century Act (12 U.S.C. 5001–5018) (Check 21 Act).

(2) *Joint authority of the Bureau.* The Board issues regulations under Sections 603(d)(1), 604, 605, and 609(a) of the EFA Act (12 U.S.C. 4002(d)(1), 4003, 4004, 4008(a)) jointly with the Director of the Bureau of Consumer Financial Protection (Bureau).

* * * * *

■ 3. In § 229.2, revise paragraphs (c), (ff), and (jj) to read as follows:

§ 229.2 September 1, 2019 Definitions.

* * * * *

(c) *Automated teller machine* or *ATM* means an electronic device located in the United States at which a natural person may make deposits to an account by cash or check and perform other account transactions.

* * * * *

(ff) *State* means a state, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands. For purposes of subpart D of this part and, in connection therewith, this subpart A, *state* also means the Trust Territory of the Pacific Islands and any other territory of the United States.

* * * * *

(jj) *United States* means the states, including the District of Columbia, the U.S. Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and Puerto Rico.

* * * * *

Subpart B—Availability of Funds and Disclosure of Funds Availability Policies

§ 229.10 [Amended]

■ 4. In § 229.10, remove ''$100'' and add in its place ''$225'' in paragraph (c)(1)(vii)(A).

■ 5. Add § 229.11 to read as follows:

§ 229.11 Adjustment of dollar amounts.

(a) *Dollar amounts indexed.* The dollar amounts specified in §§ 229.10(c)(1)(vii), 229.12(d), 229.13(a), 229.13(b), 229.13(d), and 229.21(a) shall be adjusted effective on July 1, 2020, on July 1, 2025, and on July 1 of every fifth year after 2025, in accordance with the procedure set forth in paragraph (b) of this section using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics.

(b) *Indexing procedure*—(1) *Inflation measurement periods.* For dollar amount adjustments that are effective on July 1, 2020, the inflation measurement period begins in July 2011 and ends in July 2018. For dollar amount adjustments that are effective on July 1, 2025, the inflation measurement period begins in July 2018 and ends in July 2023. For dollar amount adjustments that are effective on July 1 of every fifth year after 2025, the inflation measurement period begins in July of every fifth year after 2018 and ends in July of every fifth year after 2023. Following each inflation measurement period, the dollar amount adjustments will be published in the **Federal Register**.

(2) *Percentage change.* Any dollar amount adjustment under this section shall be calculated across an inflation measurement period by the aggregate percentage change in the CPI–W, including both positive and negative percentage changes. The aggregate percentage change over the inflation measurement period will be rounded to one decimal place, using the CPI–W value for July (which is generally released by the Bureau of Labor Statistics in August).

(3) *Adjustment amount.* The adjustment amount for each dollar amount listed in paragraph (a) of this section shall be equal to the aggregate percentage change multiplied by the existing dollar amount listed in paragraph (c) of this section and rounded to the nearest multiple of $25. The adjusted dollar amount will be equal to the sum of the existing dollar amount and the adjustment amount. No dollar adjustment will be made when the aggregate percentage change is zero or a negative percentage change, or when the aggregate percentage change multiplied by the existing dollar amount listed in paragraph (c) and rounded to the nearest multiple of $25 results in no change.

(4) *Carry-forward.* When there is an aggregate negative percentage change over an inflation measurement period, or when an aggregate positive percentage change over an inflation measurement period multiplied by the existing dollar amount listed in paragraph (c) of this section and rounded to the nearest multiple of $25 results in no change, the aggregate percentage change over the inflation measurement period will be included in the calculation to determine the percentage change at the end of the subsequent inflation measurement period. That is, the cumulative change in the CPI–W over the two (or more) inflation measurement periods will be used in the calculation until the cumulative change results in publication of an adjusted dollar amount in the regulation.

(c) *Amounts.* (1) For purposes of § 229.10(c)(1)(vii), the dollar amount in effect during a particular period is the amount stated in this paragraph (c)(1) for that period.

(i) Prior to July 21, 2011, the amount is $100.

(ii) From July 21, 2011, through June 30, 2020, by operation of section 603(a)(2)(D) of the EFA Act (12 U.S.C. 4002(a)(2)(D)) the amount is $200.

(iii) Effective July 1, 2020, the amount is $225.

(2) For purposes of § 229.12(d), the dollar amount in effect during a particular period is the amount stated in this paragraph (c)(2) for that period.

(i) Prior to July 1, 2020, the amount is $400.

(ii) Effective July 1, 2020, the amount is $450.

(3) For purposes of § 229.13(a), (b), and (d), the dollar amount in effect during a particular period is the amount stated in this paragraph (c)(3) for that period.

(i) Prior to July 1, 2020, the amount is $5,000.

(ii) Effective July 1, 2020, the amount is $5,525.

(4) For purposes of § 229.21(a), the dollar amounts in effect during a particular period are the amounts stated in this paragraph (c)(4) for the period.

(i) Prior to July 1, 2020, the amounts are $100, $1,000, and $500,000 respectively.

(ii) Effective July 1, 2020, the amounts are $100, $1,100, and $552,500 respectively.

■ 6. In § 229.12:

■ a. Remove ''$100'' and add in its place ''$225'' in paragraph (d); and

■ b. Revise paragraphs (e) introductory text and (e)(1).

The revisions read as follows:

§ 229.12 Availability schedule.

* * * * *

(e) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.* The depositary bank may extend the time periods set forth in this section by one business day in the case of any deposit, other than a deposit described in § 229.10, that is—

(1) Deposited in an account at a branch of a depositary bank if the branch is located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands; and

* * * * *

§ 229.21 [Amended]

■ 7. In § 229.21, remove ''$100'' and add in its place ''$225'' in paragraph (a)(2)(i).

§ 229.43 [Removed and Reserved]

■ 8. Section 229.43 is removed and reserved.

■ 9. Amend appendix E to part 229 as follows:

■ a. Remove the dollar amounts in the ''Remove'' column wherever they appear and add in their place the dollar amounts in the ''Add'' column in the following table:

Section	Remove	Add
229.10(c)	$5,000	$5,525
229.12(d)	400	450
229.13(a), (b), and (d)	5,000	5,525

■ b. In Section II.D, revise paragraph 1.

■ c. In Section IV.D, revise paragraph 5 and add paragraph 7.

■ d. Section V is revised.

■ e. In Section VI.B, paragraph 4 is added.

■ f In Section VI.E paragraphs 1 and 2 are revised.

■ g. Section VII.C, paragraph 2 is revised and paragraph 4 is added.

■ h. In Section VII.E, paragraph 5 is added.

■ i. In Section VII.H, paragraph 2(b) is revised.

■ j. In Section XIV.C, paragraph 2 is revised.

■ k. In Section XV.A, paragraph 2 is added.

■ l. Section XXIX is removed and reserved.

The revisions and additions read as follows:

Appendix E to Part 229—Commentary

* * * * *

II. Section 229.2 Definitions

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D. * * *

1. ATM is not defined in the EFA Act. The regulation defines an ATM as an electronic device located in the United States at which a natural person may make deposits to an account by cash or check and perform other account transactions. Point-of-sale terminals, machines that only dispense cash, night depositories, and lobby deposit boxes are not ATMs within the meaning of the definition, either because they do not accept deposits of cash or checks (*e.g.,* point-of-sale terminals and cash dispensers) or because they only accept deposits (*e.g.,* night depositories and lobby boxes) and cannot perform other transactions. A lobby deposit box or similar receptacle in which written payment orders or deposits may be placed is not an ATM.

* * * * *

IV. * * *

D. * * *

5. First $225

a. The EFA Act and regulation also require that up to $225 of the aggregate deposit by check or checks not subject to next-day availability on any one banking day be made available on the next business day. For example, if $70 were deposited in an account by check(s) on a Monday, the entire $70 must be available for withdrawal at the start of business on Tuesday. If $400 were deposited by check(s) on a Monday, this section requires that $225 of the funds be available for withdrawal at the start of business on Tuesday. The portion of the customer's deposit to which the $225 must be applied is at the discretion of the depositary bank, as long as it is not applied to any checks subject to next-day availability. The $225 next-day availability rule does not apply to deposits at nonproprietary ATMs.

b. The $225 that must be made available under this rule is in addition to the amount that must be made available for withdrawal on the business day after deposit under other provisions of this section. For example, if a customer deposits a $1,000 Treasury check and a $1,000 local check in its account on Monday, $1,225 must be made available for withdrawal on Tuesday—the proceeds of the $1,000 Treasury check, as well as the first $225 of the local check.

c. A depositary bank may aggregate all local and nonlocal check deposits made by a customer on a given banking day for the purposes of the $225 next-day availability rule. Thus, if a customer has two accounts at the depositary bank, and on a particular banking day makes deposits to each account, $225 of the total deposited to the two accounts must be made available on the business day after deposit. Banks may aggregate deposits to individual and joint accounts for the purposes of this provision.

d. If the customer deposits a $500 local check and gets $225 cash back at the time of deposit, the bank need not make an additional $225 available for withdrawal on the following day. Similarly, if the customer depositing the local check has a negative book balance, or negative available balance in its account at the time of deposit, the $225 that must be available on the next business day may be made available by applying the $225 to the negative balance, rather than making the $225 available for withdrawal by cash or check on the following day.

* * * * *

7. Dollar Amount Adjustment—See section 229.11 for the rules regarding adjustments for inflation every five years to the dollar amounts used in this section.

* * * * *

V. Section 229.11 Adjustment of Dollar Amounts

1. Example of a positive adjustment. If the CPI–W for July (and released in August) of the base year and the adjustment year were 100 and 114.7, respectively, the aggregate percentage change for the period would be 14.7%. If the applicable dollar amount was $200 for the prior period, then the adjusted figure would become $225, as the change of $29.40 results in rounding to $25.

2. Example of no adjustment. If the CPI–W for July (and released in August) of the base year and the adjustment year were 100 and 104, respectively, the aggregate percentage change would be 4.0%. If the applicable dollar amount was $200 for the prior period, then the adjusted figure would remain $200, as the change of $8.00 does not result in rounding to $25.

3. Example of accounting for aggregate decrease in subsequent period. If the CPI–W for July (and released in August) of the base year and the adjustment year were 100 and 95, respectively, the aggregate percentage change would be −5%, and no adjustment to the dollar amounts would occur. The CPI–W for July (and released in August) of the base year would be the starting point for calculating any CPI–W increase across subsequent five-year periods. Therefore, if the CPI–W in July (and released in August) of the base year and the CPI–W in July (and released in August) of the years at the end of the next two five-year periods were 100, 95, and 109, respectively, the aggregate percentage change for the entire period would be 9.0%. If the applicable dollar amount was $5,000 for the prior period, then the adjusted figure would become $5,450 as the change of $450 does not require rounding because it is a multiple of $25.

4. Example of accounting for aggregate lack of dollar amount change in subsequent period. If the CPI–W for July (and released in August) of the base year and the year at the end of the subsequent five-year period were 100 and 105, respectively, the aggregate change over the five-year period would be 5%, and no adjustment to the $200 amount would occur, as the change of $10 does not result in rounding to $225. Nonetheless, the CPI–W for July (and released in August) of the base year would be the starting point for calculating any CPI–W percentage increase across the subsequent five-year period. Therefore, if the CPI–W in July (and released in August) of the base year and the CPI–W in July (and released in August) of the years at the end of the next two five-year periods were 100, 105, and 112.6, respectively, the aggregate percentage change for the entire period would be 12.6%. If the applicable dollar amount was $200 for the prior period, then the adjusted figure would become $225 as the change of $25.20 results in rounding to $225, the nearest multiple of $25.

VI. * * *

B. 229.12(d) Time Period Adjustment for Withdrawal by Cash or Similar Means

* * * * *

4. Dollar Amount Adjustment—See section 229.11 for the rules regarding adjustments for inflation every five years to the dollar amounts in this section.

* * * * *

E. 229.12(e) Extension of Schedule for Certain Deposits in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands

1. The EFA Act and regulation provide an extension of the availability schedules for

check deposits at a branch of a bank if the branch is located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands. The schedules for local checks, nonlocal checks (including nonlocal checks subject to the reduced schedules of appendix B), and deposits at nonproprietary ATMs are extended by one business day for checks deposited to accounts in banks located in these jurisdictions that are drawn on or payable at or through a paying bank not located in the same jurisdiction as the depositary bank. For example, a check deposited in a bank in Hawaii and drawn on a San Francisco paying bank must be made available for withdrawal not later than the third business day following deposit. This extension does not apply to deposits that must be made available for withdrawal on the next business day.

2. The Congress did not provide this extension of the schedules to checks drawn on a paying bank located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands and deposited in an account at a depositary bank in the 48 contiguous states. Therefore, a check deposited in a San Francisco bank drawn on a Hawaii paying bank must be made available for withdrawal not later than the second rather than the third business day following deposit.

VII. Section 229.13 Exceptions

B. * * *

4. Dollar Amount Adjustment—See section 229.11 for the rules regarding adjustments for inflation every five years to the dollar amounts in this section.

C. * * *

2. The following example illustrates the operation of the large-deposit exception. If a customer deposits $2,000 in cash and a $9,000 local check on a Monday, $2,225 (the proceeds of the cash deposit and $225 from the local-check deposit) must be made available for withdrawal on Tuesday. An additional $5,300 of the proceeds of the local check must be available for withdrawal on Wednesday in accordance with the local schedule, and the remaining $3,475 may be held for an additional period of time under the large-deposit exception.

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4. Dollar Amount Adjustment—See section 229.11 for the rules regarding adjustments for inflation every five years to the dollar amounts in this section.

* * * * *

E. * * *

5. Dollar Amount Adjustment—See section 229.11 for the calculation method used to adjust the dollar amounts in this section every five years.

* * * * *

H. * * *

2. * * *

b. In the case of a deposit of multiple checks, the depositary bank has the discretion to place an exception hold on any combination of checks in excess of $5,525. The notice should enable a customer to determine the availability of the deposit in the case of a deposit of multiple checks. For example, if a customer deposits a $5,525 local check and a $5,525 nonlocal check, under the large-deposit exception, the depositary bank may make funds available in the amount of (1) $225 on the first business day after deposit, $5,300 on the second business day after deposit (local check), and $5,525 on the eleventh business day after deposit (nonlocal check with six-day exception hold), or (2) $225 on the first business day after deposit, $5,300 on the fifth business day after deposit (nonlocal check), and $5,525 on the seventh business day after deposit (local check with five-day exception hold). The notice should reflect the bank's priorities in placing exception holds on next-day (or second-day), local, and nonlocal checks.

* * * * *

XIV. Section 229.20 Relation to State Law

* * * * *

C. * * *

2. Under a state law, some categories of deposits could be available for withdrawal sooner or later than the time required by this subpart, depending on the composition of the deposit. For example, the EFA Act and this regulation (§ 229.10(c)(1)(vii)) require next-day availability for the first $225 of the aggregate deposit of local or nonlocal checks on any day, and a state law could require next-day availability for any check of $200 or less that is deposited. Under the EFA Act and this regulation, if either one $300 check or three $100 checks are deposited on a given day, $225 must be made available for withdrawal on the next business day, and $75 must be made available in accordance with the local or nonlocal schedule. Under the state law, however, the two deposits would be subject to different availability rules. In the first case, none of the proceeds of the deposit would be subject to next-day availability; in the second case, the entire proceeds of the deposit would be subject to next-day availability. In this example, because the state law would, in some situations, permit a hold longer than the maximum permitted by the EFA Act, this provision of state law is inconsistent and preempted in its entirety.

* * * * *

XV. Section 229.21 Civil Liability

A. * * *

2. Dollar Amount Adjustment—See section 229.11 for the rules regarding adjustments for inflation every five years to the dollar amounts in this section.

* * * * *

Bureau of Consumer Financial Protection

Authority and Issuance

For the reasons set forth in the preamble, the Bureau of Consumer Financial Protection amends Regulation DD, 12 CFR part 1030, as follows:

PART 1030—TRUTH IN SAVINGS (REGULATION DD)

■ 10. The authority citation for part 1030 continues to read as follows:

Authority: 12 U.S.C. 4302–4304, 4308, 5512, 5581.

■ 11. In § 1030.1, paragraph (e) is added to read as follows:

§ 1030.1 Authority, purpose, coverage, and effect on state laws.

* * * * *

(e) *Relationship to Regulation CC.* The Director of the Bureau and the Board of Governors of the Federal Reserve System jointly issue regulations under sections 603(d)(1), 604, 605, and 609(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(d)(1), 4003, 4004, 4008(a)) that are codified within Regulation CC (12 CFR part 229).

■ 12. In § 1030.7, paragraph (c) is revised to read as follows:

§ 1030.7 Payment of interest.

* * * * *

(c) *Date interest begins to accrue.* Interest shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act (12 U.S.C. 4005) and in § 229.14 of that act's implementing Regulation CC (12 CFR part 229). Interest shall accrue until the day funds are withdrawn.

■ 13. Appendix A to part 1030 is revised to read as follows:

Appendix A to Part 1030—Annual Percentage Yield Calculation

The annual percentage yield measures the total amount of interest paid on an account based on the interest rate and the frequency of compounding. The annual percentage yield reflects only interest and does not include the value of any bonus (or other consideration worth $10 or less) that may be provided to the consumer to open, maintain, increase or renew an account. Interest or other earnings are not to be included in the annual percentage yield if such amounts are determined by circumstances that may or may not occur in the future. The annual percentage yield is expressed as an annualized rate, based on a 365-day year. Institutions may calculate the annual percentage yield based on a 365-day or a 366-day year in a leap year. Part I of this appendix discusses the annual percentage yield calculations for account disclosures and advertisements, while part II discusses annual percentage yield earned calculations for periodic statements.

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

In general, the annual percentage yield for account disclosures under §§ 1030.4 and 1030.5 and for advertising under § 1030.8 is an annualized rate that reflects the relationship between the amount of interest

that would be earned by the consumer for the term of the account and the amount of principal used to calculate that interest. Special rules apply to accounts with tiered and stepped interest rates, and to certain time accounts with a stated maturity greater than one year.

A. General Rules

Except as provided in part I.E. of this appendix, the annual percentage yield shall be calculated by the formula shown below. Institutions shall calculate the annual percentage yield based on the actual number of days in the term of the account. For accounts without a stated maturity date (such as a typical savings or transaction account), the calculation shall be based on an assumed term of 365 days. In determining the total interest figure to be used in the formula, institutions shall assume that all principal and interest remain on deposit for the entire term and that no other transactions (deposits or withdrawals) occur during the term. This assumption shall not be used if an institution requires, as a condition of the account, that consumers withdraw interest during the term. In such a case, the interest (and annual percentage yield calculation) shall reflect that requirement. For time accounts that are offered in multiples of months, institutions may base the number of days on either the actual number of days during the applicable period, or the number of days that would occur for any actual sequence of that many calendar months. If institutions choose to use the latter rule, they must use the same number of days to calculate the dollar amount of interest earned on the account that is used in the annual percentage yield formula (where ''Interest'' is divided by ''Principal'').

The annual percentage yield is calculated by use of the following general formula (''APY'' is used for convenience in the formulas):

$$APY=100\ [(1+Interest/Principal)^{(365/Days\ in\ term)}-1]$$

''Principal'' is the amount of funds assumed to have been deposited at the beginning of the account.

''Interest'' is the total dollar amount of interest earned on the Principal for the term of the account.

''Days in term'' is the actual number of days in the term of the account. When the ''days in term'' is 365 (that is, where the stated maturity is 365 days or where the account does not have a stated maturity), the annual percentage yield can be calculated by use of the following simple formula:

$$APY=100\ (Interest/Principal)$$

Examples:

(1) If an institution pays $61.68 in interest for a 365-day year on $1,000 deposited into a NOW account, using the general formula above, the annual percentage yield is 6.17%:

$$APY=100[(1+61.68/1,000)^{(365/365)}-1]$$
$$APY=6.17\%$$

Or, using the simple formula above (since, as an account without a stated term, the term is deemed to be 365 days):

$$APY=100(61.68/1,000)$$
$$APY=6.17\%$$

(2) If an institution pays $30.37 in interest on a $1,000 six-month certificate of deposit (where the six-month period used by the institution contains 182 days), using the general formula above, the annual percentage yield is 6.18%:

$$APY=100[(1+30.37/1,000)^{(365/182)}-1]$$
$$APY=6.18\%$$

B. Stepped-Rate Accounts (Different Rates Apply in Succeeding Periods)

For accounts with two or more interest rates applied in succeeding periods (where the rates are known at the time the account is opened), an institution shall assume each interest rate is in effect for the length of time provided for in the deposit contract.

Examples:

(1) If an institution offers a $1,000 6-month certificate of deposit on which it pays a 5% interest rate, compounded daily, for the first three months (which contain 91 days), and a 5.5% interest rate, compounded daily, for the next three months (which contain 92 days), the total interest for six months is $26.68 and, using the general formula above, the annual percentage yield is 5.39%:

$$APY=100[(1+26.68/1,000)^{(365/183)}-1]$$
$$APY=5.39\%$$

(2) If an institution offers a $1,000 two-year certificate of deposit on which it pays a 6% interest rate, compounded daily, for the first year, and a 6.5% interest rate, compounded daily, for the next year, the total interest for two years is $133.13, and, using the general formula above, the annual percentage yield is 6.45%:

$$APY=100[(1+133.13/1,000)^{(365/730)}-1]$$
$$APY=6.45\%$$

C. Variable-Rate Accounts

For variable-rate accounts without an introductory premium or discounted rate, an institution must base the calculation only on the initial interest rate in effect when the account is opened (or advertised), and assume that this rate will not change during the year.

Variable-rate accounts with an introductory premium (or discount) rate must be calculated like a stepped-rate account. Thus, an institution shall assume that:

(1) The introductory interest rate is in effect for the length of time provided for in the deposit contract; and

(2) The variable interest rate that would have been in effect when the account is opened or advertised (but for the introductory rate) is in effect for the remainder of the year. If the variable rate is tied to an index, the index-based rate in effect at the time of disclosure must be used for the remainder of the year. If the rate is not tied to an index, the rate in effect for existing consumers holding the same account (who are not receiving the introductory interest rate) must be used for the remainder of the year.

For example, if an institution offers an account on which it pays a 7% interest rate, compounded daily, for the first three months (which, for example, contain 91 days), while the variable interest rate that would have been in effect when the account was opened was 5%, the total interest for a 365-day year for a $1,000 deposit is $56.52 (based on 91 days at 7% followed by 274 days at 5%). Using the simple formula, the annual percentage yield is 5.65%:

$$APY=100(56.52/1,000)$$
$$APY=5.65\%$$

D. Tiered-Rate Accounts (Different Rates Apply to Specified Balance Levels)

For accounts in which two or more interest rates paid on the account are applicable to specified balance levels, the institution must calculate the annual percentage yield in accordance with the method described below that it uses to calculate interest. In all cases, an annual percentage yield (or a range of annual percentage yields, if appropriate) must be disclosed for each balance tier.

For purposes of the examples discussed below, assume the following:

Interest rate (percent)	Deposit balance required to earn rate
5.25	Up to but not exceeding $2,500.
5.50	Above $2,500 but not exceeding $15,000.
5.75	Above $15,000.

Tiering Method A. (1) Under this method, an institution pays on the full balance in the account the stated interest rate that corresponds to the applicable deposit tier. For example, if a consumer deposits $8,000, the institution pays the 5.50% interest rate on the entire $8,000.

When this method is used to determine interest, only one annual percentage yield will apply to each tier. Within each tier, the annual percentage yield will not vary with the amount of principal assumed to have been deposited.

For the interest rates and deposit balances assumed above, the institution will state three annual percentage yields—one corresponding to each balance tier. Calculation of each annual percentage yield is similar for this type of account as for accounts with a single interest rate. Thus, the calculation is based on the total amount of interest that would be received by the consumer for each tier of the account for a year and the principal assumed to have been deposited to earn that amount of interest.

First tier. Assuming daily compounding, the institution will pay $53.90 in interest on a $1,000 deposit. Using the general formula, for the first tier, the annual percentage yield is 5.39%:

$$APY=100[(1+53.90/1,000)^{(365/365)}-1]$$
$$APY=5.39\%$$

Using the simple formula:

$$APY=100(53.90/1,000)$$
$$APY=5.39\%$$

Second tier. The institution will pay $452.29 in interest on an $8,000 deposit. Thus, using the simple formula, the annual percentage yield for the second tier is 5.65%:

$$APY=100(452.29/8,000)$$
$$APY=5.65\%$$

Third tier. The institution will pay $1,183.61 in interest on a $20,000 deposit. Thus, using the simple formula, the annual percentage yield for the third tier is 5.92%:

$$APY=100(1,183.61/20,000)$$

APY=5.92%

Tiering Method B. Under this method, an institution pays the stated interest rate only on that portion of the balance within the specified tier. For example, if a consumer deposits $8,000, the institution pays 5.25% on $2,500 and 5.50% on $5,500 (the difference between $8,000 and the first tier cut-off of $2,500).

The institution that computes interest in this manner must provide a range that shows the lowest and the highest annual percentage yields for each tier (other than for the first tier, which, like the tiers in Method A, has the same annual percentage yield throughout). The low figure for an annual percentage yield range is calculated based on the total amount of interest earned for a year assuming the minimum principal required to earn the interest rate for that tier. The high figure for an annual percentage yield range is based on the amount of interest the institution would pay on the highest principal that could be deposited to earn that same interest rate. If the account does not have a limit on the maximum amount that can be deposited, the institution may assume any amount.

For the tiering structure assumed above, the institution would state a total of five annual percentage yields—one figure for the first tier and two figures stated as a range for the other two tiers.

First tier. Assuming daily compounding, the institution would pay $53.90 in interest on a $1,000 deposit. For this first tier, using the simple formula, the annual percentage yield is 5.39%:

APY=100(53.90/1,000)
APY=5.39%

Second tier. For the second tier, the institution would pay between $134.75 and $841.45 in interest, based on assumed balances of $2,500.01 and $15,000, respectively. For $2,500.01, interest would be figured on $2,500 at 5.25% interest rate plus interest on $.01 at 5.50%. For the low end of the second tier, therefore, the annual percentage yield is 5.39%, using the simple formula:

APY=100(134.75/2,500)
APY=5.39%

For $15,000, interest is figured on $2,500 at 5.25% interest rate plus interest on $12,500 at 5.50% interest rate. For the high end of the second tier, the annual percentage yield, using the simple formula, is 5.61%:

APY=100(841.45/15,000)
APY=5.61%

Thus, the annual percentage yield range for the second tier is 5.39% to 5.61%.

Third tier. For the third tier, the institution would pay $841.45 in interest on the low end of the third tier (a balance of $15,000.01). For $15,000.01, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $.01 at 5.75% interest rate. For the low end of the third tier, therefore, the annual percentage yield (using the simple formula) is 5.61%:

APY=100 (841.45/15,000)
APY=5.61%

Since the institution does not limit the account balance, it may assume any maximum amount for the purposes of computing the annual percentage yield for the high end of the third tier. For an assumed maximum balance amount of $100,000, interest would be figured on $2,500 at 5.25% interest rate, plus interest on $12,500 at 5.50% interest rate, plus interest on $85,000 at 5.75% interest rate. For the high end of the third tier, therefore, the annual percentage yield, using the simple formula, is 5.87%.

APY=100 (5,871.79/100,000)
APY=5.87%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.87%.

If the assumed maximum balance amount is $1,000,000 instead of $100,000, the institution would use $985,000 rather than $85,000 in the last calculation. In that case, for the high end of the third tier the annual percentage yield, using the simple formula, is 5.91%:

APY=100 (59134.22/1,000,000)
APY=5.91%

Thus, the annual percentage yield range that would be stated for the third tier is 5.61% to 5.91%.

E. Time Accounts With a Stated Maturity Greater Than One Year That Pay Interest at Least Annually

1. For time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, and that require the consumer to withdraw interest at least annually, the annual percentage yield may be disclosed as equal to the interest rate.

Example

(1) If an institution offers a $1,000 two-year certificate of deposit that does not compound and that pays out interest semi-annually by check or transfer at a 6.00% interest rate, the annual percentage yield may be disclosed as 6.00%.

(2) For time accounts covered by this paragraph that are also stepped-rate accounts, the annual percentage yield may be disclosed as equal to the composite interest rate.

Example

(1) If an institution offers a $1,000 three-year certificate of deposit that does not compound and that pays out interest annually by check or transfer at a 5.00% interest rate for the first year, 6.00% interest rate for the second year, and 7.00% interest rate for the third year, the institution may compute the composite interest rate and APY as follows:

(a) Multiply each interest rate by the number of days it will be in effect;

(b) Add these figures together; and

(c) Divide by the total number of days in the term.

(2) Applied to the example, the products of the interest rates and days the rates are in effect are (5.00%×365 days) 1825, (6.00%×365 days) 2190, and (7.00%×365 days) 2555, respectively. The sum of these products, 6570, is divided by 1095, the total number of days in the term. The composite interest rate and APY are both 6.00%.

Part II. Annual Percentage Yield Earned for Periodic Statements

The annual percentage yield earned for periodic statements under § 1030.6(a) is an annualized rate that reflects the relationship between the amount of interest actually earned on the consumer's account during the statement period and the average daily balance in the account for the statement period. Pursuant to § 1030.6(b), however, if an institution uses the average daily balance method and calculates interest for a period other than the statement period, the annual percentage yield earned shall reflect the relationship between the amount of interest earned and the average daily balance in the account for that other period.

The annual percentage yield earned shall be calculated by using the following formulas (''APY Earned'' is used for convenience in the formulas):

A. General Formula

APY Earned=100 [(1+Interest earned/Balance)$^{(365/\text{Days in period})}$ − 1]

''Balance'' is the average daily balance in the account for the period.

''Interest earned'' is the actual amount of interest earned on the account for the period.

''Days in period'' is the actual number of days for the period.

Examples

(1) Assume an institution calculates interest for the statement period (and uses either the daily balance or the average daily balance method), and the account has a balance of $1,500 for 15 days and a balance of $500 for the remaining 15 days of a 30-day statement period. The average daily balance for the period is $1,000. The interest earned (under either balance computation method) is $5.25 during the period. The annual percentage yield earned (using the formula above) is 6.58%:

APY Earned=100 [(1+5.25/1,000)$^{(365/30)}$ − 1]
APY Earned=6.58%

(2) Assume an institution calculates interest on the average daily balance for the calendar month and provides periodic statements that cover the period from the 16th of one month to the 15th of the next month. The account has a balance of $2,000 September 1 through September 15 and a balance of $1,000 for the remaining 15 days of September. The average daily balance for the month of September is $1,500, which results in $6.50 in interest earned for the month. The annual percentage yield earned for the month of September would be shown on the periodic statement covering September 16 through October 15. The annual percentage yield earned (using the formula above) is 5.40%:

APY Earned=100 [(6.50/1,500)$^{(365/30)}$ − 1]
APY Earned=5.40%

(3) Assume an institution calculates interest on the average daily balance for a quarter (for example, the calendar months of September through November), and provides monthly periodic statements covering calendar months. The account has a balance of $1,000 throughout the 30 days of September, a balance of $2,000 throughout the 31 days of October, and a balance of

$3,000 throughout the 30 days of November. The average daily balance for the quarter is $2,000, which results in $21 in interest earned for the quarter. The annual percentage yield earned would be shown on the periodic statement for November. The annual percentage yield earned (using the formula above) is 4.28%:

APY Earned=100 $[(1+21/2{,}000)^{(365/91)}-1]$
APY Earned=4.28%

B. Special Formula for Use Where Periodic Statement Is Sent More Often Than the Period for Which Interest Is Compounded

Institutions that use the daily balance method to accrue interest and that issue periodic statements more often than the period for which interest is compounded shall use the following special formula:

$$APY\ Earned = 100\left\{\left[1+\frac{(Interest\ earned/Balance)}{Days\ in\ period}(Compounding)\right]^{(365/Compounding)}-1\right\}$$

The following definition applies for use in this formula (all other terms are defined under part II):

''Compounding'' is the number of days in each compounding period.

Assume an institution calculates interest for the statement period using the daily balance method, pays a 5.00% interest rate, compounded annually, and provides periodic statements for each monthly cycle. The account has a daily balance of $1,000 for a 30-day statement period. The interest earned is $4.11 for the period, and the annual percentage yield earned (using the special formula above) is 5.00%:

$$APY\ Earned = 100\left\{\left[1+\frac{(4.11/1{,}000)}{30}(365)\right]^{(365/365)}-1\right\}$$

APY Earned=5.00%

■ 14. In Supplement I to part 1030, under Section 1030.7—*Payment of Interest,* paragraph *7(c)—Date interest begins to accrue* is revised to read as follows:

Supplement I to Part 1030—Official Interpretations

* * * * *

Section 1030.7—Payment of Interest

* * * * *

(c) Date interest begins to accrue.

1. *Relation to Regulation CC.* Institutions may rely on the Expedited Funds Availability Act (EFAA) and Regulation CC (12 CFR part 229) to determine, for example, when a deposit is considered made for purposes of interest accrual, or when interest need not be paid on funds because a deposited check is later returned unpaid.

2. *Ledger and collected balances.* Institutions may calculate interest by using a ''ledger'' or ''collected'' balance method, as long as the crediting requirements of the EFAA are met (12 CFR 229.14).

3. *Withdrawal of principal.* Institutions must accrue interest on funds until the funds are withdrawn from the account. For example, if a check is debited to an account on a Tuesday, the institution must accrue interest on those funds through Monday.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 20, 2019.

Ann E. Misback,

Secretary of the Board.

Dated: June 10, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–13668 Filed 7–1–19; 4:15 pm]

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FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–1667]

RIN No. 7100–AF 52

Rules Regarding Delegation of Authority: Delegation of Authority to the Secretary of the Board, Director of the Division of Supervision of Regulation, and Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule.

SUMMARY: The Board is amending its rules regarding delegation of authority to delegate to Federal Reserve Banks authority to approve certain types of applications, notices, and requests. Under the rule, Federal Reserve Banks are delegated authority to waive a requirement to file certain applications under the Bank Holding Company Act and the Home Owners' Loan Act; grant or deny requests for modifying certain commitments; authorize a state member bank to make a public welfare investment in accordance with section 9 of the Federal Reserve Act under certain circumstances; and approve certain requests, applications, and notices relating to international banking operations filed pursuant to the Board's Regulation K. The rule also modifies the delegation rules by authorizing the Federal Reserve Banks to approve applications and notices concerning mergers and acquisitions that do not exceed the Board's delegation criteria for competition after including deposits of qualifying credit unions weighted at 50 percent and deposits of ''commercially active'' thrift institutions weighted in most cases at 100 percent. In a limited number of cases, deposits of all thrifts would be weighted at 100 percent. To ensure the Board's delegation rules are consistent, the rule also revises or rescinds, as appropriate, certain existing delegations to the Federal Reserve Banks, the Secretary of the Board, and the Director of the Division of Supervision and Regulation.

DATES: Effective July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Alison Thro, Assistant General Counsel, (202) 452–3236, Scott Tkacz, Senior Counsel, (202) 452–2744, or Jonah Kind, Attorney, (202) 452–2045, Legal Division, Susan Motyka, Deputy Associate Director, (202) 452–5280, Division of Supervision and Regulation, Anthony Iwuji, Manager, (202) 452–3254, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and C Street NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Discussion

Section 11(k) of the Federal Reserve Act provides that the Board, by published order or rule, may delegate any of its functions, other than those related to rulemaking or principally to monetary and credit policies.[1] Pursuant to this authority, the Board is amending its Rules Regarding Delegation of

[1] 12 U.S.C. 248(k).

Authority (Delegation Rules)[2] to delegate authority to the Federal Reserve Banks (Reserve Banks) to act on certain types of applications, notices, and requests. The Board expects that these delegations of authority will allow the Federal Reserve System to process such applications, notices, and requests in a more efficient and timely manner. To ensure the Delegation Rules are consistent, the rule also revises or rescinds, as appropriate, certain existing delegations to the Reserve Banks, the Secretary of the Board, and the Director of the Division of Supervision and Regulation (S&R Director). Each of the changes to the Delegation Rules made by this rule are discussed in more detail below. Additionally, the Board is revising the Delegation Rules to update all references to the ''Division of Banking Supervision and Regulation'' to the ''Division of Supervision and Regulation'' to reflect the division's name change on December 5, 2016.

A. Waivers of Applications Required by the Bank Holding Company Act and the Home Owners' Loan Act

The Board's regulations provide for the waiver of applications required by the Bank Holding Company Act of 1956 (BHC Act) and the Home Owners' Loan Act (HOLA) in certain circumstances to avoid duplicative review of the same transaction by federal banking agencies. Under § 225.12(d)(2) of the Board's Regulation Y, applications normally required by the BHC Act when a bank holding company seeks to merge with another bank holding company or to acquire shares or control of a bank may be waived; similarly, under § 238.12(d)(1) of the Board's Regulation LL, applications normally required by HOLA when a savings and loan holding company seeks to merge with another savings and loan holding company or to acquire shares or control of a thrift may be waived.[3] In both cases, an application may not be required from the holding company if the proposed transaction is also subject to approval by a federal banking regulator under section 18(c) of the Federal Deposit Insurance Act (Bank Merger Act) and meets certain other criteria.

If a transaction satisfies each of the criteria for a waiver under the Board's rules, an acquiring holding company seeking a waiver must provide notice of the transaction to the appropriate Reserve Bank at least 10 days prior to consummation.[4] Under the Board's waiver rules, the holding company would not need to submit an application under the BHC Act or HOLA unless it is informed by the Reserve Bank within 10 days after the notice is submitted that an application is required.[5] The Reserve Banks currently do not have delegated authority to act on a notice submitted by an acquiring holding company in connection with a waiver. However, the Board has determined that it would be appropriate for the Reserve Banks to act on waiver notices. Accordingly, the Board is amending the Delegation Rules to delegate authority to the Reserve Banks to inform an acquiring holding company that an application is required under the BHC Act or HOLA after receiving notice regarding a waiver, in accordance with § 225.12(d)(2) or § 238.12(d)(1).[6]

B. Requests To Relieve or Modify Commitments

In connection with applications, notices, and requests submitted pursuant to various banking statutes over which the Federal Reserve has jurisdiction, persons may provide commitments to the Board or a Reserve Bank. Commitments are deemed to be conditions imposed in writing by the Board and may be enforced under applicable law.

The Board has previously delegated authority to the S&R Director to grant or deny requests to relieve or modify, including to extend the time for performing, any commitment relied upon by the Board or a Reserve Bank in acting upon an application or notice required by the BHC Act, the Bank Merger Act, the Change in Bank Control Act of 1978, the Federal Reserve Act, the International Banking Act, the Federal Deposit Insurance Act, or HOLA (Banking Statutes).[7] The Board has determined that it would be appropriate for Reserve Banks to act on requests to relieve or modify commitments upon which the Reserve Bank relied in acting on a filing submitted pursuant to one or more of the Banking Statutes. Accordingly, the Board is revising its Delegation Rules to permit the Reserve Banks to grant or deny requests to relieve or modify (including extending the time for performing) such commitments, so long as the relief or modification would not be inconsistent with, or result in an evasion of, the provisions of the Reserve Bank's original action and the requests do not raise significant legal, supervisory, or policy issues. In acting on such requests, the Reserve Bank may take into account changed circumstances and good faith efforts to fulfill the commitments. No changes are being made to the Board's existing delegation of authority to the S&R Director to grant or deny requests to relieve or modify commitments made to the Board.

C. Public Welfare Investments

Section 9(23) of the Federal Reserve Act permits state member banks, subject to certain limits and other conditions, to make investments which are designed primarily to promote the public welfare (Public Welfare Investments).[8] Under the Board's Regulation H, a state member bank must obtain prior approval before making a Public Welfare Investment if the bank or the proposed investment does not satisfy criteria relating to, among other things, the condition of the bank and the nature of the investment.[9]

The Board previously has delegated to the Reserve Banks authority to approve a Public Welfare Investment that meets the conditions of § 208.22(b)(1)–(3), (b)(5), and (b)(7) of Regulation H, if the bank has at least an overall rating of ''3'' as of its most recent consumer compliance examination and the bank's Public Welfare Investments do not in the aggregate exceed 10 percent of the bank's capital and surplus.[10] In addition, the Board previously has delegated to the S&R Director authority

[2] 12 CFR part 265.

[3] 12 CFR 225.12(d)(2) (bank holding company acquisitions); 12 CFR 238.12(d)(1) (savings and loan holding company acquisitions).

[4] 12 CFR 225.12(d)(2)(v); 12 CFR 238.11(d)(1)(vi).

[5] 12 CFR 225.12(d)(2)(vi); 12 CFR 238.11(d)(1)(vii). Unlike Regulation Y, Regulation LL states that the acquiring savings and loan holding company may be informed by either the Reserve Bank or the Board that an application is required.

[6] In connection with reviewing a notice of a waiver, a Reserve Bank may, in its discretion, inform an acquiring holding company before the end of the 10-day notice period that the Reserve Bank does not intend to recommend that the Board take action to require the filing of an application under the BHC Act or HOLA.

[7] 12 CFR 265.7(a)(2).

[8] 12 U.S.C. 338a.

[9] 12 CFR 208.22(d). Public Welfare Investments by state member banks that do not require prior approval are subject to a 30-day post notice procedure. 12 CFR 208.22(c).

[10] 12 CFR 265.11(e)(12). The Board also previously has delegated to the Reserve Banks authority to approve, with the concurrence of the Director of the Division of Consumer and Community Affairs (DCCA Director), a Public Welfare Investment by a state member bank having an overall rating of ''4'' or ''5'' as of its most recent consumer compliance examination, if the investment meets the conditions of § 208.22(b)(1)–(3), (b)(5), and (b)(7) of Regulation H and the bank's Public Welfare Investments do not in the aggregate exceed 10 percent of the bank's capital and surplus. This delegation was authorized in connection with the Board's approval on February 18, 1999, of the request by California Center Bank, Los Angeles, California, to make certain public welfare investments.

to approve a Public Welfare Investment under certain other circumstances.[11]

The Board has determined that it would be appropriate for the Reserve Banks to act on certain proposals by a state member bank to make a Public Welfare Investment. Accordingly, the Board is revising the Delegation Rules to authorize the Reserve Banks to approve a Public Welfare Investment that is in accordance with the requirements of section 9(23) of the Federal Reserve Act, if the proposal raises no significant legal, supervisory, or policy issues. Under the revised Delegation Rules, the S&R Director would generally have delegated authority to approve a Public Welfare Investment proposal that raises significant legal, supervisory, or policy issues; however, any proposal that does not satisfy § 208.22(b)(1) of Regulation H would require Board action.[12] In addition, the delegations expressly authorize the Reserve Banks and the S&R Director to determine, in connection with approving a Public Welfare Investment under their delegated authority, that the aggregate amount of a state member bank's Public Welfare Investments will not pose a significant risk to the deposit insurance fund in accordance with section 9(23) of the Federal Reserve Act. The delegations in this final rule supersede the Board's prior delegations of authority to the Reserve Banks and the S&R Director to approve Public Welfare Investments.

D. Proposals Under Subparts A and B of Regulation K

The Board's Regulation K sets forth rules regarding international banking operations. Subpart A of the regulation sets out rules governing the international and foreign activities of U.S. banking organizations, including procedures for establishing foreign branches and Edge and agreement corporations to engage in international banking, and for investing in foreign organizations. Subpart B sets out rules governing the activities of foreign banking organizations in the United States. Subparts A and B include numerous application and notice requirements for banking organizations that propose to engage in certain activities, open offices, or make or retain certain investments or acquisitions. The Board previously has delegated authority to the Secretary of the Board, the General Counsel, the S&R Director, and the Reserve Banks to act on certain applications, notices, and requests under both subparts A and B of Regulation K.

The Board has determined that it would be appropriate for the Reserve Banks to act on a number of applications, notices, and requests submitted pursuant to subparts A and B of Regulation K. Accordingly, the Board is revising the Delegation Rules to permit the Reserve Banks to act on certain proposals submitted pursuant to Regulation K. Generally, the authority under this new delegation is limited to proposals that do not raise significant legal, supervisory, or policy issues. The Board is also revising certain existing delegations of authority to the S&R Director, rescinding certain existing delegations to the Secretary of the Board, and reordering certain existing delegations to the Reserve Banks that appear in the Delegation Rules.

With respect to subpart A of Regulation K, concerning the foreign activities of U.S. banking organizations, the revisions to the Delegation Rules provide new authority and expand upon existing delegations of authority for the Reserve Banks to act on various proposals filed under that subpart. Reserve Banks will have delegated authority to act on proposals concerning the establishment of a foreign branch by a state member bank or an Edge corporation; the acquisition by a foreign branch of a member bank of all of the shares of a company that engages in activities in which the member bank is permitted to engage or that are incidental to the activities of the foreign branch; the amendment by an Edge corporation of its articles of association or charter; a foreign institution's acquisition of a majority of the shares of an Edge corporation; the acquisition of control of an Edge corporation; investments by a member bank in the stock of an agreement corporation; the extension of time within which an investor must divest of investments in entities engaged in impermissible activities or interests acquired to prevent a loss upon a debt previously contracted in good faith; investments made by a member bank in a foreign country; a member bank's engaging in underwriting, distribution, or dealing of equity securities outside the United States; the use of internal hedging models for determining compliance with investment limits; and a member bank's engaging in futures commission merchant activities on an mutual exchange or clearinghouse that requires members to guarantee or otherwise contract to cover losses suffered by the other members.

With respect to subpart B of Regulation K, concerning the activities of foreign banking organizations in the United States, the revisions to the Delegation Rules also delegate new authority and expand upon existing delegations of authority for Reserve Banks to act on proposals filed under that subpart concerning the establishment of certain permanent or temporary U.S. offices.

E. Competition

Section 3 of the BHC Act and certain other statutes administered by the Board concerning mergers and acquisitions prohibit the Board from approving proposals involving the formation of a holding company, the merger of holding companies, or the acquisition or merger of insured depository institutions that would result in a monopoly or would be in furtherance of an attempt to monopolize the business of banking in any relevant market.[13] These statutes also prohibit the Board from approving proposals that would substantially lessen competition or tend to create a monopoly in any banking market, unless the Board finds that the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.[14]

The Board previously has delegated authority to the Reserve Banks to approve a proposal involving the formation of a bank holding company, the merger of bank holding companies or banks, or the acquisition of a bank holding company or insured depository institution, provided the proposal satisfies the Board's delegation criteria.[15] In 2011, by order, the Board

[11] Specifically, the Board delegated to the S&R Director authority to approve Public Welfare Investments that are included in the list of permissible investments listed in 12 CFR 208.22(b)(1) and that involve a state member bank that (1) has a composite ''3,'' ''4,'' or ''5'' composite rating under the CAMELS rating system, (2) is less than adequately capitalized, (3) is subject to a written agreement, cease and desist order, capital directive, prompt corrective action directive, or memorandum of understanding, or (4) proposes an investment that exposes the bank to liability beyond the amount of the proposed investment. This delegation was authorized in connection with the Board's approval on February 18, 1999, of the request by California Center Bank, Los Angeles, California, to make certain public welfare investments.

[12] 12 CFR 208.22(b)(1).

[13] *See* 12 U.S.C. 1842(c)(1)(A) (BHC Act); 12 U.S.C. 1828(c)(5)(A) (Bank Merger Act); 12 U.S.C. 1467a(e)(2)(A) (HOLA). Section 4 of the BHC Act requires the Board to consider whether a proposal by a bank holding company to acquire a savings and loan holding company or a savings association would result in increased competition or decreased or unfair competition. 12 U.S.C. 1843(j)(2)(A).

[14] *See* 12 U.S.C. 1842(c)(1)(B) (BHC Act); 12 U.S.C. 1828(c)(5)(B) (Bank Merger Act); 12 U.S.C. 1467a(e)(2)(B) (HOLA).

[15] 12 CFR 265.11(c)(11).

extended the delegation to include savings and loan holding companies in the same manner that the delegation applies to bank holding companies.[16] With respect to competitive factors, the Board's delegation criteria require the Board to act on any such proposal which, upon consummation, would result in the control by a banking organization of over 35 percent of total deposits in any relevant banking market or result in a highly concentrated banking market for deposits, as measured by the Herfindahl-Hirschman Index (HHI),[17] if the proposed transaction also would increase the HHI by at least 200 points.[18] Currently, in determining whether a proposal satisfies the Board's delegation criteria for competition in each relevant banking market for both relative deposit market share and market concentration for deposits, the deposits of any credit unions in the market are excluded, and, except for certain applications described below filed under HOLA, the deposits of all thrift institutions in the market are included on a 50 percent weighted basis.[19]

In analyzing the competitive effects of a merger or acquisition proposal, the Board previously has indicated that certain thrift institutions have become, or have the potential to become, significant competitors to commercial banks.[20] In some cases involving the formation of a bank holding company, the acquisition by a bank holding company of a depository institution, the merger of a bank holding company with another holding company, or the merger of a bank with another depository institution, the Board has included the deposits of certain thrift institutions in a given market on a 100 percent weighted basis, rather than the standard 50 percent weighting, when competition from those thrift institutions closely approximated competition from a commercial bank.[21] Such thrifts are referred to as ''commercially active thrifts.''

The Board also has found that certain credit unions can serve as competitors to commercial banks in a relevant banking market. The Board has included certain credit unions in its competitive analysis when the credit unions offer consumer banking products, operate street-level branches, and have broad membership criteria.[22] Credit unions which meet these criteria are referred to as ''qualifying credit unions.'' Generally, the Board has included the deposits of qualifying credit unions at a 50 percent weight in its analysis, which reflects credit unions' relatively low levels of commercial and small business lending relative to commercial banks. However, the Board has only considered deposits of qualifying credit unions as a factor that can mitigate the anti-competitive effects of a proposal.

The Board has determined that it would be appropriate for the Reserve Banks to act on proposals involving the formation of a bank holding company, the acquisition by a bank holding company of a depository institution, the merger of a bank holding company with another holding company, or the merger of a bank with another depository institution that satisfy the Board's delegation criteria for each affected banking market after the market deposits of commercially active thrift institutions at 100 percent weight and qualifying credit unions at 50 percent weight are included in the initial competitive analysis. Accordingly, the Board is revising the Delegation Rules to permit the Reserve Banks to act upon such proposals, provided the proposals also satisfy the Board's other criteria for delegated action. In so doing, the Board has also determined that it would be appropriate to clarify that its delegation criteria for competition apply to proposals requiring the Board's prior approval under the Bank Merger Act and to proposals involving the acquisition of a thrift by a bank holding company pursuant to section 4 of the BHC Act.

For proposals filed pursuant to HOLA involving the formation of a savings and loan holding company, the merger of savings and loan holding companies, or the acquisition by a savings and loan holding company of a thrift, a modified calculation for relative market share and market concentration for deposits will be used to determine whether the proposal satisfies the Board's delegation criteria for competition. In these cases, the deposits of all thrift institutions in the relevant banking markets will be weighted at 100 percent in the calculation because both before and after consummation of the proposal, the depository institutions involved in the transaction are thrift institutions. Therefore, all thrift institutions in those banking markets compete directly with the involved depository institutions. In these cases, the deposits of all banks in the markets are included at 100 percent weight, because all banks are considered to compete directly with thrift institutions.

The Board has determined that it would be appropriate to codify the Board's previous delegation to the Reserve Banks concerning proposals involving the formation or acquisition of a savings and loan holding company, the merger of savings and loan holding companies, or the acquisition by a savings and loan holding company of a thrift by authorizing the Reserve Banks to act on proposals that satisfy the Board's delegation criteria for each affected banking market, and to include the market deposits of all thrift institutions at 100 percent weight in this analysis. In so doing, the Board has also determined that it would be appropriate to modify this delegation to allow the Reserve Banks to act on such proposals if the proposal would satisfy the Board's delegation criteria for each affected banking market after the market deposits of qualifying credit unions at 50 percent weight are included in the initial competitive analysis.

In all cases, the concurrence of the Board's Division of Research and Statistics will be necessary in order for the Reserve Bank to include the market deposits of commercially active thrifts and qualifying credit unions the higher weights, to ensure that such determinations are consistent with Board precedent.

The delegations in this final rule supersede the Board's prior delegations of authority to the Reserve Banks to approve merger or acquisition proposals

[16] *See,* Order Delegating Certain Actions Relating to Savings and Loan Holding Companies (August 12, 2011) available at *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20110812a.htm.*

[17] Under the Department of Justice Bank Merger Competitive Review guidelines, a market is considered highly concentrated if the post-merger HHI exceeds 1800. The Department of Justice generally does not challenge a bank merger or acquisition (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger or acquisition increases the HHI by more than 200 points.

[18] 12 CFR 265.11(c)(11)(v).

[19] The standard inclusion of thrift deposits at 50 percent weight in the initial competitive analysis reflects thrifts' generally limited lending to small businesses relative to commercial banks.

[20] *See, e.g., Midwest Financial Group,* 75 Federal Reserve Bulletin 386 (1989); *National City Corporation,* 70 Federal Reserve Bulletin 743 (1984).

[21] The Board has found that a commercially active thrift closely approximates competition from a commercial bank when the thrift is a significant commercial lender in the market and offers a broad range of consumer, mortgage, and other banking products typically offered by commercial banks. See, *e.g., KeyCorp,* FRB Order No. 2016–12 (July 12, 2016); *River Valley Bancorp,* FRB Order No. 2012–10 (October 17, 2012); *Regions Financial Corporation,* 93 Federal Reserve Bulletin C16 (2007); and *Banknorth Group, Inc., supra.* See also *Banknorth Group, Inc.,* 75 Federal Reserve Bulletin 703 (1989).

[22] *See, e.g., Central Bancompany, Inc.,* FRB Order No. 2017–03 (February 8, 2017); *Chemical Financial Corporation,* FRB Order No. 2015–13 (April 20, 2015); *Mitsubishi UFJ Financial Group, Inc.,* FRB Order No. 2012–12 (November 14, 2012); and *Old National Bancorp,* FRB Order No. 2012–9 (August 30, 2012).

involving savings and loan holding companies.

III. Regulatory Analysis

These amendments relate solely to the agency's organization, procedure, or practice. Accordingly, the provisions of the Administrative Procedure Act (APA) regarding notice of proposed rulemaking and opportunity for public participation are not applicable.[23]

Because no notice of proposed rulemaking is required to be issued, or has been issued, in connection with this rule, it is not a ''rule'' for purposes of the Regulatory Flexibility Act, and that act, therefore, does not apply.[24]

In accordance with the Paperwork Reduction Act of 1995 (PRA),[25] the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget control number. The Board has reviewed the proposed rule and has determined that it contains no collections of information as defined in the PRA.

Section 722 of the Gramm-Leach-Bliley Act[26] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present this rule in a simple and straightforward manner.

This rule is not a ''substantive rule'' for the purposes of the APA; as such, the act does not require the Board to delay the effective date of the rule.[27] Accordingly, the amendments are effective July 3, 2019.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking.

Authority and Issuance

■ For the reasons stated in the Supplementary Information, the Board of Governors of the Federal Reserve System amends 12 CFR part 265 as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

■ 1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

■ 2. In part 265, remove all references to ''Director of the Division of Banking Supervision and Regulation'' and add in their place ''Director of the Division of Supervision and Regulation''.

[23] 5 U.S.C. 553(b)(A).

[24] *See* 5 U.S.C. 601(2).

[25] 44 U.S.C. 3501 *et seq.*

[26] 12 U.S.C. 4809.

[27] *See* 5 U.S.C. 553(d).

§ 265.5 [Amended]

■ 3. In § 265.5 remove and reserve paragraphs (d)(1) and (3).

■ 4. In § 265.7 revise the section heading and paragraphs (d)(1) and (3); remove and reserve paragraphs (d)(4) and (5), (7), and (9) through (13); and add paragraph (e)(7).

The revisions and addition read as follows:

§ 265.7 Functions delegated to Director of Division of Supervision and Regulation

* * * * *

(d) * * *

(1) Foreign bank reports. To require submission of a report of condition respecting any foreign bank in which a member bank holds stock acquired under § 211.8(b) of Regulation K (12 CFR part 211), pursuant to section 25 of the Federal Reserve Act (12 U.S.C. 602).

* * * * *

(3) With the concurrence of the General Counsel, to approve applications, notices, exemption requests, waivers and suspensions, and other related matters under Regulation K (12 CFR part 211), where such matters do not raise any significant legal, supervisory, or policy issues.

* * * * *

(e) * * *

(7) *Public welfare investments.* (i) To permit a state member bank to make a public welfare investment in accordance with paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a) in any case in which the appropriate Reserve Bank does not have delegated authority to act, unless the proposal does not satisfy 12 CFR 208.22(b)(1). In acting on such requests, the Director shall consult with the directors of other interested divisions where appropriate; and

(ii) To determine, in connection with acting on a proposal pursuant to delegated authority as set forth in paragraph (e)(7)(i) of this section, that the aggregate amount of a state member bank's public welfare investments will not pose a significant risk to the deposit insurance fund in accordance with paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a).

* * * * *

■ 5. In § 265.11:

■ a. Revise paragraph (a)(10);

■ b. Add paragraph (a)(17;

■ c. Revise the paragraph (c) subject heading and paragraph (c)(11)(v);

■ d. Add paragraph (c)(12);

■ e. Revise paragraphs (d)(1) through (8) and (10) through (12);

■ f. Add paragraphs (d)(13) through (15); and

■ g. Revise paragraph (e)(12).

The revisions and addition read as follows:

§ 265.11 Functions delegated to Federal Reserve Banks.

* * * * *

(a) * * *

(10) *Regulation K; divestiture of impermissible interests.* To extend the time within which an investor, under § 211.8(e) and (f) of Regulation K (12 CFR part 211), must divest of investments in entities engaged in impermissible activities or interests acquired to prevent a loss upon a debt previously contracted in good faith.

* * *

(17) *Modification of commitments.* To grant or deny requests for relieving or modifying (including extending the time for performing) a commitment relied upon by the Reserve Bank in taking any action under the Bank Holding Company Act, the Bank Merger Act, the Change in Bank Control Act of 1978, the Federal Reserve Act, the International Banking Act, the Federal Deposit Insurance Act, or the Home Owners' Loan Act, so long as the requests do not raise any significant legal, supervisory, or policy issues. In acting on such requests, the Reserve Bank may take into account changed circumstances and good faith efforts to fulfill the commitments, and shall consult with Board staff as appropriate. The Reserve Bank may not take any action that would be inconsistent with or result in an evasion of the provisions of the original action.

* * * * *

(c) *Holding companies; change in bank control; mergers.* * * *

(11) * * *

(v)(A) With respect to holding company formations, acquisitions or mergers of holding companies, or acquisitions or mergers of insured depository institutions, except as set forth in paragraph (c)(11)(v)(B) of this section, upon consummation, the proposal would result in the control by a banking organization of over 35 percent of total deposits in banking offices in the relevant geographic market or an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) for deposits in a highly concentrated market (a market with a post-merger HHI of at least 1800) when including:

(*1*) All thrift deposits at 50 percent weight, except for deposits of thrifts determined by the Reserve Bank, with the concurrence of the Board's Division of Research and Statistics, to be commercially active, which are included at 100 percent weight; and

(*2*) The deposits of credit unions determined by the Reserve Bank, with

the concurrence of the Board's Division of Research and Statistics, to offer consumer banking products, operate street-level branches, and have broad membership criteria in the relevant geographic market, which are included at 50 percent weight; or

(B) With respect to the formation of a savings and loan holding company, the merger of savings and loan holding companies, or the acquisition by a savings and loan holding company of a savings association, upon consummation, the proposal would result in the control by a banking organization of over 35 percent of total deposits in banking offices in the relevant geographic market or an increase of at least 200 points in the HHI for deposits in a highly concentrated market (a market with a post-merger HHI of at least 1800) when including:

(*1*) All thrift deposits at 100 percent weight; and

(*2*) The deposits of credit unions determined by the Reserve Bank, with the concurrence of the Board's Division of Research and Statistics, to offer consumer banking products, operate street-level branches, and have broad membership criteria in the relevant geographic market, which are included at 50 percent weight; or

* * * * *

(12) *Waivers.* (i) To inform an acquiring bank holding company, in connection with a notice submitted by the bank holding company pursuant to 12 CFR 225.12(d)(2), that an application under 12 CFR 225.11 is required.

(ii) To inform an acquiring savings and loan holding company, in connection with a notice submitted by the savings and loan holding company pursuant to 12 CFR 238.12(d)(1), that an application under 12 CFR 238.11 is required.

(d) * * *

(1) *Member bank, Edge or agreement corporation establishing foreign branch.* With regard to a prior notice to establish a branch in a foreign country under § 211.3 of Regulation K (12 CFR part 211)—

(i) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue;

(ii) To suspend the notice period;

(iii) To determine not to object to the notice, provided that no significant legal, supervisory, or policy issue is raised by the proposal; or

(iv) To require the notificant to file an application for the Board's specific consent.

(2) *Acquisitions by a foreign branch.* To approve, under § 211.4(a)(8) of Regulation K (12 CFR part 211), a proposal by a foreign branch of a member bank to acquire all of the shares of a company that engages solely in activities in which the member bank is permitted to engage or that are incidental to the activities of the foreign branch, provided that no significant legal, supervisory, or policy issue is raised.

(3) *Application to establish Edge corporation.* To approve the application by a U.S. banking organization to establish an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 611) and § 211.5 of the Board's Regulation K (12 CFR part 211) if all of the following criteria are met:

(i) The U.S. banking organization meets the capital adequacy guidelines and is otherwise in satisfactory condition;

(ii) The proposed Edge corporation will be a wholly-owned subsidiary of a single banking organization; and

(iii) No significant legal, supervisory, or policy issues are raised by the proposal.

(4) *Issuance of permit to Edge corporation and amendments to articles of association and charter.* To issue to an Edge corporation under section 25A of the Federal Reserve Act (12 U.S.C. 614) and § 211.5 of Regulation K (12 CFR part 211) a permit to commence business and to approve amendments to the articles of association and charter of an Edge corporation.

(5) *Investments in Edge and agreement corporations.* To approve, pursuant to 211.5(a)(3) of Regulation K (12 CFR part 211) an application by a member bank to invest more than 10 percent of its capital and surplus in the aggregate amount of stock held in in all Edge or agreement corporations; provided that—

(i) The member bank's total investment, including retained earnings of the Edge and agreement corporation, does not exceed 20 percent of the bank's capital and surplus and would not exceed that level as a result of the proposal; and

(ii) The proposal raises no significant legal, supervisory, or policy issues.

(6) *Foreign ownership of an Edge corporation.* To approve, under § 211.5(d) of Regulation K (12 CFR part 211), a foreign institution's acquisition, directly or indirectly, of a majority of the shares of the capital stock of an Edge corporation, provided that no significant legal, supervisory, or policy issue is raised.

(7) *Change in control of an Edge corporation.* With regard to a notice to acquire, directly or indirectly, 25 percent or more of the voting securities, or to otherwise acquire control, of an Edge corporation, under § 211.5(e) of Regulation K (12 CFR part 211)-

(i) to waive the notice period if immediate action is required and no significant legal, supervisory, or policy issue is raised;

(ii) To extend the notice period;

(iii) To determine not to object to the notice if no significant legal, supervisory, or policy issue is raised; or

(iv) To require the notificant to file an application for the Board's specific consent.

(8) *Granting specific consent.* To grant prior specific consent to an investor for

(i) A long range investment plan, under § 211.9(a)(4) of Regulation K (12 CFR part 211), and

(ii) An investment in its first subsidiary or its first joint venture, under § 211.9(a)(5) of Regulation K (12 CFR part 211), where such investment does not exceed the general consent limitations under § 211.9(b) of Regulation K (12 CFR part 211).

* * * * *

(10) *Authority under prior-notice procedures.* (i) With regard to a prior notice to make an investment under § 211.9(f) of Regulation K (12 CFR part 211)—

(A) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue raised;

(B) To suspend the notice period;

(C) To determine not to object to the notice if there is no significant legal, supervisory, or policy issue raised; or

(D) To require the notificant to file an application for the Board's specific consent.

(ii) With regard to a prior notice of a foreign bank to establish certain U.S. offices under § 211.24(a)(2)(i) of Regulation K (12 CFR part 211)—

(A) To waive the notice period if immediate action is required and there is no significant legal, supervisory, or policy issue raised;

(B) To suspend the notice period;

(C) To determine not to object to the notice if there is no significant legal, supervisory, or policy issue raised; or

(D) To require the notificant to file an application for the Board's specific consent.

(11) *Activities usual in connection with banking or other financial operations abroad.* (i) To approve a prior notice, under § 211.10(a)(14) of Regulation K (12 CFR part 211), to engage in underwriting and distribution of equity securities outside the United States, provided that the proposal raises no significant legal, supervisory, or policy issue.

(ii) To approve a prior notice, under § 211.10(a)(15) of Regulation K (12 CFR part 211), to engage in dealing in equity securities outside the United States, provided that the proposal raises no significant legal, supervisory, or policy issue.

(iii) To approve a prior notice, under § 211.10(a)(15)(iv)(B) of Regulation K (12 CFR part 211), to use internal hedging models, provided that the proposal raises no significant legal, supervisory, or policy issue.

(iv) To approve a prior notice, under § 211.10(a)(18) of Regulation K (12 CFR part 211), to engage in futures commission merchant activities on an mutual exchange or clearinghouse that requires members to guarantee or otherwise contract to cover losses suffered by the other members, provided that the Board has previously approved the exchange, the application is on the same terms and conditions on which the Board based its approval of the exchange, and no significant legal, supervisory, or policy issue is raised.

(12) *Change in foreign bank home state.* With respect to a foreign bank's change of home state under § 211.22(b) of Regulation K (12 CFR part 211) and provided no significant legal, supervisory, or policy issue is raised—

(i) To waive the notice period; or

(ii) To determine not to object to the notice.

(13) *Waiver of 30-day prior notification period.* To waive the 30-day prior notification period with respect to a foreign bank's change of home state under § 211.22(c)(1) of Regulation K (12 CFR part 211).

(14) *Offices of foreign banks.* (i) To approve the establishment of a branch, agency, commercial lending company, or representative office by a foreign bank in the United States, pursuant to § 211.24(a)(1) of Regulation K (12 CFR part 211), if the Board has already determined that the foreign bank is subject to consolidated comprehensive supervision and provided that the application raises no significant legal, supervisory, or policy issue.

(ii) To allow a foreign bank to establish a temporary office of a branch or agency, pursuant to § 211.24(a)(5) of Regulation K (12 CFR part 211), provided there is no direct public access to such office and no significant legal, supervisory, or policy issue is raised.

(15) *Agreement with foreign bank concerning deposits of out-of-home-state branch.* To enter into an agreement or undertaking with a foreign bank that it shall receive only such deposits at its out-of-home-state branch as would be permissible for an Edge corporation under section 5 of the International Banking Act (12 U.S.C. 3103).

(e) * * *

(12) *Public welfare investments.* (i) To permit a state member bank to make a public welfare investment in accordance with paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a), provided that the proposal satisfies 12 CFR 208.22(b)(1) and no significant legal, supervisory, or policy issue is raised; and

(ii) To determine, in connection with acting on a proposal pursuant to delegated authority as set forth in paragraph (e)(12)(i) of this section, that the aggregate amount of a state member bank's public welfare investments will not pose a significant risk to the deposit insurance fund in accordance with paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a).

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 26, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–13970 Filed 7–2–19; 8:45 am]

BILLING CODE 6210–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0185; Product Identifier 2018–NM–178–AD; Amendment 39–19658; AD 2019–12–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. This AD was prompted by a determination that new and more restrictive airworthiness limitations are necessary for operational checks of the landing gear alternate extension system (AES). This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new and more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 7, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 7, 2019.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com*; internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185.

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–2019–0185; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations 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: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The NPRM published in the **Federal Register** on March 28, 2019 (84 FR 11656). The NPRM was prompted by a determination that new and more restrictive airworthiness limitations are

necessary for operational checks of the landing gear AES. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new and more restrictive airworthiness limitations.

The FAA is issuing this AD to address a deficiency in the existing maintenance or inspection program, as applicable, that does not meet the certification criteria for all critical AES failure modes, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–31, dated November 28, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> During the Bombardier Maintenance Review Board (MRB) inspection escalation interval project, it was discovered that the current interval of 8000 hours air time and previous interval of 6000 hours air time for the MRB Task 320100–203 ''Operational Check of the Landing Gear Alternate Extension System (AES)'' does not meet the certification criteria to cover for all critical AES failure modes [which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane]. For this reason, a new Certification Maintenance Requirement (CMR) task needs to be implemented in the maintenance program at a shorter interval of 1600 hours air time.
>
> This [Canadian] AD mandates a new CMR task for an operational check of the AES with interval of 1600 hours air time.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued CRJ Regional Jet (Bombardier) Temporary Revision ALI–0652, dated July 9, 2018. This service information describes airworthiness limitations for a CMR task related to operational checks of the landing gear AES.

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

The FAA estimates that this AD affects 536 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) 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.

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):

2019–12–03 Bombardier, Inc.: Amendment 39–19658; Docket No. FAA–2019–0185; Product Identifier 2018–NM–178–AD.

(a) Effective Date

This AD is effective August 7, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a determination that new and more restrictive airworthiness limitations are necessary for operational checks of the landing gear alternate extension system (AES). The FAA is issuing this AD to address a deficiency in the existing maintenance or inspection program, as applicable, that does not meet the certification criteria for all critical AES failure modes, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in CRJ Regional Jet (Bombardier) Temporary Revision ALI–0652, dated July 9, 2018. The initial compliance time for doing the tasks is at the time specified in figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) of this AD – *Compliance Times*

Airplane Flight Hours	Compliance Time
For airplanes with 4,400 flight hours or less since the last inspection done in accordance with Maintenance Review Board (MRB) Task 320100-203	Within 1,760 flight hours from the effective date of this AD
For airplanes with more than 4,400 flight hours since the last inspection done in accordance with MRB Task 320100-203	Within 880 flight hours from the effective date of this AD

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–31, dated November 28, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) CRJ Regional Jet (Bombardier) Temporary Revision ALI–0652, dated July 9, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com*; internet *http://www.bombardier.com*.

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

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

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

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14153 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0020; Product Identifier 2018–NM–144–AD; Amendment 39–19659; AD 2019–12–04]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–19–18, which applied to certain Airbus SAS Model A300 B4–603, B4–620, and B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes. AD 2018–19–18 required, depending on airplane configuration, a modification of certain angle fitting attachment holes; repetitive inspections for cracking of certain holes of the internal lower angle fitting web, certain holes of the internal lower angle fitting horizontal splicing, the aft bottom panel, and a certain junction area; and related investigative and corrective actions if necessary. This new AD retains those actions, expands the applicability, and, for certain airplanes, requires repetitive inspections for cracking of certain holes of the center wing box (CWB) lower angle fittings and the CWB lower panel, and corrective actions if necessary, as specified in an European Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by reports of cracking of a certain frame (FR) angle fitting. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 7, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 7, 2019.

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

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0020; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations 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: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–19–18, Amendment 39–19418 (83 FR 49793, October 3, 2018) (''AD 2018–19–18''). AD 2018–19–18 applied to certain Airbus SAS Model A300 B4–603, B4–620, and B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–605R airplanes. The NPRM published in the **Federal Register** on February 15, 2019 (84 FR 4387). The NPRM was prompted by the determination that additional airplanes may be affected by the unsafe condition. The NPRM proposed to continue to require, depending on airplane configuration, a modification of certain angle fitting attachment holes; repetitive inspections for cracking of certain holes of the internal lower angle fitting web, certain holes of the internal lower angle fitting horizontal splicing, the aft bottom panel, and a certain junction area; and related investigative and corrective actions if necessary. The NPRM also proposed to expand the applicability, and, for certain airplanes, proposed to require repetitive inspections for cracking of certain holes of the CWB lower angle fittings and the CWB lower panel, and corrective actions if necessary. The FAA is issuing this AD to address cracking of the FR47 angle fitting, which could result in reduced structural integrity of the airplane.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0229, dated October 23, 2018 (''EASA AD 2018–0229'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A300 B4–603, B4–620, B4–622, B4–605R, B4–622R, C4–605R Variant F, F4–605R, and F4–622R airplanes. The MCAI states:

> Prompted by cracks found on CWB FR47 angle fittings, Airbus issued SB [service bulletin] A300–57–6049, SB A300–57–6050, and SB A300–57–6086.
>
> These cracks, if not detected and corrected, could affect the structural integrity of the CWB of the aeroplane.
>
> Consequently, DGAC [Direction Générale de l'Aviation Civile] France published AD 94–241–170, AD 1999–147–279, AD 2000–533–328 and AD F–2004–159 (EASA approval 2004–9779), each [DGAC France] AD superseding the previous one, to require repetitive high frequency eddy current (HFEC) rotating probe inspections of the FR47 internal lower angle fitting.
>
> After DGAC France AD F–2004–159 was issued, cracks were reportedly found on the horizontal flange of the FR47 internal corner angle fitting during accomplishment of routine maintenance structural inspection and modification in accordance with the instructions of Airbus SB A300–57–6050. Prompted by these findings, Airbus reviewed and amended the inspection programme for the internal lower angle fitting flange (horizontal face).
>
> Consequently, EASA issued AD 2012–0092 [which corresponds to FAA AD 2014–20–18, Amendment 39–17991 (79 FR 65879, November 6, 2014) (''AD 2014–20–18'')] retaining the requirements of DGAC France AD F–2004–159, which was superseded, and requiring additional repetitive inspections of the CWB lower panel through the ultrasonic method and, depending on findings, re-installation of removed fasteners in transition fit instead of interference. In addition, DGAC France had previously issued AD F–2005–124 (EASA approval 2005–6071) to require CWB FR47 angle fittings inspections for A300 F4–608ST aeroplanes, in accordance with Airbus SB A300–57–9001 and SB A300–57–9002.
>
> Following the discovery of numerous cracks during the accomplishment of SB A300–57–6049 and SB A300–57–6086 inspections, Airbus developed in a first step a new (recommended) modification (Airbus SB A300–57–6113), defined associated inspections programme and methods (ultrasonic/radiographic), and published SB A300–57–6119. Consequently, EASA issued AD 2016–0198, retaining the requirements of EASA AD 2012–0092, which was superseded, to require repetitive inspections for post-SB A300–57–6113 aeroplanes.
>
> After EASA AD 2016–0198 was issued, Airbus revised in a second step the inspection programme for A300–600 pre-SB

A300–57–6113 and A300–600ST aeroplanes, reducing inspection thresholds and intervals. At this opportunity, the existing ultrasonic inspection of the CWB lower panel for A300–600 aeroplanes was added for A300–600ST aeroplanes. Consequently, EASA issued AD 2017–0210 [which corresponds to FAA AD 2018–19–18] retaining the requirements of EASA AD 2016–0198 for A300–600 aeroplanes and DGAC France AD F–2005–124 for A300–600ST aeroplanes, which were both superseded, to include these new requirements.

Since EASA AD 2017–0210 was issued, Airbus revised in a third step the inspection programme for A300–600 post-mod 12171 and post-mod 12249 reducing inspection thresholds and intervals, and introducing the CWB lower panel inspection. Airbus published SB A300–57–6121, superseding Airworthiness Limitation Items (ALI) tasks 571012 & 571014.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2017–0210, which is superseded, and expands the Applicability (Group 3) to include post-mod 12171 and post-mod 12249 aeroplanes [and requires sending inspection results to Airbus].

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0020.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Extend Grace Period for Certain Inspections

United Parcel Service (UPS) requested that the grace periods specified in Note 6 and Note 8 of EASA AD 2018–0229 for the inspections specified in paragraph (7) and paragraph (9) of EASA AD 2018–0229 be extended to 30 months after the effective date of the AD, or 18,700 flight cycles, whichever occurs later. UPS reasoned that the proposed AD is being issued to supersede AD 2018–19–18 in order to add airplanes that are post-modification 12171 and 12249. UPS noted that post-modification 12171 and 12249 airplanes have not had any crack findings in service, and that previous related ADs were issued as a result of inferior fatigue characteristics compared to airplanes that are post-modification 12171. UPS pointed out that, of the inspections it has completed so far, there have not been any findings that require part replacement or major repairs. UPS also reasoned that the airworthiness limitation item inspections that the service information is superseding are not required until 18,700 flight cycles at the earliest. Further, UPS asserted that the proposed grace period would require UPS to send airplanes to a maintenance facility on a special visit to accomplish this inspection. UPS maintained that the suggested grace period would provide an equivalent level of safety for the proposed action.

The FAA does not agree with the commenter's request to extend the proposed grace period. In developing an appropriate compliance time for this action, the FAA considered the urgency associated with the subject unsafe condition based on similarly affected models and information received from EASA. In addition, the FAA considered the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. In consideration of these factors, the FAA has determined that a 12-month grace period will ensure an acceptable level of safety. However, under the provisions of paragraph (k)(1) of this AD, the FAA will consider requests for approval of an extension of the grace period if sufficient data are submitted to substantiate that the new grace period would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Use Later Approved Revisions of Certain Service Information

FedEx requested clarification to determine if a statement in EASA AD 2018–0229 is applicable to this AD, and if all later approved service information revisions are acceptable for compliance with this AD. FedEx pointed out that the Reference Publications section of EASA AD 2018–0229 allows the use of later approved revisions to the specified service information for compliance.

The FAA agrees to clarify. This AD does not exclude the Reference Publications section of the MCAI. Therefore, this AD does not disallow the ''later approved revisions'' language typically used in EASA ADs. The FAA has not changed this AD in this regard.

Request To Reference Latest Service Information

FedEx requested that Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018, be allowed as acceptable for compliance with the requirements of the proposed AD. FedEx pointed out that EASA AD 2018–0229 references Airbus Service Bulletin A300–57–6086, Revision 6, dated July 4, 2017, which has since been revised to Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018, noting that AD 2018–19–18 allows the use of Airbus Service Bulletin A300–57–6086, Revision 7, dated March 26, 2018.

In response, the FAA notes that this AD refers to the MCAI for compliance, which in turn refers to the service information that is the required for accomplishing the required actions. As stated previously, this AD does not exclude the Reference Publications section of the MCAI. Therefore, this AD does not disallow the ''later approved revisions'' language typically used in EASA ADs. Therefore, no change to this AD is necessary in this regard.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2018–0229, dated October 23, 2018, describes procedures for a modification of the angle fitting attachment holes, an inspection of certain holes of the internal lower angle fitting web for cracking, an inspection of certain holes of the internal lower angle fitting horizontal splicing for cracking, an inspection of the aft bottom panel for cracking, an inspection of the FR47/Rib 1 junction area for cracking, an inspection of certain holes of the CWB lower angle fittings for cracking, an inspection of the CWB lower panel for cracking, and corrective actions. The corrective actions include a rotating probe inspection for cracking, replacing damaged fasteners, reaming and drilling holes, installing the next nominal fastener for oversized bore holes, and repairing cracks. 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.

Costs of Compliance

The FAA estimates that this AD affects 65 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2018–19–18.	Up to 727 work-hours × $85 per hour = Up to $61,795.	Up to $3,370	Up to $65,165	Up to $4,235,725.
New actions	242 work-hours × $85 per hour = $20,570.	$100	$20,670	$1,343,550.

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $5,525, or $85 per product.

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW, Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–19–18, Amendment 39–19418 (83 FR 49793, October 3, 2018), and adding the following new AD:

2019–12–04 Airbus SAS: Amendment 39–19659; Docket No. FAA–2019–0020; Product Identifier 2018–NM–144–AD.

(a) Effective Date

This AD is effective August 7, 2019.

(b) Affected ADs

(1) This AD replaces AD 2018–19–18, Amendment 39–19418 (83 FR 49793, October 3, 2018) (''AD 2018–19–18'').

(2) This AD affects AD 2014–20–18, Amendment 39–17991 (79 FR 65879, November 6, 2014) (''AD 2014–20–18'').

(c) Applicability

This AD applies to Airbus SAS Model A300 B4–603, B4–620, B4–622, B4–605R, B4–622R, C4–605R Variant F, F4–605R, and F4–622R airplanes, certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2018–0229, dated October 23, 2018 (''EASA AD 2018–0229'').

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracking of the frame (FR) 47 angle fitting. The FAA is issuing this AD to address cracking of the FR47 angle fitting, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2018–0229.

(h) Exceptions to EASA AD 2018–0229

(1) For purposes of determining compliance with the requirements of this AD:

Where EASA AD 2018–0229 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2018–0229 does not apply to this AD.

(3) Where Note 1 of EASA AD 2018–0229 specifies the grace period to be counted from January 6, 2001, this AD requires the grace period to be counted from December 19, 2005 (the effective date of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005) (''AD 2005–23–08'')).

(4) Where Note 2 and Note 4 of EASA AD 2018–0229 specify the grace periods to be counted from November 7, 2017, without exceeding certain inspection thresholds and intervals, the grace periods in those Notes for this AD are within 12 months after November 7, 2018 (the effective date of AD 2018–19–18).

(5) Paragraph (11) of EASA AD 2018–0229 specifies to report all inspection results to Airbus. For this AD, report all inspection results to Airbus Service Bulletin Reporting Online Application on Airbus World (*https://w3.airbus.com/*) at the applicable time specified in paragraph (h)(5)(i) or (h)(5)(ii) of this AD. The report must include the inspection results, the method of inspection, the airplane serial number, and the number of flight cycles and flight hours on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Terminating Action for AD 2014–20–18

Accomplishment of the action required by paragraph (1) of EASA AD 2018–0229 and the initial inspections required by paragraphs (3), (4), and (5) of EASA AD 2018–0229 terminates all requirements of AD 2014–20–18.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (1) of EASA AD 2018–0229, if those actions were performed before December 19, 2005 (the effective date of AD 2005–23–08) using Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000.

(k) 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 (l)(1) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2018–0229 that contains RC procedures and tests: Except as required by paragraph (k)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Related Information

(1) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

(2) For Airbus service information identified in this AD that is not incorporated by reference, contact Airbus SAS, Airworthiness Office—EAW, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *http://www.airbus.com*.

(m) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0229, dated October 23, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0229, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu*; Internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(4) You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2018–0229 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0020.

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

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

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14152 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2019–0539]

Statement of Policy on Performance Requirements for Operators of Aircraft That are Equipped With Automatic Dependent Surveillance-Broadcast (ADS–B) Out

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Policy statement.

SUMMARY: This action announces the FAA's policy on performance requirements for certain operations of aircraft with Automatic Dependent Surveillance-Broadcast (ADS–B) Out equipment in ADS–B airspace after January 1, 2020. Under the circumstances identified in this policy, the FAA is providing assurance to operators that it will not consider degradation in Global Positioning System performance due to conditions outside the operator's control that results in an operation falling below ADS–B rule requirements to constitute non-compliance, provided the operator

has exercised appropriate due diligence prior to conducting an operation.

DATES: The policy described herein is effective January 2, 2020.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this action, contact David Gray, Surveillance and Broadcast Group Manager, Air Traffic Organization, at (202) 267–3615.

SUPPLEMENTARY INFORMATION:

Authority for This Action

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). 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 ADS–B Out equipage and performance requirements were promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103, Sovereignty and use of airspace, and Subpart III, Section 44701, General requirements. Under section 40103, the FAA is charged with prescribing regulations on the flight of aircraft (including regulations on safe altitudes) for navigating, protecting, and identifying aircraft, and the efficient use of the navigable airspace. Under section 44701, the FAA is charged 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.

Under § 91.227 of Title 14 of the Code of Federal Regulations (14 CFR), which was issued in accordance with the FAA's statutory authority in sections 40103 and 44701, the FAA set forth the ADS–B Out equipment performance requirements, including accuracy and integrity performance standards. This policy statement informs operators about how the FAA will handle: (1) Operators when their avionics produce broadcast elements with values less than required by § 91.227 due to circumstances beyond the operator's control; and (2) circumstances in which the operator cannot use the Service Availability Prediction Tool (SAPT) due to a system outage.

I. Background

In 2010, the FAA issued a final rule prescribing equipage requirements and performance standards for ADS–B Out avionics on aircraft operating in certain airspace after January 1, 2020.[1] ADS–B Out is an advanced surveillance technology that combines an aircraft's positioning source, other aircraft avionics, and a receiver infrastructure to create an accurate and shared surveillance picture between aircraft and air traffic control (ATC). ADS–B Out provides air traffic controllers with real-time position information that is, in most cases, more accurate than the information available with current radar-based systems. With more accurate information, ATC will be able to position and separate aircraft with improved precision and timing so that efficiency and capacity will increase beyond current levels to meet the predicted demand for ATC services while maintaining or improving safety.

ADS–B Position Sources

Aircraft with ADS–B Out equipment continually broadcast information, such as identification, current position, altitude, and velocity, through an onboard transmitter, which can be received by ADS–B ground stations (or other capable receivers) and by other aircraft appropriately equipped to receive this information. The ADS–B Out rule specifies the aircraft's ADS–B Out equipment performance requirements for each flight in rule airspace rather than requiring any particular type of position source. All currently approved position sources rely on a Global Positioning System (GPS) receiver.[2] The quality of each type of receiver can be described by its ''rule performance'' availability, which means the GPS receiver's ability to achieve the performance requirements of § 91.227(c)(1)(i) and (iii) for Navigation Accuracy Category for Position (NACp) and Navigation Integrity Category (NIC). Technical Standard Order (TSO)–C166b and TSO–C154c contain the avionics standards for outputting NACp and NIC. To date, Wide Area Augmentation System (WAAS) is the only GPS position source that consistently provides the equivalent availability to radar.[3] Operators who equip with GPS position sources such as Selective Ability[4]-On (SA-On) or SA-Aware are more likely to experience performance outages that limit their access to the airspace defined in the rule.[5]

FAA ADS–B Service Availability Prediction Tool (SAPT)

The ADS–B SAPT is a preflight availability prediction tool, developed by the FAA, that predicts the ability of an aircraft to meet the requirements of § 91.227(c)(1)(i) and (iii) along a given route of flight. This prediction is based on the ability of the aircraft's position source (GPS receiver) to meet performance requirements specified in FAA TSOs C129, C129a, C145c/C146c, and C196, as well as the predicted status of the GPS constellation. The SAPT will also evaluate if backup surveillance is available where ADS–B outages are predicted.[6] The ADS–B SAPT is primarily intended for pilots, dispatchers, and commercial operators to verify their predicted surveillance availability before flight and ensure compliance with the ADS–B Out rule.[7]

Exemption No. 12555

In April 2015, Airlines for America (A4A) petitioned the FAA, on behalf of A4A member airlines, for an exemption from the Navigation Accuracy Category for Position (NACp) and Navigation Integrity Category (NIC) requirements of the rule. In August 2015, the Administrator issued Exemption No. 12555, a time-limited grant of exemption from § 91.227(c)(1)(i) and (iii) for the period from January 1, 2020 through December 31, 2024. Exemption No. 12555 permits operations in ADS–B Out rule airspace during periods when the GPS position provided to the installed ADS–B Out equipment does not achieve the required accuracy or integrity performance, provided certain conditions and limitations are met.

For those aircraft meeting the performance requirements of TSO–C196 (SA-Aware), the operator is not required to perform a preflight availability prediction prior to conducting an operation under the exemption.[8] For

[1] Final Rule, Automatic Dependent Surveillance-Broadcast (ADS–B) Out Performance Requirements to Support Air Traffic Control (ATC), 75 FR 30160 (May 28, 2010).

[2] GPS is a specific type of Global Navigation Satellite System (GNSS).

[3] FAA has determined that certain GPS tightly integrated with inertial navigation systems will also provide 99.9 percent availability.

[4] SA was a feature that deliberately degraded the GPS satellite signal, resulting in a reduction of the reported accuracy of an aircraft's position. On May 1, 2000, the United States deactivated SA to allow more accurate civilian use of GPS. SA is not included in new GPS satellite designs.

[5] For additional information about SA-On and SA-Aware, please refer to Exemption No. 12555 at *https://www.regulations.gov/searchResults?rpp=25&po=0&s=FAA-2015-0971&fp=true&ns=true.*

[6] FAA plans to begin divesture of some radar infrastructure as part of the transition to a satellite-based navigation and surveillance system. During the period from 2020 to 2025, FAA's planned radar divestures will focus primarily on eliminating redundant/overlapping radars.

[7] For more information on the SAPT, the FAA has developed the ADS–B SAPT/Receiver Autonomous Integrity Monitoring (RAIM) User Guide, which is available at *https://sapt.faa.gov/adsb-start.php.*

[8] To accommodate these aircraft in the system under the requested exemption, the FAA effectively accepted the risk of degraded performance from SA-aware GPS receivers (if the GPS constellation is

operators having aircraft equipped with TSO–C129 (SA-On) approved GPS receivers that do not meet the performance requirements of TSO–196 or TSO–C145/146, the operator must run a preflight prediction.[9] Although the exemption does not require operators with SA-On to use the SAPT for preflight availability prediction, if the operator uses its own preflight availability prediction tool and receives an indication that performance will fall below rule requirements, it must use SAPT to determine whether backup surveillance is available along the planned route of flight per Exemption No. 12555.

SA-On and SA-Aware Without Exemption No. 12555 Relief

Some operators of aircraft with SA-On and SA-Aware receivers did not petition the FAA for relief under Exemption No. 12555. As such, they are not exempt from meeting the performance requirements in § 91.227(c)(1)(i) and (iii). Under § 91.103, a pilot in command is required before beginning a flight to become familiar with all available information concerning that flight, which includes, among other things, conducting due diligence to confirm that a planned route of flight will comply with the ADS–B performance requirements in § 91.227(c)(1)(i) and (iii).[10] Given the previously identified limitations of SA-On and SA-Aware receivers, the use of a preflight prediction tool is a reliable way of satisfying due diligence requirements under § 91.103. Operators may use any reliable preflight prediction tool; however, the SAPT currently provides a comprehensive and reliable preflight prediction for operators.

II. Discussion of FAA's Policy

After January 1, 2020, unless otherwise authorized by ATC, all aircraft operating in the airspace identified in § 91.225 must comply with the ADS–B Out equipage and performance requirements in §§ 91.225 and 91.227. Nothing in this notice shall be deemed to modify or alter those requirements established in the 2010 final rule.

In this notice, the FAA explains circumstances outside of an operator's control that may result in a temporary degradation of GPS performance and an apparent violation of § 91.227. The purpose of this notice is to announce FAA's policy for certain operations of aircraft with ADS–B Out that may encounter such circumstances, including: (1) Operations that are required to use SAPT under the conditions of Exemption No. 12555 or non-exemption holders required to conduct preflight due diligence under § 91.103 to confirm preflight availability; (2) operations that may encounter GPS interference; and (3) operations that may be affected by a SAPT outage. Although it could appear that an operator has not complied with the performance requirements in § 91.227 due to the circumstances described in this document, the FAA would not consider these situations to constitute a violation as such an application of the regulations would impose a standard of conduct wholly outside the operator's control. The FAA cautions that, for operators who have been notified by the FAA of consistent and repeated ADS–B Out performance issues, conducting an operation in accordance with the policy described herein without first redressing the identified non-performance issue will be considered a continuation of existing non-compliance with the performance requirements.

A. Preflight Prediction for Certain Operators

As previously discussed, certain operators are required to use a preflight availability prediction tool to predict the ability of an aircraft to meet the performance requirements of § 91.227(c)(1)(i) and (iii) along a given route of flight. For exemption holders with SA-On receivers, the preflight availability prediction must be performed as part of an operator's preflight planning process. For non-exemption holders with SA-On and SA-Aware receivers, the preflight availability prediction tool is part of the preflight action necessary to ensure rule compliance on a planned route of flight. If the predicted GPS performance does not support the proposed flight, the operator may need to adjust the flight plan accordingly to avoid the degraded GPS performance.

After an operator receives a satisfactory preflight availability prediction for an intended operation, there may be certain conditions that warrant a subsequent prediction. For example, a change in departure time or a change in the GPS satellite constellation as indicated by a Notice to Airmen (NOTAM) may have an effect on the predicted GPS performance for the intended operation. If an operator becomes aware of a change that could result in degraded GPS performance prior to receiving an initial ATC clearance for the intended route of flight, the operator should—consistent with preflight action required by § 91.103—conduct a subsequent preflight availability prediction for the planned flight to ensure that GPS performance is still predicted to comply with the performance requirements of § 91.227(c)(1)(i) and (iii).

The duty to conduct a subsequent preflight availability prediction for an intended route of flight will cease once an operator receives an ATC route clearance for the intended operation. More specifically, if an operator receives a satisfactory preflight availability prediction and an ATC route clearance for the intended operation, the FAA will consider the operator as having exercised its due diligence in ensuring the intended operation complies with the performance requirements in § 91.227. Therefore, upon receiving a satisfactory preflight availability prediction and an ATC clearance for an intended route of flight, the operator will be deemed to have complied with the preflight availability prediction requirement and the performance requirements of § 91.227(c)(1)(i) and (iii).

The FAA recognizes that there are circumstances outside the operator's control that may result in unanticipated changes to an operator's planned route of flight, which may cause temporary degraded GPS performance and technical noncompliance with § 91.227(c)(1)(i) and (iii). For example, ATC will continue to exercise its responsibility for the safe and efficient movement of air traffic, including changes to the routing of traffic to achieve those objectives. In addition, a planned route of flight may be changed due to environmental conditions, such as a thunderstorm, or an operator may experience unexpected GPS degradations during flight. After an ATC route clearance is obtained for the flight, the FAA does not expect an operator to conduct a subsequent preflight availability prediction to accommodate rerouting caused by ATC or environmental conditions.

The FAA notes that the policy described above applies only to those operators who have exercised due diligence in complying with the preflight availability prediction and

degraded). The FAA noted, however, that it could not accept this risk indefinitely and limited the relief in the exemption to 5 years.

[9] For SA-on GPS receivers using the current GPS constellation, the rule performance availability is approximately 95 percent or higher.

[10] Under part 121, the aircraft dispatcher (or director of operations for supplemental operations) shares operational control with the pilot in command and is jointly responsible for preflight planning. Generally, the aircraft dispatcher will perform the preflight prediction to satisfy preflight planning requirements.

ADS–B Out performance requirements. For example, if an operator fails to conduct a preflight availability prediction for the operator's intended operation and subsequently encounters degradation of GPS performance that results in the aircraft falling below the performance requirements of § 91.227(c)(1)(i) and (iii), that operator will be deemed to have violated the ADS–B rule—even if the operator's flight were rerouted due to unforeseen circumstances.

When an operator performs a preflight availability prediction using the FAA's SAPT, the SAPT retains a record of each transaction enabling the FAA to confirm that an operator took preflight action. The FAA recommends that operators using an alternate tool retain documentation that verifies the completion of the satisfactory preflight availability prediction for each intended route of flight. The FAA recommends that the prediction should be done not more than 24 hours prior to the planned departure. Predictions using SAPT to determine the availability of backup surveillance per Exemption No. 12555 should be done within the 3 hours prior to planned departure.

GPS Interference

There may be times when the GPS position source cannot meet the required technical performance due to planned GPS interference. In the event of a scheduled interference outage of GPS, the FAA will issue a NOTAM that identifies the airspace and time periods that may be affected by the interference. The affected area will frequently encompass a large radius of ADS–B Out rule airspace. The FAA finds that requiring operators to avoid the affected area would cause significant disruption to air traffic in that vicinity. Furthermore, there is no guarantee that these operators would experience actual interference and a degradation in GPS performance in the area. For these reasons, the FAA has determined that it would be impractical and not in the public interest to require operators to avoid the affected area based on the chance that an otherwise compliant flight could experience GPS interference.

Accordingly, operators should proceed with their intended operation if the only impediment to their operation is possible planned GPS interference. Under this policy, an operator who is required to perform a preflight availability prediction for the intended route of flight is still required to obtain a satisfactory preflight availability prediction. When a NOTAM identifies the airspace and time periods that may be affected by GPS interference, an operator will not be required to alter his or her route of flight to avoid the area based solely on that NOTAM. As explained in the preamble to the final rule, if an aircraft's avionics meet the performance requirements but unexpected GPS degradations during flight inhibit the position source from providing adequate accuracy and integrity, ATC will be alerted via the aircraft's broadcasted data and services will be provided to that aircraft using the backup strategy. If an operator encounters actual GPS interference during their flight that results in a degradation of ADS–B Out performance, the policy described in Part II above will apply, provided the operator has taken the appropriate preflight actions.

SAPT Outages

As noted, certain operators are required to use a preflight availability prediction tool prior to a planned flight as a condition of Exemption No. 12555. Other operators with SA-On and SA-Aware equipment who do not hold this exemption exercise due diligence, as required under § 91.103, that a planned route of flight will comply with ADS–B performance requirements under§ 91.227(c)(1)(i) and (iii). Some operators will use the FAA SAPT for this purpose. The FAA intends that SAPT will be continuously available to operators. However, because unexpected circumstances could lead to a SAPT outage, the inability to access the tool could have an adverse impact on operators with SA-On or SA-Aware GPS receivers. As previously noted in Advisory Circular (AC) 90–114A CHG 1 *Automatic Dependent Surveillance Broadcast Operations,* ATC will issue a NOTAM announcing when the SAPT is not available.

The FAA understands that a SAPT outage prevents those operators who hold relief under Exemption No. 12555 from confirming the availability of back-up surveillance as required under the exemption's conditions and limitations.[11] It also reduces the ability of non-exemption holders without their own preflight availability prediction tool to determine that a particular operation will meet the performance requirements prior to conducting an operation. The unavailability of the SAPT for brief periods would result in operators having to choose between conducting flights that might result in non-compliance and not conducting an operation that would have complied with ADS-B Out rule performance. The FAA does not intend to inhibit operators from conducting otherwise permissible operations when the SAPT is unavailable. As such, when there is a SAPT outage, the policy described above will apply to operators who rely on the SAPT if their operation falls below the performance requirements.

Implementation

Additional information for operators on the policy described in this document will be contained in other FAA publications, including AC 90–114 and the *Notices to Airmen* publication.[12]

Summary

After January 1, 2020, unless otherwise authorized by ATC, all aircraft operating in the airspace identified in § 91.225 must comply with the ADS–B Out performance requirements in § 91.227. As described above, however, there are circumstances outside of an operator's control that may result in a temporary degradation of GPS performance and an apparent violation of § 91.227. An operator may exercise due diligence in performing a preflight availability prediction for its intended route of flight but experience rerouting by ATC after obtaining an initial ATC route clearance, which may cause an unanticipated degradation of performance. Additionally, an operator may encounter actual GPS interference on its intended path of flight, which would affect the ability of an aircraft to meet the performance requirements of § 91.227. Lastly, an operator may not be able to complete a preflight availability prediction for its intended route of flight due to the FAA's SAPT being out of service. As previously explained, the FAA recognizes that these situations are outside of the operator's control. Therefore, the FAA will not consider these events to constitute noncompliance with § 91.227 due to the circumstances discussed in this document to the extent such an application would impose a standard of conduct wholly outside the operator's control.

[11] The FAA anticipates that any outage would be of short duration and any potential risk would be minimal because, concurrent with the outage, GPS performance would have to fall below rule values on the route of flight and radar coverage would have to be unavailable at the same time and location.

[12] The *Notices to Airmen* publication is published every 28 days. The latest two editions of the publication are available on the FAA's website at *https://www.faa.gov/air_traffic/publications/notices/.*

Issued in Washington, DC, on June 26, 2019.

Teri L. Bristol,

Chief Operating Officer, Air Traffic Organization.

[FR Doc. 2019–14127 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, and 301

[TD 9861]

RIN 1545–BN35

Use of Truncated Taxpayer Identification Numbers on Forms W–2, Wage and Tax Statement, Furnished to Employees

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rulemaking.

SUMMARY: This document contains final regulations under sections 6051 and 6052 of the Internal Revenue Code (Code). To aid employers' efforts to protect employees from identity theft, these regulations amend existing regulations to permit employers to voluntarily truncate employees' social security numbers (SSNs) on copies of Forms W–2, Wage and Tax Statement, that are furnished to employees so that the truncated SSNs appear in the form of IRS truncated taxpayer identification numbers (TTINs). These regulations also amend the regulations under section 6109 to clarify the application of the truncation rules to Forms W–2 and to add an example illustrating the application of these rules. Additionally, these regulations delete obsolete provisions and update cross references in the regulations under sections 6051 and 6052. These regulations affect employers who are required to furnish Forms W–2 and employees who receive Forms W–2.

DATES: *Effective Date:* These regulations are effective on July 3, 2019.

Applicability Date: For dates of applicability, see §§ 1.6052–2(d), 31.6051–1(k), 31.6051–2(d), 31.6051–3(f), 301.6109–4(c).

FOR FURTHER INFORMATION CONTACT: Concerning these regulations, Eliezer Mishory, (202) 317–6844 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background:

This document contains amendments to the Income Tax Regulations (26 CFR part 1), the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31), and the Procedure and Administration Regulations (26 CFR part 301) regarding statements that are required to be furnished to employees by employers or other persons under sections 6051 and 6052 of the Code. On September 20, 2017, a notice of proposed rulemaking (REG–105004–16) was published in the **Federal Register** (82 FR 43920). The notice of proposed rulemaking proposed to permit employers to truncate employees' SSNs to appear in the form of TTINs on copies of Forms W–2 that are furnished to employees. In addition, the notice of proposed rulemaking proposed to amend the regulations under section 6109 to clarify the application of the truncation rules to Forms W–2 and to add an example illustrating the application of these rules. Finally, the notice of proposed rulemaking proposed to delete obsolete provisions and update cross references in the regulations under sections 6051 and 6052. The proposed regulations were proposed to apply to statements required to be filed and furnished under sections 6051 and 6052 after December 31, 2018.

The IRS received comments on the notice of proposed rulemaking, but no public hearing was requested or held. After consideration of the comments, this Treasury decision adopts the proposed regulations without substantive changes to the content of the rules. The applicability date provisions have been changed. The regulations will apply to returns, statements, and other documents required to be filed or furnished after December 31, 2020, except for § 31.6051–2, as amended, which will apply as of the date of publication in the **Federal Register**. A detailed explanation of these regulations can be found in the preamble to the proposed rules. 82 FR 43920.

Summary of Comments

Seventeen written comments were submitted on the notice of proposed rulemaking. They are available at *www.regulations.gov* or upon request. Many of the comments recommended adopting the proposed rules. This preamble addresses the substantive comments that were critical of the proposed rules permitting employers to truncate employees' SSNs to appear in the form of TTINs on copies of Forms W–2 that are furnished to employees or requested clarification of the proposed rule.

Several commenters disagreed with the proposed rules. Commenters stated that not including a complete SSN on the copy of the Form W–2 will make it difficult for employees to verify that the SSN appearing on the copy of the employee's Form W–2 that is filed with the Social Security Administration (SSA) and the IRS is correct, will make it difficult for employees to identify and correct mistakes in lifetime earnings, will make it more difficult for tax return preparers to verify that the taxpayer has provided the correct SSN, may make it more difficult for employees to provide proof of income to lenders, and will confuse employees who receive multiple Forms W–2, some with truncated SSNs and others with complete SSNs.

The Department of the Treasury (Treasury Department) and the IRS did not adopt these comments. The commenters noted potential, unintended consequences of allowing SSNs to appear in the form of a TTIN on Forms W–2. The Treasury Department and the IRS have determined that the benefit of allowing employers to protect their employees from identity theft by truncating employees' SSNs to appear in the form of a TTIN outweighs the risk that the unintended consequences identified by the commenters will occur. Additionally, many of the potential consequences noted by the commenters can be mitigated.

First, tax return preparers can use Forms W–2 containing truncated SSNs to verify employee information by using the last four digits of the SSN and the employee's name and address. Second, preparers can use other documentation to verify employee information. For example, they can verify the accuracy of a taxpayer's SSN by requesting to see the taxpayer's social security card. Third, the only comment submitted regarding lender verification questioned whether verification would be more difficult, and the commenter did not represent having any expertise on the topic. No lender submitted comments suggesting the inclusion of a truncated SSN rather than a complete SSN would affect the lenders' ability to verify income using Forms W–2. If a lender refuses to accept a Form W–2 with a truncated SSN, employees may verify income by other methods, such as providing pay stubs. Fourth, there are many taxpayers who do not receive Forms W–2, and tax return preparers and lenders are able to verify the accuracy of these taxpayers' information. Methods used to verify information for taxpayers who do not receive a Form W–2 can be used to verify information for taxpayers who received a Form W–2 with a truncated SSN. Similarly, methods used by taxpayers who do not receive a Form

W–2 to verify their earnings with SSA can be used by employees who receive Forms W–2 with a truncated SSN if there is an issue using the employees' Forms W–2. Finally, the instructions to Form W–2 will be updated to reflect these regulations and explain that truncation is not mandatory, which will reduce any potential for confusion for taxpayers receiving multiple Forms W–2.

Several comments addressed potential consequences if state governments do not also allow truncation. One commenter stated that even under the proposed rule, employees' identities would not be protected because state and local governments will not allow truncation. Another commenter stated that the proposed rules will cause confusion and could cause employees to violate state and local government rules if the state and local governments do not allow for truncation on copies filed with state and local governments. This commenter also stated that the proposed rules will increase the administrative burden on employers with employees who work in multiple states because the employer will have to determine the requirements for each state. Finally, one commenter stated that the proposed rules will make it more difficult for state authorities to process Forms W–2 and to determine if someone is using an SSN that is not his or hers.

The Treasury Department and the IRS have considered these comments and declined to adopt them. Truncation allows employers to actively assist their employees by safeguarding their employees' identities. The commenters speculate that state or local governments may prevent truncation on the copy of the Forms W–2 submitted to the state. That may be true, but other state and local governments may allow truncation. Truncation, and the identity protection benefits associated with truncation, should not be prohibited for all employees because some state and local governments may not allow truncation. The permissive nature of the rules accommodate the restrictions of individual states. Similarly, the rules accommodate potential burdens imposed on employers by making truncation optional. If employers with employees in multiple states find the process too burdensome, they may choose not to truncate. The Treasury Department and the IRS determined that there is a benefit in allowing for truncation because it will benefit the employees of employers who choose to take advantage of it after considering applicable state and local government rules.

Only one state submitted a comment on its ability to process Forms W–2 with truncated SSNs, and that comment supported the adoption of the proposed rules. At the request of several state tax administrators, the proposed rules provided that the applicable date would not be earlier than December 31, 2018, to give the states sufficient time to make necessary changes to their systems. The final regulations provide that these rules apply to returns, statements, and other documents required to be filed or furnished after December 31, 2020.

Finally, one commenter speculated that software vendors would not allow the option for truncated employee SSNs to appear as IRS TTINs. The Treasury Department and the IRS did not receive any comments from software vendors indicating that they could not or would not truncate SSNs on the Form W–2. Two payroll organizations submitted comments that supported the proposed rule. Further, because truncation is permissive and not mandatory, there is no negative consequence to the employer if a particular software vendor does not allow for truncation.

Commenters also suggested alternatives to the proposed rules. One commenter suggested that a better way to protect employees' identities would be to require employers to furnish employees' copies of Forms W–2 electronically. This comment was outside the scope of the proposed rule, and the Treasury Department and the IRS did not adopt this comment. Allowing truncation provides a different benefit to employees than electronic furnishing. Under existing rules, however, employers are allowed to furnish Forms W–2 electronically if the employee consents.

One commenter suggested that employers should be required to furnish one copy of Form W–2 to employees with the employees' full SSN. The Treasury Department and the IRS did not adopt this comment. As other commenters noted, including one copy of Form W–2 with the employee's full SSN along with the copies where the employee's SSN appears as an IRS TTIN defeats the purpose of permitting truncation.

One commenter stated that truncation should be mandatory. The Treasury Department and the IRS did not adopt this comment. As commenters noted, maintaining consistent rules regarding truncation reduces the compliance burden for filers. Under the generally applicable rules for truncation, truncation is permitted, not mandatory. The proposed rules permitting, but not requiring, truncation, conforms to the generally applicable rules for truncation in § 301.6109–4. Amending those rules to make truncation mandatory for one particular form would be inconsistent with the general rules and would increase burden on filers. Additionally, as commenters noted, while truncation is an important element of protecting against identity theft, truncation may also have other consequences, both for employers and for employees. Therefore, the Treasury Department and the IRS determined that it should be left to the employers, who furnish the forms, to decide whether to truncate.

Commenters requested clarification regarding the scope of the rules permitting employers to truncate employees' SSNs to appear in the form of a TTIN on copies of Forms W–2 that are furnished to employees, and the forms to which the rules apply, including Forms W–2c, Forms 1099, Form 1095–C, and the territorial Forms W–2. These regulations permit employers to truncate employees' SSNs to appear in the form of a TTIN on copies of Forms W–2 that are furnished to employees under sections 6051(a) and (f)(2) and 6052(b). This includes Forms W–2c that are furnished to correct errors on Forms W–2 that are furnished under sections 6051(a) and (f)(2) and 6052(b). The regulations do not apply to any other forms.

In general, under the truncation rules in § 301.6109–4(b)(2)(ii), a TTIN may not be used on a statement or document if a statute, regulation, other guidance published in the Internal Revenue Bulletin, form, or instructions, specifically requires use of an SSN, IRS individual taxpayer identification number (ITIN), IRS adoption taxpayer identification number (ATIN), or IRS employer identification number (EIN) and does not specifically permit truncation. If a specific form continues to require an SSN and does not permit truncation, the SSN may not be truncated to appear in the form of an IRS TTIN. The IRS intends to incorporate the revised regulations into forms and instructions, permitting employers to truncate employees' SSNs to appear in the form of an IRS TTIN on employees' copies of Forms W–2.

Only positive comments were received regarding the miscellaneous updates to regulations under sections 6051 and 6052, and these rules are also finalized as proposed.

Effective/Applicability Date

These regulations are effective on the date of publication in the **Federal Register**. These regulations amend the effective/applicability date provisions in § 31.6051–1 and § 31.6051–3, and add an applicability date provision to

§ 1.6052–2. Sections 31.6051–1, 31.6051–3, and 1.6052–2, as amended, are applicable for statements required to be filed and furnished under sections 6051 and 6052 after December 31, 2020. These regulations add an applicability date provision to § 31.6051–2. Section 31.6051–2, as amended, is applicable on the date of publication in the **Federal Register**. These regulations amend the effective/applicability date provision in § 301.6109–4. Section 301.6109–4, as amended, is applicable to returns, statements, and other documents required to be filed or furnished after December 31, 2020.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings notices, and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov.*

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Because these regulations do not impose a collection of information on small entities, a regulatory impact analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. No comments were received from the Small Business Administration.

Drafting Information

The principal author of these regulations is Eliezer Mishory of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad Retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31 and 301 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805, unless otherwise noted.

* * * * *

■ **Par. 2.** Section 1.6052–2 is amended by:

■ 1. Revising paragraph (a).
■ 2. Removing paragraph (b).
■ 3. Redesignating paragraph (e) as new paragraph (b).
■ 4. Revising paragraphs (c) and (d).
■ 5. Removing paragraphs (f) and (g).

The revisions read as follows:

§ 1.6052–2 Statements to be furnished to employees with respect to wages paid in the form of group-term life insurance.

(a) *Requirement.* Every employer filing a return under section 6052(a) and § 1.6052–1, with respect to group-term life insurance on the life of an employee, shall furnish to the employee whose name is set forth in such return the tax return copy and the employee's copy of Form W–2. Each copy of Form W–2 must show the information required to be shown on the Form W–2 filed under § 1.6052–1. An employer may truncate an employee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 furnished to the employee. For provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations). The rules in § 31.6051–1 of this chapter (Employment Taxes and Collection of Income Tax at Source Regulations) shall apply with respect to the means and time (including extensions thereof) for furnishing the employee's copy of Form W–2 required by this section to the employee and making corrections to such form.

* * * * *

(c) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section, see section 6722 and the regulations in part 301 under section 6722.

(d) *Applicability date.* This section is applicable for statements required to be furnished under section 6052 after December 31, 2020.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 3.** The authority citation for part 31 is amended by adding an entry for § 31.6051–3 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 31.6051–3 also issued under 26 U.S.C. 6051.

* * * * *

■ **Par. 4.** Section 31.6051–1 is amended by:

■ 1. Redesignating and moving the undesignated text after paragraph (a)(1)(i)(*f*) after the fourth sentence in paragraph (a)(1)(i).
■ 2. Redesignating paragraphs (a)(1)(i)(*a*) through (*h*) as (a)(1)(i)(A) through (H), respectively.
■ 3. Revising newly redesignated paragraphs (a)(1)(i)(B) and (b)(1)(ii).
■ 4. Removing paragraph (d)(1)(ii)(C).
■ 5. Revising paragraphs (f), (h)(2), and (i).
■ 6. Removing paragraph (j)(8).
■ 7. Adding paragraph (k).

The revisions and addition read as follows:

§ 31.6051–1 Statements for employees.

(a) * * *
(1) * * *
(i) * * *

(B) The name, address, and social security number of the employee, which may be truncated to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 that are furnished to the employee (for provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations)), if wages as defined in section 3121(a) have been paid or if the Form W–2 is required to be furnished to the employee,

* * * * *

(b) * * *
(1) * * *

(ii) The name, address, and social security number of the employee, which may be truncated to appear in the form of a TTIN on copies of Forms W–2 that are furnished to the employee (for provisions relating to the use of TTINs, see § 301.6109–4 of this chapter),

* * * * *

(f) *Statements with respect to compensation, as defined in the Railroad Retirement Tax Act*—(1) *Notification of possible credit or refund.* With respect to compensation (as defined in section 3231(e)), every

employer (as defined in section 3231(a)) who is required to deduct and withhold from an employee (as defined in section 3231(b)) a tax under section 3201, shall include on or with the statement required to be furnished to such employee under section 6051(a), a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211, which is treated as a tax on wages imposed by section 3101(b).

(2) *Information to be supplied to employees upon request.* With respect to compensation (as defined in section 3231(e)), every employer (as defined in section 3231(a)) who is required to deduct and withhold tax under section 3201 from an employee (as defined in section 3231(b)) who has also received wages during such year subject to the tax imposed by section 3101(b), shall upon request of such employee furnish to him or her a written statement showing—

(i) The total amount of compensation with respect to which the tax imposed by section 3101(b) was deducted;

(ii) The total amount of employee tax under section 3201 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year); and

(iii) The proportion thereof (expressed either as a dollar amount, or a percentage of the total amount of compensation as defined in section 3231(e), or as a percentage of the total amount of employee tax under section 3201) withheld as tax under section 3201 for financing the cost of hospital insurance benefits.

(h) * * *

(2) *Time for furnishing statement.* The statement required by this paragraph (h) for a calendar year shall be furnished—

(i) In the case of an employee who is required to be furnished a Form W–2, Wage and Tax Statement, for the calendar year, within one week of (before or after) the date that the employee is furnished a timely Form W–2 for the calendar year (or, if a Form W–2 is not so furnished, on or before the date by which it is required to be furnished); and

(ii) In the case of an employee who is not required to be furnished a Form W–2 for the calendar year, on or before February 7 of the year succeeding the calendar year.

* * * * *

(i) *Cross references.* For provisions relating to the penalties provided for the willful furnishing of a false or fraudulent statement, or for the willful failure to furnish a statement, see § 31.6674–1 and section 7204. For additional provisions relating to the inclusion of identification numbers and account numbers in statements on Form W–2, see §§ 31.6109–1 and 31.6109–4. For the penalties applicable to information returns and payee statements, see sections 6721 through 6724 and the regulations in part 301 under sections 6721 through 6724.

* * * * *

(k) *Applicability date.* This section is applicable for statements required to be furnished under section 6051 after December 31, 2020.

■ **Par. 5.** Section 31.6051–2 is amended by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 31.6051–2 Information returns on Form W–3 and Social Security Administration copies of Forms W–2.

(a) *In general.* Every employer who is required to make a return of tax under § 31.6011(a)-1 (relating to returns under the Federal Insurance Contributions Act), § 31.6011(a)-4 (relating to returns of income tax withheld from wages), or § 31.6011(a)-5 (relating to monthly returns) for a calendar year or any period therein, shall file the Social Security Administration copy of each Form W–2 required under § 31.6051–1 to be furnished by the employer with respect to wages paid during the calendar year. An employer may not truncate an employee's social security number to appear in the form of an IRS truncated taxpayer identification number (TTIN) on copies of Forms W–2 filed with the Social Security Administration. Each Form W–2 and the transmittal Form W–3 shall together constitute an information return to be filed with the Social Security Administration as indicated on the instructions to such forms. For the requirement to submit the information on Form W–2 on magnetic media, see section 6011(e) and § 301.6011–2 of this chapter (Procedure and Administration Regulations).

* * * * *

(c) *Cross references.* For provisions relating to the time for filing the information returns required by this section and to extensions of the time for filing, see sections 6071 and 6081 and the regulations in this part under sections 6071 and 6081. For the penalties applicable to information returns and payee statements, see sections 6721 through 6724 and the regulations in part 301 under sections 6721 through 6724.

(d) *Applicability date.* This section is applicable for statements required to be filed under section 6051 July 3, 2019.

■ **Par. 6.** Section 31.6051–3 is amended by revising paragraphs (a)(1)(i), (b)(1), (e)(3), and (f) and removing paragraph (g) to read as follows:

§ 31.6051–3 Statements required in case of sick pay paid by third parties.

(a) * * *

(1) * * *

(i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations in this part under section 3402(o), the social security account number of the payee (the payee's social security number may not be truncated to appear in the form of an IRS truncated taxpayer identification number (TTIN)),

(b) * * *

(1) All of the information required to be furnished under paragraph (a) of this section, but the employer may truncate the payee's social security number to appear in the form of a TTIN on copies of Forms W–2 that are furnished to the payee (for provisions relating to the use of TTINs, see § 301.6109–4 of this chapter (Procedure and Administration Regulations)).

* * * * *

(e) * * *

(3) The provisions of section 6109 (relating to identifying numbers) and the regulations in this part and part 301 under section 6109 shall be applicable to Form W–2 and to any payee of sick pay to whom a statement on Form W–2 is required by this section to be furnished. The employer must include the social security number of the payee on all copies of Forms W–2. The employer may truncate the payee's social security number to appear in the form of a TTIN on copies of Forms W–2 that are furnished to the payee. For provisions relating to the use of TTINs, see § 301.6109–4 of this chapter.

(f) *Applicability date.* This section is applicable for statements required to be furnished under section 6051 after December 31, 2020.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 7.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 8.** Section 301.6109–4 is amended by revising paragraphs (b)(2)(ii) and (iii), (b)(3), and (c) to read as follows:

§ 301.6109–4 IRS truncated taxpayer identification numbers.

* * * * *

(b) * * *

(2) * * *

(ii) A TTIN may not be used on a statement or document if a statute, regulation, other guidance published in the Internal Revenue Bulletin, form, or instructions, specifically requires use of an SSN, ITIN, ATIN, or EIN and does not specifically state that the taxpayer identifying number may be truncated. For example, a TTIN may not be used on a Form W–8ECI or Form W–8IMY because the forms and/or form instructions specifically prescribe use of an SSN, EIN, or ITIN for the U.S. taxpayer identification number.

(iii) A TTIN may not be used on any return, statement, or other document that is required to be filed with or furnished to the Internal Revenue Service or the Social Security Administration in the case of forms required to be filed with the Social Security Administration under the internal revenue laws.

* * * * *

(3) *Examples.* The provisions of this paragraph (b) are illustrated by the following examples:

(i) *Example 1.* Pursuant to section 6051(d) and § 31.6051–2(a) of this chapter, Employer files the Social Security Administration copy of Employee's Form W–2, Wage and Tax Statement, with the Social Security Administration. Employer may not truncate any identifying number on the Social Security Administration copy. Pursuant to section 6051(a) and § 31.6051–1(a)(1)(i) of this chapter, Employer furnishes copies of Forms W–2 to Employee. There are no applicable statutes, regulations, other published guidance, forms, or instructions that prohibit use of a TTIN on Form W–2, and § 31.6051–1(a)(1)(i) specifically permits truncating employees' SSNs. Accordingly, Employer may truncate Employee's SSN to appear in the form of a TTIN on copies of Forms W–2 furnished to Employee. Employer may not truncate its own EIN on copies of Forms W–2 furnished to Employee.

(ii) *Example 2.* On April 5, year 1, Donor contributes a used car with a blue book value of $1,100 to Charitable Organization. On April 20, year 1, Charitable Organization sends Donor copies B and C of the Form 1098–C as a contemporaneous written acknowledgement of the $1,100 contribution as required by section 170(f)(12). In late-February, year 2, Charitable Organization prepares and files copy A of Form 1098–C with the IRS, reporting Donor's donation of a qualified vehicle in year 1. Charitable Organization may truncate Donor's SSN to appear in the form of a TTIN in the Donor's Identification Number box on copies B and C of the Form 1098–C because copies B and C of the Form 1098–C are documents required by the Internal Revenue Code and regulations to be furnished to another person; there are no applicable statutes, regulations, other published guidance, forms or instructions that prohibit the use of a TTIN on those copies; and there are no applicable statutes, regulations, other published guidance, forms, or instructions that specifically require use of an SSN or other identifying number on those copies. Charitable Organization may not truncate its own EIN on copies B and C of the Form 1098–C because a person cannot truncate its own taxpayer identifying number on any statement or other document the person furnishes to another person. Charitable Organization may not truncate any identifying number on copy A of the Form 1098–C because copy A is required to be filed with the IRS.

(c) *Applicability date.* This section is applicable to returns, statements, and other documents required to be filed or furnished after December 31, 2020.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: May 2, 2019.

David J. Kautter,

Assistant Secretary for Tax Policy.

[FR Doc. 2019–11500 Filed 7–2–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0273]

Safety Zone; Southern California Annual Firework Events for the San Diego Captain of the Port Zone.

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones for the Big Bay Boom Fourth of July Fireworks on the waters of San Diego Bay, CA on Thursday, July 4, 2019. The safety zones are necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated areas for this event. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated areas without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1123 will be enforced for the Big Bay Boom Fourth of July Fireworks regulated areas listed in item 5 in the Table to § 165.1123 from 8 p.m. through 10 p.m. on July 4, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions on this publication, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulations in 33 CFR 165.1123 for safety zones on the waters of San Diego Bay, CA for the Big Bay Boom Fourth of July Fireworks in 33 CFR 165.1123, Table 1, Item 5 of that section, from 8 p.m. through 10 p.m. on July 4, 2019. This enforcement action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated areas for the Big Bay Boom Fourth of July Fireworks event which encompasses multiple portions of San Diego Bay. Under the provisions of 33 CFR 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: June 14, 2019.

D.P. Montoro,

Captain, U.S. Coast Guard, Acting Captain of the Port San Diego.

[FR Doc. 2019–14207 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0274]

Safety Zone; Southern California Annual Fireworks for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Coronado Glorietta Bay Fourth of July Fireworks on the waters of Glorietta Bay, CA on Thursday, July 4, 2019. The safety zone is necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated area for this event. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1123 will be enforced from 8 p.m. through 10 p.m. on July 4, 2019, for Item 3 in Table 1 of Section 165.1123.

FOR FURTHER INFORMATION CONTACT: If you have questions on this publication, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the regulations in 33 CFR 165.1123 for a safety zone on the waters of Glorietta Bay, CA for the Coronado Glorietta Bay Fourth of July Fireworks in 33 CFR 165.1123, Table 1, Item 3 of that section, from 8 p.m. through 10 p.m. on July 4, 2018. This enforcement action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated area for the Coronado Glorietta Bay Fourth of July Fireworks which encompasses a portion of Glorietta Bay. Under the provisions of 33 CFR 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: 28 June 2019.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2019–14268 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0275]

Safety Zone; Annual Firework Events on the Colorado River, Between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona) Within the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Avi Resort and Casino Independence Day Fireworks on the Colorado River in Laughlin, Nevada on Thursday, July 4, 2019. This safety zone is necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for annual fireworks events on the Colorado River within the San Diego Captain of the Port Zone identifies the regulated area for this event. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1124 will be enforced from 8 p.m. through 10 p.m. on July 4, 2019 for Item 3 in Table 1 of Section 165.1124.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulations in 33 CFR 165.1124 for a safety zone on the Colorado River in Laughlin, Nevada for the Avi Resort and Casino Independence Day Fireworks in 33 CFR 165.1124, Table 1, Item 3 of that section from 8 p.m. through 10 p.m. on July 4, 2019. This enforcement action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for annual fireworks events on the Colorado River within the San Diego Captain of the Port Zone specifies the regulated area for the Avi Resort and Casino Independence Day Fireworks which encompasses a portion of the Colorado River and along the shoreline. Under the provisions of 33 CFR 165.1124, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

Dated: May 16, 2019.

J.R. Buzzella,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2019–14214 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0515]

RIN 1625–AA00

Safety Zone; Ohio River, Miles 67.5–68.5, Steubenville, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River from Mile 67.5 to Mile 68.5. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a land-based fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by Captain of the Port Marine Safety Unit Pittsburgh.

DATES: This rule is effective from 9 p.m. through 11:30 p.m. on July 4, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0515 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 MST2 Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–670–4288, email *Charles.F.Morris@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because this action is necessary to ensure the safety of vessels and persons during the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Marine Safety Unit Pittsburgh (COTP) has determined that a safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created from a land-based firework display.

IV. Discussion of the Rule

This rule establishes a safety zone on July 4, 2019, from 9 p.m. through 11:30 p.m. The safety zone will cover all navigable waters on the Ohio River from Mile 67.5 to Mile 68.5. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a land based firework display.

No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 412–221–0807. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This safety zone impacts only a one-mile stretch of the Ohio River for a short amount of time of 2 and one half hours on one evening. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue LNMs, MSIBs, and BNMs via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission from the COTP to transit the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting two and one half hours that will prohibit entry on the Ohio River from mile 67.5 to mile 68.5, during the land-based firework event. It is categorically excluded from further review under paragraph L60(A) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0515 to read as follows:

§ 165.T08–0515 Safety Zone; Ohio River, Miles 67.5–68.5, Steubenville, OH.

(a) *L/ocation.* The following area is a temporary safety zone: All navigable waters of the Ohio River from Mile 67.5 to Mile 68.5.

(b) *Effective period.* This section is effective from 9 p.m. through 11:30 p.m. on July 4, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of persons and vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP or a designated representative. The COTP's representative may be contacted at 412–670–4288.

(3) All persons and vessels shall comply with the instructions of the COTP or a designated representative. Designated COTP representatives include United States Coast Guard commissioned, warrant, and petty officer.

(d) *Information broadcasts.* The Captain COTP or a designated representative will inform the public through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

S. Miros,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2019–14222 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0471]

Safety Zone; Southern California Annual Firework Events for the San Diego Captain of the Port Zone; San Diego Bay South Embarcadero, San Diego, CA.

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the San Diego, CA POPS Fireworks Display on the waters of San Diego Bay, CA on specific evenings from June 28, 2019 to September 2, 2019. This safety zone is necessary to provide for the safety of the participants, spectators, official vessels of the events, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated area for the events. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or designated representative.

DATES: The regulations in 33 CFR 165.1123, Table 1, Item 1 will be enforced from 9:00 p.m. through 10:00 p.m. on June 28, June 29, June 30, July 5, July 6, July 12, July 26, July 27, August 3, August 5, August 9, August 10, August 11, August 16, August 17, August 24, August 31, September 1 and September 2, 2019 for Item 1 in Table 1 of 33 CFR 165.1123.

FOR FURTHER INFORMATION CONTACT: If you have questions on this publication, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the regulations in 33 CFR 165.1123 for a safety zone on the waters of San Diego Bay, CA for the San Diego, CA POPS Fireworks Display in 33 CFR 165.1123, Table 1, Item 1 of that section, from 9:00 p.m. through 10:00 p.m. on specific evenings from June 28, 2019 to September 2, 2019. This action is being taken to provide for the safety of life on navigable waterways during the fireworks events. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated areas for the events. Under the provisions of 33 CFR 165.1123, a vessel may not enter the regulated area unless it receives permission from the Captain of the Port or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, state, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

Dated: June 14, 2019.

D.P. Montoro,

Captain, U.S. Coast Guard, Acting Captain of the Port San Diego.

[FR Doc. 2019–14202 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0311]

Safety Zones; Annual Fireworks Displays Within the Captain of the Port, Puget Sound

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce four safety zones for annual firework displays in the Captain of the Port, Puget Sound Zone during the dates and times noted under **SUPPLEMENTARY INFORMATION**. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with the firework displays. During the enforcement periods, entry into, transit through, mooring, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Puget Sound or their Designated Representative.

DATES: The regulations in 33 CFR 165.1332 will be enforced for the four safety zones identified in the **SUPPLEMENTARY INFORMATION** section below 5 p.m. on July 4, 2019, through 1 a.m. on July 5, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Junior Grade Ellie Wu, Sector Puget Sound Waterways Management, Coast Guard; telephone 206–217–6051, *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce regulations in in 33 CFR 165.1332 for the following four safety zones established for Annual Fireworks Displays within the Captain of the Port, Puget Sound Area of Responsibility. These regulations will be enforced from 5 p.m. on July 4, 2019, through 1 a.m. on July 5, 2019, at the following locations:

Event name	Location	Latitude	Longitude
Tacoma Freedom Fair	Commencement Bay	47°17.103′ N	122°28.410′ W.
Friday Harbor Independence	Friday Harbor	48°32.255′ N	123°0.654′ W.
Three Tree Point Community Fireworks	Three Tree Point	47°27.033′ N	122°23.15′ W.
Seattle Seafair	Lake Union	47°38.418′ N	122°20.111′ W.

The special requirements listed in 33 CFR 165.1332(b) apply to the activation and enforcement of these safety zones. All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or their Designated Representative by contacting the Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) on VHF Ch 13 or Ch 16 or via telephone at (206) 217–6002. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to the publication of this document in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advanced notification of enforcement of these safety zones via the Local Notice to Mariners.

Dated: June 28, 2019.

L.A. Sturgis,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2019–14229 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2018–OII–0062]

RIN 1855–AA14

Final Priorities, Requirements, Definitions, and Selection Criteria—Expanding Opportunity Through Quality Charter Schools Program; Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces priorities, requirements, definitions, and selection criteria for Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools (Developer grants) under the Expanding Opportunity Through Quality Charter Schools Program (CSP). We may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2019 and later years. We take this action to support the opening of new charter schools, Catalog of Federal Domestic Assistance (CFDA) number 84.282B, and the replication and expansion of high-quality charter schools, CFDA number 84.282E, throughout the Nation.

DATES: These priorities, requirements, definitions, and selection criteria are effective August 2, 2019.

FOR FURTHER INFORMATION CONTACT: Katherine Cox, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E207, Washington, DC 20202. Telephone: (202) 453–6886.

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:

Summary of the Major Provisions of This Regulatory Action: We announce these final priorities, requirements, definitions, and selection criteria to achieve two main goals.

First, we seek to continue to use funds under this program to support high-quality applications from highly qualified applicants. To that end, we announce priorities, requirements, definitions, and selection criteria that encourage or require applicants to describe, for example: Past successes working with *academically poor-performing public schools* [1] or schools previously designated as persistently lowest-achieving schools or priority schools; experience serving concentrations of students who are *individuals from low-income families;* plans to expand their reach into new communities; logical connections between their proposed projects and intended outcomes for the students they propose to serve; and plans to evaluate the extent to which their proposed projects, if funded, yield intended outcomes.

Second, these final priorities, requirements, definitions, and selection criteria are designed to increase the likelihood that Developer grants support expanded high-quality educational opportunities for *educationally disadvantaged students,* as well as students who traditionally have been underserved by charter schools, such as *Native American* students and students in *rural communities.* Specifically, among other things, the final priorities, requirements, definitions, and selection criteria enable the Department of Education (Department) to give priority to applications that propose to open new charter schools or replicate or expand high-quality charter schools that serve a meaningful proportion of students who are *individuals from low-income families,* high school students, students in *rural communities,* and *Native American* students. Further, in order to meet the final requirements announced in this document, Developer grant applicants must describe how the schools they intend to newly open, replicate, or expand would recruit and enroll *educationally disadvantaged students* and support such students in mastering State academic standards.

Costs and Benefits: The Department believes that the benefits of this regulatory action outweigh any associated costs, which we believe will be minimal. While this action imposes cost-bearing requirements on participating Developers, we expect that applicants will include requests for funds to cover such costs in their proposed project budgets. We believe this regulatory action strengthens accountability for the use of Federal funds by helping to ensure that the Department awards CSP grants to Developers that are most capable of expanding the number of high-quality charter schools available to our Nation's students. Please refer to the *Regulatory Impact Analysis* in this document for a more detailed discussion of costs and benefits.

Purpose of Program: The major purposes of the CSP are to: Expand opportunities for all students, particularly students facing educational disadvantages and students who traditionally have been underserved by charter schools, to attend high-quality charter schools and meet challenging State academic standards; provide financial assistance for the planning, program design, and initial implementation of public charter schools; increase the number of high-quality charter schools available to students across the United States; evaluate the impact of charter schools on student achievement, families, and communities; share best practices between charter schools and other public schools; encourage States to provide facilities support to charter schools; and support efforts to strengthen the charter school authorizing process.

Developer grants are intended to support charter schools that serve early childhood, elementary school, or secondary school students by providing grant funds to eligible applicants for the opening of new charter schools (CFDA number 84.282B) and for the replication and expansion of high-quality charter schools (CFDA number 84.282E).

Program Authority: Title IV, part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

We published a notice of proposed priorities, requirements, definitions, and selection criteria for this program in the **Federal Register** on April 4, 2019 (84 FR 13204) (NPP). The NPP contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

There are several significant differences between the NPP and this notice of final priorities, requirements, definitions, and selection criteria (NFP). We have revised *Priority 1—Spurring Investment in Opportunity Zones* to clarify that each subpart can be used separately as its own priority. Second, we have added *Priority 8—Promoting Diversity* to enable the Department to target for funding applications from Developers that are taking active steps to promote socioeconomically diverse student bodies. We have also revised the *Requirements* to clarify statutory parameters regarding the use of weighted lotteries. Finally, we have revised the *Definitions* to clarify and

[1] Italicized terms are defined in the Final Definitions section of this document.

expand the *rural community* definition. We discuss these changes in detail in the *Analysis of Comments and Changes* section of this document.

Public Comment: In response to our invitation in the NPP, 19 parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

We group major issues according to subject. Generally, we do not address technical and other minor changes. In addition, we do not address comments that raised concerns not directly related to the proposed priorities, requirements, definitions, or selection criteria.

Analysis of Comments and Changes: An analysis of the comments and changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

General

Comments: Two commenters suggested that we include a priority focused on improving outcomes for students with disabilities. One commenter encouraged the Department to create a competitive preference or invitational priority for developers that propose to open, replicate, or expand schools that are intentionally designed to address achievement gaps that exist for students with disabilities. Another commenter noted that the charter sector presents an opportunity to leverage parental choice and school autonomy to develop innovative approaches to educating students with disabilities.

Discussion: We agree that students with disabilities face unique educational challenges, and the charter sector presents an opportunity to improve outcomes for students with disabilities.[2]

To help facilitate this goal, a number of priorities, requirements, definitions, and selection criteria under this program focus on *educationally disadvantaged students,* which include students who are children with disabilities, as defined in section 8101(4) of the ESEA. For example, *Priority 3—High School Students* requires an applicant to propose one or more performance measures that will provide information on the applicant's progress in preparing students, including *educationally disadvantaged students,* for enrollment in postsecondary education institutions.

Additionally, on March 2, 2018, the Department published in the **Federal Register** (83 FR 9096) the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, which are available for use in all of the Department's discretionary grant programs, including the Developer grant competition. Included are two priorities that focus on the needs of students with disabilities and could be used in future Developer grant competitions. These priorities are:

Priority 1—Empowering Families and Individuals to Choose a High-quality Education that Meets their Unique Needs (which includes a specific option for focusing on students with disabilities) and Priority 5—Meeting the Unique Needs of Students and Children with Disabilities and/or Those with Unique Gifts and Talents. For these reasons, we did not include a specific priority for students with disabilities.

Changes: None.

Comments: Several commenters suggested that we designate specific priorities as absolute priorities or competitive preference priorities for competitions in FY 2019 and later years.

Discussion: Federal regulations at 34 CFR 75.105 authorize the Department to establish annual priorities and to designate the priorities as invitational, competitive preference, or absolute. We believe it is important to retain the flexibility to designate each priority as invitational, competitive preference, or absolute in order to ensure that program funds are used to address the most pressing programmatic concerns for competitions in FY 2019 and later years. Therefore, in accordance with 34 CFR 75.105(c), we will designate specific priorities as invitational, competitive preference, or absolute priorities for the FY 2019 competition, and competitions in later years, through a notice inviting applications (NIA) published in the **Federal Register.**

Changes: None.

Comments: Four commenters encouraged the Department to include a priority that focuses on promoting diversity. Three commenters suggested adding a diversity priority comparable to the CSP Charter Management Organization (CMO) grant competition to help support the creation of new diverse-by-design charter schools focusing on racial and socioeconomic diversity, with one commenter encouraging the scope to include students with disabilities and other educationally disadvantaged students. One commenter noted that it is important to support the growth of charter schools that aim to increase diversity, encouraging the use of a priority and technical assistance focused on student diversity.

Discussion: We agree that students can benefit from attending high-quality charter schools with a student body reflecting a broad socioeconomic spectrum. To avoid potential Constitutional questions, we are adding a priority focused just on promoting recruitment of students from diverse socioeconomic backgrounds. In addition, the Department will consider how we can support efforts to reach children from broad and diverse socioeconomic backgrounds in a legally compliant way through technical assistance and the dissemination of information beyond rulemaking.

Changes: We have added *Priority 8—Promoting Diversity,* under which applicants must propose to open a new charter school, or replicate or expand a high-quality charter school, that has an intentional focus on recruiting students from diverse socioeconomic backgrounds and maintaining socioeconomically diverse student bodies in that charter school.

Comments: One commenter asserted that the Department did not comply with the requirement in Executive Order 13563 that, in choosing among regulatory alternatives, an agency ''select those approaches that maximize net benefits including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity'' because the Department did not provide a comprehensive definition of ''equity.''

Discussion: Executive Order 13563 requires that the Department consider regulatory approaches that maximize benefits, including with respect to equity. The Executive Order does not define equity, nor does it require an agency to adopt a specific definition for the term. As noted in the Regulatory Impact Analysis in the NPP, the Department assessed the potential benefits of this regulatory action and concluded that the proposal ''would strengthen accountability for the use of Federal funds by helping to ensure that the Department awards CSP grants to Developers that are most capable of expanding the number of high-quality charter school available to our Nation's students.'' Therefore, we disagree with the commenter's assertion that the Department failed to comply with the Executive order.

Changes: None.

[2] Public charter schools are required to comply with applicable laws, including Part B of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (ADA). All eligible students with disabilities attending public charter schools and their parents retain all rights under Part B of the IDEA, including the right to receive a free appropriate public education (FAPE).

Priority 1—Spurring Investment in Opportunity Zones

Comments: One commenter expressed concern about the impact that this priority may have on racial and socioeconomic segregation in and around an opportunity zone. The commenter recommended that the Department instead encourage the use of grant funds for transportation of children in families of low economic status to schools of choice.

Discussion: As noted in the NPP, this priority is focused specifically on harnessing the power of opportunity zones to increase educational choices for students in distressed communities. The Economic Innovation Group found that ''[n]early a quarter of Americans living in distressed communities have not completed high school, and more than one-third have no education beyond a high school diploma or equivalent.'' [3] This priority is focused on the connection between students living in distressed communities and their academic achievement and long-term outcomes. Therefore, it is not specifically intended to address racial and socioeconomic segregation. In addition, as noted above, we have added a priority focused on recruiting and maintaining a socioeconomic diverse student body.

With respect to the transportation of students, we believe the statute already includes requirements that adequately address this issue. Specifically, under section 4303(f)(1)(E) of the ESEA, an applicant must describe how it will ensure that each charter school receiving CSP funds has considered and planned for the transportation needs of the school's students. In addition, under section 4303(h)(4) of the ESEA, grantees are authorized to use CSP funds to provide one-time start-up costs associated with providing transportation to students to and from school.

Changes: None.

Comments: One commenter inquired about what criteria the Department would use to determine if a school to be opened in an opportunity zone is high quality.

Discussion: Developer grants support the opening of new charter schools and the replication and expansion of ''high-quality charter schools,'' which is defined in section 4310(8) of the ESEA. Accordingly, the Department will apply that definition when considering applications for replication and expansion.

Changes: None.

Comments: Two commenters expressed support for the priority as a way to attract charter schools to areas lacking a sufficient number of high-quality seats. One commenter supported the possibility of the Department giving applicants additional time to provide evidence of partnership with a qualified opportunity fund after the application deadline. The other commenter also supported the priority but did not believe that meeting both subparts of the priority should be required for an applicant to fully meet the priority. The commenter suggested removing subpart (b) of the priority.

Discussion: We agree that using the opportunity zone priority can attract charter schools to areas lacking a sufficient number of high-quality seats. We also believe that having the flexibility to grant additional time to enable an applicant to formalize a relationship with an opportunity fund could be merited. The Department anticipates that we would provide additional time for this purpose especially if the priority area focused on opportunity funds is used in an absolute priority.

With respect to the commenter's concerns about meeting both parts of the priority, we believe that as opportunity zones and opportunity funds mature, the ability to promote either or both subparts maximizes the Department's flexibility. To this end, we believe a slight modification is necessary to ensure that the Department has flexibility to use either or both subparts, which may include using the subparts as different types of priorities in a competition (*e.g.,* using subpart (a) as an absolute priority and subpart (b) as a competitive preference priority).

Changes: We have revised the priority to clarify that the Department may use each subpart as its own priority by removing the semicolon as well as the ''and'' connector between the two subparts.

Priority 2—Reopening Academically Poor-Performing Public Schools as Charter Schools

Comments: Several commenters recommended that we use Priority 2 cautiously because available research on charter school performance is mixed. One commenter urged the Department to ensure that any restart efforts intentionally include evidence-based, effective, and innovative strategies.

Discussion: We agree that, where possible, Federal funding should be used primarily to support strategies that are based on research or otherwise have promise of or have been shown to be effective. For this reason, to meet this priority, applicants must demonstrate past success working with one or more *academically poor-performing public schools* or schools previously designated as persistently lowest-achieving schools or priority schools. In addition, under the final requirements, all applicants, regardless of whether they address this priority, must provide a complete logic model that includes the applicant's objectives for implementing a new charter school or replicating or expanding a high-quality charter school with funding under this competition. Applicants for grants under CFDA number 84.282E, regardless of whether they address this priority, may be required to disclose compliance issues and describe student assessment results, attendance rates, and student retention rates for charter schools they currently operate or manage. This program specifically supports the opening of new charter schools and the replication and expansion of high-quality charter schools, and the final priorities, requirements, definitions, and selection criteria are designed to differentiate between high-quality applications that are likely to be successful and low-quality applications that have little chance of succeeding.

Changes: None.

Comments: Several commenters expressed support for Priority 2. One commenter requested that we clarify whether an applicant could address the priority by proposing to partner with a school district to open a new charter school and prioritize enrollment of students attending the *academically poor-performing public school* or a recently closed school, rather than to reopen an *academically poor-performing public school* as a charter school. Another commenter requested clarity on what constitutes the reopening of an *academically poor-performing public school* as a charter school. One commenter encouraged the Department to ensure that applications addressing this priority be evaluated with the context that the authorization process may be different for a school that is reopening versus a replication or expansion school. This commenter also suggested that the Department update its nonregulatory guidance to clarify that Developers who intend to reopen *academically poor-performing public schools* as charter schools could exempt from admissions lotteries students who are enrolled in the *academically poor-performing public school* at the time it is reopened. The commenter also recommended that the Department use the priority as a competitive, but not absolute, priority.

[3] Economic Innovation Group Distressed Communities Index, 2017. Available at *https://eig.org/wp-content/uploads/2017/09/2017-Distressed-Communities-Index.pdf.*

Discussion: We agree with the commenter that the purpose of this priority—to ''reopen'' academically poor-performing public schools—should be clear. Therefore, an applicant proposing only to open a new charter school, and not ''reopen'' an *academically poor-performing public school* as a charter school, would not meet this specific priority (but could meet other priorities established in this NFP).

In addition, we agree that starting a new school is an important endeavor and note that opening new high-quality charter schools is a key element of the CSP. We also believe that charter schools can play an important role in helping to improve academic outcomes for students in low-performing public schools. Therefore, this priority is specifically focused on Developers that propose to reopen *academically poor-performing public schools* as charter schools.

With respect to the parameters around reopening an *academically poor-performing public school* as a charter school, we note that applicants are required to demonstrate past success working with one or more *academically poor-performing public school* or schools that previously were designated as persistently lowest-achieving schools, or priority schools under the former School Improvement Grant program or in States that exercised ESEA flexibility, respectively, under the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), including but not limited to direct experience reopening *academically poor-performing public schools* as charter schools. As outlined in our final priority, the applicant must target a demographically similar student population in the replicated charter school as was served by the *academically poor-performing public school,* consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Additionally, when evaluating applications, the Department will use selection criteria that focus on the quality of the eligible applicants, the significance of the contributions in assisting *educationally disadvantaged students,* and the quality of the continuation plans. We rely on the expertise of independent peer reviewers to evaluate the quality of applications submitted under a grant competition in order to ensure the fairness and integrity of the competition.

While the differences in authorization processes for a school that is reopening is a factor that the applicant can describe in the application, the Department will not evaluate that factor as part of the determination whether to fund an applicant. To ensure an equal playing field, we believe it is critical that all applicants be required to submit the same general information for review. Therefore, beyond having the flexibility to apply this priority, we decline to evaluate applications differently based on whether the proposed school will be a reopened school.

Regarding admissions lotteries, under section 4303(c)(3) of the ESEA, charter schools receiving funds under a Developer grant may use ''a weighted lottery to give slightly better chances for admission to all, or a subset of, *educationally disadvantaged students,*'' so long as weighted lotteries in favor of such students are not prohibited under State law and are not used to create schools that would serve a particular group of students exclusively.[4]

Further, the Department issued its most recent update to the CSP nonregulatory guidance in January 2014.[5] Although that guidance was issued prior to enactment of the Every Student Succeeds Act (ESSA), much of it is applicable to the CSP lottery requirement in section 4310(2)(H) of the ESEA. Specifically, the January 2014 CSP Nonregulatory Guidance identifies several categories of students who may be exempted from a charter school's lottery, including students who are enrolled in a public school at the time it is reopened as a charter school. The Department may update this guidance to address changes to the CSP made by the ESSA. In the meantime, Developer grantees may continue to follow the guidelines in the January 2014 CSP Nonregulatory Guidance regarding the categories of students who may be exempted from the lottery requirement.

Finally, we appreciate the recommendation on use of the priority. As previously stated, this NFP establishes the priorities that we may choose to use in the Developer grant competition in FY 2019 and later years. We do not designate whether a priority will be invitational, competitive preference, or absolute in this NFP but, rather, retain the flexibility to designate each priority as invitational, competitive preference, or absolute in order to ensure that program funds are used to address the most pressing programmatic concerns for competitions in FY 2019 and later years. When inviting applications for a competition using one or more of these priorities, we will designate the type of each priority through the NIA.

Changes: None.

Comments: One commenter expressed that there is a disproportionately high percentage of students with disabilities in turnaround schools and suggested that we require Developers proposing to reopen *academically poor-performing public schools* as charter schools to address the issue.

Discussion: A major goal of these priorities, requirements, definitions, and selection criteria is to expand high-quality educational opportunities for *educationally disadvantaged students,* including students with disabilities. Developer grantees, and the charter schools they operate, must comply with applicable laws, including Part B of the IDEA, Section 504, and Title II of the ADA. Further, to meet the priority, an applicant must propose a strategy that targets a student population that is demographically similar to that of the *academically poor-performing public school.* Therefore, we decline to revise this priority in the manner suggested by the commenter.

Changes: None.

Comments: One commenter expressed concern that reopening an academically poor-performing public school as a charter school would lead to higher-achieving students abandoning their traditional public school in order to attend the charter, leading to an increase in traditional public schools being academically poor-performing.

Discussion: The Department appreciates the opportunity to provide clarity in response to the comment. The intent of this priority is to promote high-quality educational options in areas where traditional public schools have not been producing high-quality outcomes and encourage the creation of high-quality options in those areas that have traditionally been underserved. The priority included in this competition is almost identical to the final priority under the CMO grant competition. We believe that the restart model (*i.e.,* reopening a low-performing traditional public school under the management of a charter school developer, or reopening a low-performing public charter school under the management of a different charter school developer) holds promise as a school improvement strategy, but data suggest that it has been underutilized.[6]

[4] As stated above, under section 4305(c) of the ESEA, Developer grantees generally are subject to the same terms and conditions as State entity grantees funded under section 4303.

[5] See *http://www2.ed.gov/programs/charter/fy14cspnonregguidance.doc.*

[6] Hurlburt, S., Therriault, S.B., and Le Floch, K.C. (2012). School Improvement Grants: Analyses of State Applications and Eligible and Awarded Schools (NCEE 2012–4060). Washington, DC: National Center for Education Evaluation and

Continued

Accordingly, Priority 2 is intended to help increase the frequency of implementation of the restart model. In future Developer grant competitions that include this priority, we would encourage applicants to review CSP technical assistance materials pertaining to how an applicant may design an admissions lottery for an *academically poor-performing public school* that the applicant is proposing to reopen. Under the most recent version of the CSP nonregulatory guidance, for example, a charter school receiving CSP funds could, if permissible under applicable State law, exempt from its lottery students who are enrolled in the *academically poor-performing public school* at the time it is reopened. Additionally, in order to meet this priority, applicants must target a demographically similar student population in the replicated charter school as was served by the *academically poor-performing public school,* consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Changes: None.

Priority 3—High School Students

Comments: One commenter encouraged the Department to consider supporting charter schools at the elementary and middle school level, concerned that programs that begin at the high school level may be too late to close education gaps and ensure a quality education.

Discussion: Developer grants are intended to support charter schools that serve early childhood, elementary school, and secondary school students. This priority is not intended to preclude the development of charter schools at the elementary and middle school level, but rather promote high-quality charter school options for the entire elementary and secondary sector, including high school. Data from the Department's National Center for Education Statistics (NCES) in the 2015–2016 school year demonstrated that over half of all charter schools were elementary schools (56%). Approximately 23 percent of charter schools in the 2015–2016 school year were secondary schools, with the remaining 21 percent representing a combination elementary/secondary or not classified by grade span. While research comparing the outcomes of students who participated in a charter school only for high school versus students who attended a charter school at the elementary and middle school levels is limited, evidence does demonstrate that the long-term impact of attending a charter school is positive. One study found that ''students attending charter high schools had a substantially higher chance of graduation and college enrollment (relative to students that attended charter middle schools but regular public high schools).'' [7] In an effort to increase the number of high-quality educational options for high school students, the Department added the priority for high school students.

With respect to concerns about closing education gaps in high school and ensuring a quality education, section 4303(f)(1)(A)(x) of the ESEA requires that all applicants, regardless of whether they address this priority, describe how they will ensure that charter schools receiving funds under this program meet the educational needs of their students. Under the final requirements, the applicant must also describe the educational program that will be implemented in the charter school, including how the program will enable all students to meet the challenging State academic standards.

Changes: None.

Comments: Two commenters supported the priority focused on high school students, with one commenter noting that the priority should be used as invitational or competitive preference, rather than absolute. The other commenter requested that the Department ensure that any application focused on high school students include strategies to support transition planning for students with disabilities.

Discussion: As stated above, the NFP establishes the priorities that we may choose to use in the Developer grant competition in FY 2019 and later years. When inviting applications for a competition using one or more of these priorities, we will designate the type of each priority through the NIA.

We agree with the commenter that ensuring that students with disabilities (as well as other *educationally disadvantaged students*) graduate from high school with adequate preparation for postsecondary education options is paramount. Therefore, the priority language includes specific references to *educationally disadvantaged students,* including students with disabilities, where appropriate. Also, eligible students with disabilities attending public charter schools and their parents retain their right to receive FAPE, and the IDEA requirements for transition services apply beginning with the first individualized education plan (IEP) to be in effect when the student turns 16, or younger if determined appropriate by the IEP team.[8] In order to be considered a high-quality charter school (a key aspect of this program), a charter school that serves high school students must have demonstrated success in increasing student academic achievement and graduation rates, and must provide that information disaggregated by subgroups of students defined in section 1111(c)(2) of the ESEA, which includes children with disabilities, as defined in the IDEA. Further, the previously described application requirements are designed to ensure that an applicant is meeting the needs of all its students, including those students with disabilities that require transitional support. As children with disabilities are included in the definition of ''educationally disadvantaged students,'' we do not specifically need to identify this subgroup in a separate application requirement. Therefore, we decline to revise the priority to include a specific focus on high schools that provide transitional programming (*i.e.,* preparation for specific postsecondary education options) for students with disabilities.

Changes: None.

Priority 4—Rural Community

Comments: Two commenters requested clarity around the use of this priority. One commenter expressed support for the priority if used as a competitive preference or invitational priority, rather than an absolute priority based on the concern that use as an absolute priority may unduly prevent developers in largely urban or suburban areas from competing for grant funds. Another commenter requested that the Department clarify how this priority would operate if the entire priority is used in a competition.

Discussion: According to NCES, 28 percent of public elementary and secondary schools are in rural areas, serving 19 percent of the Nation's students enrolled in public elementary and secondary schools.[9] Additionally, according to the Department's *Section 5005 Report on Rural Education: Final Report,* ''Rural schools and LEAs often face unique challenges, including fewer

Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

[7] Booker, Kevin, et al. ''The Effects of Charter High Schools on Educational Attainment.'' Journal of Labor Economics, vol. 29, no. 2, 2011, pp. 377–415. JSTOR, *www.jstor.org/stable/10.1086/658089.*

[8] *See* 20 U.S.C. 1414(d)(1)(A)(i)(VIII) and 34 CFR 300.320(b); *see also* 20 U.S.C. 1401(34) and 34 CFR 300.43.

[9] Public elementary and secondary school enrollment, number of schools, and other selected characteristics, by locale: Fall 2012 through fall 2015, *https://nces.ed.gov/programs/digest/d17/tables/dt17_214.40.asp.*

career options and apprenticeship options for students, the inability to attract, train, and retain teachers and principals, and the inability to offer advanced courses that better prepare students for college and careers.'' Additionally, the report revealed that ''rural schools and LEAs often see themselves at a distinct disadvantage compared to their urban and suburban counterparts during grant competitions. While many large districts may have dedicated grant-writing staff, many rural districts (due to small staffs and frequent turnover) lack personnel with the knowledge and experience to complete complex grant applications. In addition, more often than their counterparts in other locales, rural districts lack access to reliable broadband internet access, causing additional difficulties in applying for grants, providing classroom instruction, and administering programs.'' [10] For these reasons, we are interested in prioritizing applications that seek to increase high-quality educational options in rural areas. We do not believe that use of this priority as an absolute priority would prevent urban and suburban districts from competing for funds; rather, it would allow rural applicants a comparable opportunity to compete with those with similar resources. As written, this priority gives the Department flexibility to establish an absolute or competitive preference priority for applications that propose to open a new charter school, or to replicate or expand a high-quality charter school, in a *rural community* or non-rural community, depending on the Department's policy objectives in a given year. Additionally, in a competition in which this priority is established as an absolute priority, we would expect to use both the rural and the non-rural parts of this priority in order to create two funding slates. We believe the priority is clear and, therefore, decline to revise it.

Changes: None.

Proposed Priority 5—Opening a New Charter School or Replicating or Expanding a High-Quality Charter School To Serve Native American Students

Comments: Two commenters expressed support for the priority. One commenter requested clarification on the relative importance of this priority in relation to other priorities.

Discussion: We believe it is important to retain the flexibility to designate each priority and its importance in any given year in order to ensure that program funds are used to address the most pressing programmatic concerns for competitions in FY 2019 and later years. Therefore, in accordance with 34 CFR 75.105(c), we will designate specific priorities as invitational, competitive preference, or absolute priorities for the FY 2019 competition, and competitions in later years, through an NIA published in the **Federal Register**.

Changes: None.

Proposed Priority 6—Low-Income Demographic

Comments: Several commenters expressed support for the priority but suggested various refinements. Two commenters suggested that we revise the priority to require Developers to demonstrate that the schools serve a proportion of low-income students that is within a defined range of the demographics of the community that they are serving, rather than a determined percentage of *individuals from low-income families.* Another commenter suggested that if the Department uses more than one percentage, a tiered approach to competitive preference priority points be used in scoring (*e.g.,* one point for an applicant that can demonstrate its schools have at least 40 percent students who are *individuals from low-income families,* two points for an applicant that can demonstrate its schools have at least 50 percent students who are *individuals from low-income families,* and three points for an applicant that can demonstrate its schools have at least 60 percent students who are *individuals from low-income families*).

Discussion: The priority is written in a manner that gives the Department flexibility to apply one, two, or all three poverty standards in a single competition. We believe it is important to retain the flexibility to designate each priority as invitational, competitive preference, or absolute and specify the point values when applicable in order to ensure that program funds are used to address the most pressing programmatic concerns for competitions in FY 2019 and later years. Therefore, in accordance with 34 CFR 75.105(c), we will designate specific priorities as invitational, competitive preference, or absolute priorities for the FY 2019 competition, and competitions in later years, through an NIA published in the **Federal Register**.

We require an applicant receiving points for this priority to maintain the same, or a substantially similar, poverty threshold throughout the life of the grant. We recognize that the percentage of students who are *individuals from low-income families* may fluctuate on an annual basis and, for this reason, believe the priority should focus on all schools operated by a Developer, when applicable, and not just the charter school being opened, replicated, or expanded as part of the grant project.

Likewise, we understand that use of community demographics may provide useful data in areas in which the district school enrollment differs considerably from the demographics of the school-age population; however, the Department must balance its interest in obtaining sufficient information to assist peer reviewers in evaluating the quality of applications with its interest in minimizing the burden on applicants. In order to meet the priority, an applicant must meet the requisite percentage of students who are *individuals from low-income families* across all the charter schools the applicant operates or manages, and ensure that the applicant will maintain the same, or a substantially similar, percentage of such students across all of its charter schools during the grant period. In addition, applicants must establish one or more project-specific performance measures that will provide reliable information about the grantee's progress in meeting the objectives of the project. We believe these requirements will generate the necessary information to enable peer reviewers to evaluate the quality of applications without placing an undue burden on applicants. For these reasons, we decline to revise the priority in the manner suggested by the commenters.

Changes: None.

Proposed Priority 7—Single School Operators

Comments: Several commenters requested clarity on the use of the single school operator priority. One commenter felt that charter school operators with multiple schools may be able to meet student needs more immediately, while two other commenters preferred that the preference be given to single school operators to allow smaller start-up schools an opportunity to demonstrate their capabilities that otherwise would not exist.

Discussion: The Department appreciates the opportunity to provide clarity on this priority. The single school operator priority is intended only for replication and expansion grants (CFDA 84.282E). The intent of this priority is to focus funding for replication and expansion grants under CFDA 84.282E on developers who

[10] U.S. Department of Education, Office of Communications and Outreach, Section 5005 Report on Rural Education: Final Report, Washington, DC, 2018, *https://www2.ed.gov/about/inits/ed/rural/rural-education-report.pdf*

currently operate a single school, considering the availability of funds for replication and expansion for entities that operate more than one school under the CMO grant competition. This priority, by itself, is not intended to assess quality with respect to the size of the applicant. In any year in which we announce a competition, we will select a combination of priorities, requirements, and selection criteria that meet the requirements of the Developer grant program and are aligned with the Secretary's policy objectives. Generally, the single-school priority as it relates to CFDA 84.282E and the novice priority in 34 CFR 75.225 as it relates to CFDA 84.282B are intended to encourage applications from novice applicants within the parameters of each grant program.

Changes: None.

Requirements

Comments: One commenter urged the Department to ensure that any grantee using a weighted lottery meet all relevant statutory requirements and suggested that we ensure that any weighted lotteries are designed to enroll students with disabilities in proportion to the enrollment of such students in neighboring schools.

Discussion: As stated above, under section 4303(c)(3) of the ESEA, charter schools receiving funds under a Developer grant may use ''a weighted lottery to give slightly better chances for admission to all, or a subset of, *educationally disadvantaged students,*'' so long as weighted lotteries in favor of such students are not prohibited under State law and are not used to create schools that would serve a particular group of students exclusively. In addition, as described in the January 2014 CSP Nonregulatory Guidance, the Department strongly encourages charter schools to use weighted lotteries as part of a broader strategy of outreach, recruitment, and retention for all students, including *educationally disadvantaged students.*

To help ensure compliance with the weighted lottery requirement, an applicant must describe its lottery and enrollment procedures, including how any weighted lottery complies with section 4303(c)(3)(A) of the ESEA. As such, the Department believes it has taken steps to ensure compliance with this requirement and declines to expand on the statutory requirements for weighted lotteries as they apply to Developer grants. The Department does believe, however, that modifying the application requirements related to lottery and enrollment procedures, including weighted lotteries, to be a separate and distinct element would add clarity regarding the statutory requirement on weighted lotteries.

Changes: To provide clarity regarding the statutory requirement on the use of weighted lotteries, we modified the application requirements to include a separate application requirement focused on lottery and enrollment procedures. Specifically, we separated proposed requirement (c) into two distinct requirements—(c) and (d). While Final Requirement (c) requires an applicant to address how it will ensure the charter school that receives funding will recruit, enroll, and retain educationally disadvantaged students, Final Requirement (d) requires an applicant to address the lottery itself, including how the weighted lottery (if used) complies with section 4303(c)(3)(A) of the ESEA.

Comments: One commenter urged the Department to clarify through these final priorities, requirements, definitions, and selection criteria that applicants proposing to open or expand virtual/online charter schools must ensure that all students, particularly students with disabilities, can access virtual and online content. The commenter requested that we require all virtual public schools, including virtual charter schools, to demonstrate compliance with the Web Content Accessibility Guidelines (WCAG).

Discussion: Section 4310(2)(G) of the ESEA requires charter schools receiving CSP funds to comply with various laws, including Section 504, the ADA, and Part B of IDEA. Thus, consistent with the requirements in Section 504 and Title II of the ADA, virtual charter schools must ensure that all content is accessible to students with disabilities enrolled in the school as well as prospective students with disabilities and parents or guardians. Similarly, like other local educational agencies (LEAs), public charter schools that operate as LEAs under State law, including virtual charter school LEAs and LEAs that include virtual charter schools among their public schools, must ensure that eligible students with disabilities enrolled in these schools receive FAPE in accordance with the requirements of Part B of the IDEA.[11] To meet this obligation, these schools must provide instructional materials to students with disabilities in accessible formats, in accordance with the requirements of Part B of the IDEA, consistent with the requirements in Section 504 and Title II of the ADA. If web-based instruction or online instructional platforms are used, these schools must ensure that the information provided through those sources is accessible to students with disabilities, consistent with the requirements in Part B of the IDEA, Section 504, and Title II of the ADA. Because these requirements are already established by Federal law, we decline to revise these final priorities, requirements, definitions, or selection criteria.

Further, while we understand that WCAG is designed to make web content accessible to a wide range of individuals with disabilities and that demonstrating compliance with WCAG is a widely accepted method for public schools, including virtual public charter schools, to meet the obligations discussed above, the Department does not require grantees to adopt a particular standard to ensure accessibility of web content or online platforms to meet their obligations under Section 504 or Title II of the ADA.

Changes: None.

Definitions

Comments: One commenter asked the Department to reconsider the proposed definition of ''rural community,'' raising concerns that our use of the Small Rural School Achievement (SRSA) program and the Rural and Low-Income School (RLIS) determinations could potentially restrict otherwise eligible applicants. The commenter additionally encouraged the Department to use consistent definitions across all Department grant programs to the extent possible.

Discussion: We consulted with other programs across the Department, including the Rural Education Achievement Program (REAP) and the Education Innovation Research (EIR) program, and obtained additional data on updated methods to determine geographic boundary assignments. After discussions, we agree that there is an opportunity to improve the definition of ''rural community'' as well as align it with other agency programs. The EIR program uses locale classifications pulled from the NCES Education Demographic and Geographic Estimates (EDGE) program, which has categorized the United States into four types of areas: City, Suburban, Town, and Rural. These areas are further categorized as Fringe, Distant, or Remote based on distance from a major urban cluster. We believe that use of NCES EDGE data will be a more accurate method of

[11] Students with disabilities attending public charter schools and their parents retain all rights under Part B of the IDEA. Further, charter schools that operate as LEAs under State law, as well as LEAs that include charter schools among their public schools, are responsible for ensuring that the requirements of Part B of the IDEA are met, unless State law assigns that responsibility to some other entity. *See* 34 CFR 300.209.

determining a locale classification and will remove restrictions for applicants opening schools in areas that would otherwise have been eligible to meet the definition of ''rural community.'' Accordingly, the Department will revise our definition to align more closely with the one used in the EIR program. The revised definition is more flexible than the previous definition, may allow for additional applicants to meet any proposed priorities associated with the definition, and takes advantage of an opportunity to improve a definition through the public feedback process.

Changes: We have revised the definition of ''rural community'' to be a community served by one or more LEAs (a) with a locale code of 32, 33, 41, 42, or 43; or (b) that include a majority of schools with a locale code of 32, 33, 41, 42, or 43. The revised definition notes that applicants are encouraged to retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), to look up an LEA individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), to look up individual schools and retrieve locale codes.

Selection Criteria

Comments: One commenter expressed strong support for the selection criteria, specifically *Selection Criterion (b)—Significance of contribution in assisting educationally disadvantaged students* and *Selection Criterion (c)—Quality of the continuation plan.* Another commenter shared support for use of *Selection Criterion (a)—Quality of the eligible applicant* and the distinction that it is only for applicants under CFDA 84.282E. A third commenter expressed support for all three selection criteria but requested that the Department weigh the selection criteria in such a way that an applicant would be unable to receive a grant award if they receive inadequate scores on these criteria.

Discussion: We appreciate the commenters' support for the various selection criteria and the opportunity to provide clarification. First, it should be noted that *Selection Criterion (a)—Quality of the eligible applicant,* is intended only for replication and expansion grants (CFDA 84.282E). In addition, two major purposes of the CSP are to expand educational opportunities for *educationally disadvantaged students* and to assist such students in meeting State academic content and performance standards. The final selection criteria (a) and (b) enable the Department to evaluate the quality of an application with respect to achieving these two objectives.

Furthermore, the maximum possible score for addressing each selection criterion will be indicated in the NIA. The rank order list for applicants will be generated based on the average raw score each application receives on the selection criteria and the average number of competitive preference priority points the application receives. The maximum possible score an application will be able to receive will be based on the selection criteria and the competitive preference points assigned to the application. Each application's total score for the selection criteria will be calculated, and the competitive preference priority points assigned to the application will be added to each application's score, as appropriate. A rank order list will be prepared, based on the resulting scores.

Changes: None.

Final Priorities

Priority 1—Spurring Investment in Opportunity Zones

Under this priority, an applicant must address one or both of the following priority areas:

(a) Propose to open a new charter school or to replicate or expand a high-quality charter school in a qualified opportunity zone as designated by the Secretary of the Treasury under section 1400Z–1 of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act (Pub. L. 115–97).

(b) Provide evidence in its application that it has received or will receive an investment from a qualified opportunity fund under section 1400Z–2 of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act, for one or more of the following, as needed to open or to replicate or expand the school:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of the school) in improved or unimproved real property;

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities;

(3) The predevelopment costs required to assess sites for purposes of subparagraph (1) or (2); and

(4) The acquisition of other tangible property.

In addressing paragraph (a) of this priority, an applicant must provide the census tract number of the qualified opportunity zone in which it proposes to open a new charter school or replicate or expand a high-quality charter school. A list of qualified opportunity zones, with census tract numbers, is available at *www.cdfifund.gov/Pages/Opportunity-Zones.aspx.*

In addressing paragraph (b) of this priority, an applicant must identify the qualified opportunity fund from which it has received or will receive financial assistance. The Department may, at its discretion, give applicants additional time to provide evidence of such assistance after the deadline for transmittal of applications. If the Department elects to give applicants additional time, we will announce in the NIA the deadline by which such evidence must be provided.

Priority 2—Reopening Academically Poor-Performing Public Schools as Charter Schools

Under this priority, applicants must:

(a) Demonstrate past success working with one or more *academically poor-performing public schools* or schools that previously were designated as persistently lowest-achieving schools or priority schools under the former School Improvement Grant program or in States that exercised ESEA flexibility, respectively, under the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), including but not limited to direct experience reopening *academically poor-performing public schools* as charter schools; and

(b) Propose to use grant funds under this program to reopen an *academically poor-performing public school* as a charter school during the project period by:

(1) Replicating a high-quality charter school based on a successful charter school model for which the applicant has provided evidence of success; and

(2) Targeting a demographically similar student population in the replicated charter school as was served by the *academically poor-performing public school,* consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws.

Priority 3—High School Students

(a) Under this priority, applicants must propose to:

(1) Open a new charter school or replicate or expand a high-quality charter school to serve high school students, including *educationally disadvantaged students;*

(2) Prepare students, including *educationally disadvantaged students,* in that school for enrollment in postsecondary education institutions through activities such as, but not limited to, accelerated learning

programs (including Advanced Placement and International Baccalaureate courses and programs, dual or concurrent enrollment programs, and early college high schools), college counseling, career and technical education programs, career counseling, internships, work-based learning programs (such as apprenticeships), assisting students in the college admissions and financial aid application processes, and preparing students to take standardized college admissions tests; and

(3) Provide support for students, including *educationally disadvantaged students,* who graduate from that school and enroll in postsecondary education institutions in persisting in, and attaining a degree or certificate from, such institutions, through activities such as, but not limited to, mentorships, ongoing assistance with the financial aid application process, and establishing or strengthening peer support systems for such students attending the same institution.

(b) Applicants must propose one or more project-specific performance measures, including aligned leading indicators or other interim milestones, that will provide valid and reliable information about the applicant's progress in preparing students, including *educationally disadvantaged students,* for enrollment in postsecondary education institutions and in supporting those students in persisting in and attaining a degree or certificate from such institutions. An applicant addressing this priority and receiving a Developer grant must provide data that are responsive to the measure(s), including performance targets, in its annual performance reports to the Department.

(c) For purposes of this priority, postsecondary education institutions include institutions of higher education, as defined in section 8101(29) of the ESEA, and one-year training programs that meet the requirements of section 101(b)(1) of the Higher Education Act of 1965, as amended (HEA).

Priority 4—Rural Community

Under this priority, applicants must propose to open a new charter school or to replicate or expand a high-quality charter school in one of the following:

(a) A rural community.

(b) A community that is not a rural community.

Priority 5—Opening a New Charter School or Replicating or Expanding a High-Quality Charter School To Serve Native American Students

Under this priority, applicants must:

(a) Propose to open a new charter school, or replicate or expand a high-quality charter school, that—

(1) Utilizes targeted outreach and recruitment in order to serve a high proportion of *Native American* students, consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws;

(2) Has a mission and focus that will address the unique educational needs of *Native American* students, such as through the use of instructional programs and teaching methods that reflect and preserve *Native American language,* culture, and history; and

(3) Has or will have a governing board with a substantial percentage of members who are members of *Indian Tribes* or *Native American organizations* located within the area to be served by the new, replicated, or expanded charter school;

(b) Submit a letter of support from at least one *Indian Tribe* or *Native American organization* located within the area to be served by the new, replicated, or expanded charter school; and

(c) Meaningfully collaborate with the *Indian Tribe(s)* or *Native American organization(s)* from which the applicant has received a letter of support in a timely, active, and ongoing manner with respect to the development and implementation of the educational program at the charter school.

Priority 6—Low-Income Demographic

Under this priority, applicants must demonstrate one of the following:

(a) That at least 40 percent of the students across all of the charter schools the applicant operates or manages are *individuals from low-income families,* and that the applicant will maintain the same, or a substantially similar, percentage of such students across all of its charter schools during the grant period.

(b) That at least 50 percent of the students across all of the charter schools the applicant operates or manages are *individuals from low-income families,* and that the applicant will maintain the same, or a substantially similar, percentage of such students across all of its charter schools during the grant period.

(c) That at least 60 percent of the students across all of the charter schools the applicant operates or manages are *individuals from low-income families,* and that the applicant will maintain the same, or a substantially similar, percentage of such students across all of its charter schools during the grant period.

Priority 7—Single School Operators

Under this priority, applicants must provide evidence of one or more of the following:

(a) The applicant currently operates one, and only one, charter school.

(b) The applicant currently operates more than one charter school.

Priority 8—Promoting Diversity

Under this priority, applicants must propose to open a new charter school, or replicate or expand a high-quality charter school, that has an intentional focus on recruiting students from socioeconomically diverse backgrounds and maintaining socioeconomically diverse student bodies in those charter schools.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as invitational, competitive preference, or absolute through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

Application Requirements: Applicants for funds under this program must address one or more of the following application requirements:

(a) Describe the applicant's objectives in running a quality charter school program and how the program will be carried out.

(b) Describe the educational program that the applicant will implement in the charter school receiving funding under this program, including—

(1) Information on how the program will enable all students to meet the challenging State academic standards;

(2) The grade levels or ages of students who will be served; and

(3) The instructional practices that will be used.

(c) Describe how the applicant will ensure that the charter school that will receive funds will recruit, enroll, and retain students, including *educationally disadvantaged students,* which include children with disabilities and English learners.

(d) Describe the lottery and enrollment procedures that the applicant will use for the charter school if more students apply for admission than can be accommodated and, if the applicant proposes to use a weighted lottery, how the weighted lottery complies with section 4303(c)(3)(A) of the ESEA.

(e) Provide a complete logic model (as defined in 34 CFR 77.1) for the grant project. The logic model must include the applicant's objectives for implementing a new charter school or replicating or expanding a high-quality charter school with funding under this competition.

(f) Provide a budget narrative, aligned with the activities, target grant project outputs, and outcomes described in the logic model, that outlines how grant funds will be expended to carry out planned activities.

(g) If the applicant proposes to open a new charter school (CFDA number 84.282B) or proposes to replicate or expand a high-quality charter school (CFDA number 84.282E) that provides a single-sex educational program, demonstrate that the proposed single-sex educational programs are in compliance with title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*) (''Title IX'') and its implementing regulations, including 34 CFR 106.34.

(h) Provide the applicant's most recent available independently audited financial statements prepared in accordance with generally accepted accounting principles.

(i) For each charter school currently operated or managed by applicants under CFDA 84.282E for replication and expansion, provide—

(1) Information that demonstrates that the school is treated as a separate school by its authorized public chartering agency and the State, including for purposes of accountability and reporting under title I, part A of the ESEA;

(2) Student assessment results for all students and for each subgroup of students described in section 1111(c)(2) of the ESEA;

(3) Attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(4) Information on any significant compliance and management issues encountered within the last three school years by the existing charter school being operated or managed by the eligible entity, including in the areas of student safety and finance.

(j) Provide—

(1) A request and justification for waivers of any Federal statutory or regulatory provisions that the eligible entity believes are necessary for the successful operation of the charter school to be opened or to be replicated or expanded; and

(2) A description of any State or local rules, generally applicable to public schools, that will be waived or otherwise not apply to the school that will receive funds.

(k) Describe how each school that will receive funds meets the definition of charter school under section 4310(2) of the ESEA.

Eligibility: Eligibility for a grant under this competition is limited to charter school developers in States that do not currently have a CSP State Entity grant (CFDA number 84.282A) under the ESEA. Eligibility in a State with a CSP State Educational Agency (SEA) grant (CFDA 84.282A) under the ESEA, as amended by NCLB, is limited to grants for replication and expansion [12] (CFDA 84.282E) and only if the Department has not approved an amendment to the SEA's approved grant application authorizing the SEA to make subgrants for replication and expansion.[13]

Funding Restriction: An applicant may propose to support only one charter school per grant application.

Final Definitions

Academically poor-performing public school means:

(a) A school identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i) of the ESEA; or

(b) A public school otherwise identified by the State or, in the case of a charter school, its authorized public chartering agency, as similarly academically poor-performing.

Educationally disadvantaged student means a student in one or more of the categories described in section 1115(c)(2) of the ESEA, which include children who are economically disadvantaged, children with disabilities, migrant students, English learners, neglected or delinquent students, homeless students, and students who are in foster care.

High proportion, when used to refer to *Native American* students, means a fact-specific, case-by-case determination based upon the unique circumstances of a particular charter school or proposed charter school. The Secretary considers ''high proportion'' to include a majority of *Native American* students. In addition, the Secretary may determine that less than a majority of *Native American* students constitutes a ''high proportion'' based on the unique circumstances of a particular charter school or proposed charter school, as described in the application for funds.

Indian Tribe means a federally-recognized or a State-recognized Tribe.

Individual from a low-income family means an individual who is determined by a State educational agency or local educational agency to be a child from a low-income family on the basis of (a) data used by the Secretary to determine allocations under section 1124 of the ESEA, (b) data on children eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act, (c) data on children in families receiving assistance under part A of title IV of the Social Security Act, (d) data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act, or (e) an alternate method that combines or extrapolates from the data in items (a) through (d) of this definition.

Institution of higher education means an educational institution in any State that—

(a) 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, or persons who meet the requirements of section 484(d) of the HEA;

(b) Is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-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;

(d) Is a public or other nonprofit institution; and

(e) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted

[12] The list of eligible States will be included in the NIA for this competition and will be updated at the time of publication of that notice.

[13] The list of these States will be included in the NIA for this competition and will be updated at the time of publication of that notice.

preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary 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.

Native American means an Indian (including an Alaska Native), as defined in section 6132(b)(2) of the ESEA, Native Hawaiian, or Native American Pacific Islander.

Native American language means the historical, traditional languages spoken by *Native Americans.*

Native American organization means an organization that—

(a) Is legally established—

(1) By Tribal or inter-Tribal charter or in accordance with State or Tribal law; and

(2) With appropriate constitution, by-laws, or articles of incorporation;

(b) Includes in its purposes the promotion of the education of *Native Americans;*

(c) Is controlled by a governing board, the majority of which is *Native American;*

(d) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation;

(e) Is neither an organization or subdivision of, nor under the direct control of, any *institution of higher education;* and

(f) Is not an agency of State or local government.

Rural community is a community served by one or more local educational agencies (LEAs) (a) with a locale code of 32, 33, 41, 42, or 43; or (b) that include a majority of schools with a locale code of 32, 33, 41, 42, or 43. Applicants are encouraged to retrieve locale codes from the National Center for Education Statistics School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes.

Final Selection Criteria

(a) *Quality of the eligible applicant.*

In determining the quality of the eligible applicant, the Secretary considers one or more of the following factors:

(1) The extent to which the academic achievement results (including annual student performance on statewide assessments and annual student attendance and retention rates and, where applicable and available, student academic growth, high school graduation rates, postsecondary enrollment and persistence rates, including in college or career training programs, employment rates, earnings, and other academic outcomes) for *educationally disadvantaged students* served by the charter school(s) operated or managed by the applicant have exceeded the average academic achievement results for such students served by other public schools in the State.

(2) The extent to which one or more charter schools operated or managed by the applicant have closed; have had a charter revoked due to noncompliance with statutory or regulatory requirements; or have had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation.

(3) The extent to which one or more charter schools operated or managed by the applicant have had any significant issues in the area of financial or operational management or student safety, or have otherwise experienced significant problems with statutory or regulatory compliance that could lead to revocation of the school's charter.

(4) The extent to which the schools operated or managed by the applicant demonstrate strong results on measurable outcomes in non-academic areas such as, but not limited to, parent satisfaction, school climate, student mental health, civic engagement, and crime prevention and reduction.

(b) *Significance of contribution in assisting educationally disadvantaged students.*

In determining the significance of the contribution the proposed project will make in expanding educational opportunity for *educationally disadvantaged students* and enabling those students to meet challenging State academic standards, the Secretary considers the quality of the plan to ensure that the charter school the applicant proposes to open, replicate, or expand will recruit, enroll, and effectively serve *educationally disadvantaged students,* which include children with disabilities and English learners.

(c) *Quality of the continuation plan.*

In determining the quality of the continuation plan, the Secretary considers the extent to which the eligible applicant is prepared to continue to operate the charter school that would receive grant funds in a manner consistent with the eligible applicant's application once the grant funds under this program are no longer available.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order. This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. 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).

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, and that imposes total costs greater than zero, it must identify two deregulatory actions. For Fiscal Year 2019, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the proposed regulatory action is not

significant, the requirements of Executive Order 13771 do not apply.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Discussion of Potential Costs and Benefits

The Department believes that this regulatory action does not impose significant costs on eligible entities, whose participation in this program is voluntary. While this action does impose some requirements on participating Developers that are cost-bearing, the Department expects that applicants for this program will include in their proposed budgets a request for funds to support compliance with such cost-bearing requirements. Therefore, costs associated with meeting these requirements are, in the Department's estimation, minimal.

This regulatory action strengthens accountability for the use of Federal funds by helping to ensure that the Department selects for CSP grants the Developers that are most capable of expanding the number of high-quality charter schools available to our Nation's students, consistent with a major purpose of the CSP as described in section 4301(3) of the ESEA. The Department believes that these benefits to the Federal government outweigh the costs associated with this action.

Regulatory Alternatives Considered

The Department believes that the priorities, requirements, definitions, and selection criteria are needed to administer the program effectively. As an alternative to the selection criteria announced in this document, the Department could choose from among the general selection criteria in 34 CFR 75.210. We do not believe that these criteria provide a sufficient basis on which to evaluate the quality of applications. In particular, the criteria do not sufficiently enable the Department to assess an applicant's past performance with respect to the operation of high-quality charter schools or with respect to compliance issues that the applicant has encountered.

Paperwork Reduction Act of 1995

The final priorities, requirements, and selection criteria contain information collection requirements that are approved by OMB under OMB control number 1894–0006; the final priorities, requirements, and selection criteria do not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Participation in this program is voluntary and limited to charter school developers seeking funds to help open a new charter school or replicate or expand a high-quality charter. The Department anticipates that approximately 50 developers will apply for Developer grants in a given year and estimates that approximately half of these developers will be small entities. For this limited number of small entities, any cost-bearing requirements imposed by this regulatory action can be defrayed with grant funds, as discussed in the *Regulatory Impact Analysis.*

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To

use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 28, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019–14263 Filed 7–2–19; 8:45 am]

BILLING CODE 4000–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3060

[Docket No. RM2019–5; Order No. 5136]

Calculation of Assumed Federal Income Tax

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules amending its rules involving the calculation of the assumed Federal income tax on competitive products by the Postal Service each fiscal year.

DATES: *Effective:* August 2, 2019.

ADDRESSES: For additional information, Order No. 5136 can be accessed electronically through the Commission's website at *https://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Basis and Purpose of Final Rules

I. Background

The Commission initiated this proceeding to amend its regulations governing the assumed Federal income tax on competitive product income appearing in existing 39 CFR part 3060. The amendments revise regulations concerning the Annual Assumed Federal Income Tax Calculation for competitive products to reflect changes to the Internal Revenue Code made by the Tax Cuts and Jobs Act and to remove other obsolete provisions.[1] The Commission received comments in support of the amendments from the appointed Public Representative and the Postal Service. The Commission issues these final rules which are unchanged from the proposed rules published on May 22, 2019 (84 FR 23503).

II. Basis and Purpose of Final Rules

Section 3634(b) of title 39 of the United States Code requires the Postal Service to calculate the assumed Federal income tax on its competitive products income each year and transfer the amount from the Competitive Products Fund to the Postal Service Fund. As required by 39 U.S.C. 2011(h)(2)(B)(ii), on December 18, 2008, the Commission issued substantive and procedural rules for the assumed Federal income tax calculation, as codified in existing 39 CFR part 3060.[2] In accordance with its specific authority to regulate the assumed Federal income tax calculation under 39 U.S.C. 2011(h)(2)(B)(ii) and its general authority under 39 U.S.C. 503 to promulgate regulations and establish procedures, the Commission initiated this proceeding to consider two forms of amendments to the existing regulations that would reflect changes made to the Internal Revenue Code after the Commission's 2008 rulemaking and remove obsolete provisions.

A. Applicable Corporate Tax Rate

Existing 39 CFR 3060.40(a) explains the method for calculating the assumed Federal income tax. The existing regulation requires the Postal Service to comply with chapter 1 of the Internal Revenue Code, specifically by computing the tax using either the section 11 (regular) rates or the Alternative Minimum Tax rates in section 55(b)(1)(B), ''as applicable.'' The proposed amendment requires the calculation to be made using the applicable corporate tax rate in chapter 1 of the Internal Revenue Code, without specifying the particular rate or section. This change will align the regulations with the revised Internal Revenue Code and reduces the likelihood that future changes to the Internal Revenue Code will necessitate changes to the regulation. The Public Representative and the Postal Service support this proposed amendment. The Commission adopts this amendment as proposed.

B. Obsolete One-Time Extension Provisions

Existing 39 CFR 3060.40(c) and 3060.43(c) indicate the deadlines for the FY 2008 calculation and transfer were extended from January 15, 2009 to July 15, 2009. The proposed amendments remove these obsolete provisions and redesignate § 3060.43(d) as § 3060.43(c). These changes will remove the obsolete provisions and simplify the regulations. The Public Representative and the Postal Service support these proposed amendments. The Commission adopts these amendments as proposed.

Final Rules

List of Subjects for 39 CFR Part 3060

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3060—ACCOUNTING PRACTICES AND TAX RULES FOR THE THEORETICAL COMPETITIVE PRODUCTS ENTERPRISE

■ 1. The authority citation for part 3060 continues to read as follows:

Authority: 39 U.S.C. 503, 2011, 3633, 3634.

■ 2. Amend § 3060.40 by revising paragraphs (a) and (c) to read as follows:

§ 3060.40 Calculation of the assumed Federal income tax.

(a) The assumed Federal income tax on competitive products income shall be based on the Postal Service theoretical competitive products enterprise income statement for the relevant year and must be calculated in compliance with chapter 1 of the Internal Revenue Code by computing the tax liability on the taxable income from the competitive products of the Postal Service theoretical competitive products enterprise at the applicable corporate tax rate.

* * * * *

(c) The calculation of the assumed Federal income tax due shall be submitted to the Commission no later than the January 15 following the close of the fiscal year referenced in paragraph (b) of this section.

* * * * *

§ 3060.43 [Amended]

■ 3. Amend § 3060.43 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–14099 Filed 7–2–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Tax Cuts and Jobs Act, Public Law 115–97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

[2] *See* Docket No. RM2008–5, Order Establishing Accounting Practices and Tax Rules for Competitive Products, December 18, 2008 (Order No. 151).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0760; FRL–9995–85–Region 4]

Air Plan Approval; North Carolina; Revision To Permit Term for Non-Title V Air Quality Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision provided by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on January 12, 2018. The SIP revision makes changes to the State's combined construction and operating permit program for non-Title V sources. EPA is proposing to approve the revision to the North Carolina SIP because it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective August 2, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2018–0609. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9009. Mr. Adams can also be reached via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA is taking final action to approve changes to the North Carolina SIP that were provided to EPA through a letter dated January 12, 2018.[1] EPA is finalizing approval of the portions of this SIP revision that make changes to 15 North Carolina Administrative Code (NCAC) 02Q.0300—*Construction and Operation Permits.*[2] These regulations set forth the State's process for issuing combined construction and operating permits. They do not apply to Title V permits issued by DAQ. *See* 15A NCAC 02Q.0301(a). The January 12, 2018, submittal requests minor typographical/administrative edits to 15 NCAC 02Q .0308. For example, the submittal fixes a grammar error in 15 NCAC 02Q .0308(b) by replacing the word ''which'' with the word ''that'' in the first sentence. In addition, the submittal changes the permit term (duration) for combined construction and operating permits from five years, or less as determined reasonable by the Director, to eight years. This permit term in Section .0308 of the rule affects only minor sources because sources subject to Title V (*i.e.,* major sources) are subject to the separate operating permit term provisions of North Carolina's Title V program.

In a notice of proposed rulemaking (NPRM) published on March 28, 2019 (84 FR 11695), EPA proposed to approve the aforementioned changes to 15 NCAC 02Q .0308 in the North Carolina SIP, which make typographical/administrative edits to the rule. The NPRM provides additional details regarding EPA's action. Comments on the NPRM were due on or before April 29, 2019. EPA received no comments on the proposed action and is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference under Subchapter 2Q, *Air Quality Permits* of the North Carolina SIP, Section .0308, entitled *Final Action on Permit Applications,* state effective January 1, 2015. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

III. Final Action

EPA is taking final action to approve changes to the North Carolina SIP that were provided to EPA through a letter dated January 12, 2018. Specifically, EPA is approving 15 NCAC 02Q .0308 to modify the permit term for non-title V combined construction and operating permits and make other typographical/administrative edits. These rule changes are consistent with the CAA and its implementing regulations, and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of the Act). *See* 42 U.S.C. 7410(l).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. 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

[1] EPA notes that the Agency received the SIP revision on February 2, 2018.

[2] In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as ''Subchapter 2Q Air Quality Permits.''

[3] *See* 62 FR 27968 (May 22, 1997).

action because SIP approvals are exempted under Executive Order 12866;

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

The SIP is not approved to apply on any Indian reservation land 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 3, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 7, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart (II)—North Carolina

■ 2. In § 52.1770, the table in paragraph (c)(1) is amended under Subchapter 2Q Air Quality Permits, Section .0300 Construction and Operating Permits by revising the entry for ''Section .0308'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 2Q Air Quality Permits				
*	*	*	*	*
Section .0300 Construction and Operating Permits				
*	*	*	*	*
Section .0308	Final Action on Permit Applications	1/1/2015	07/3/2019, [Insert citation of publication]	
*	*	*	*	*

* * * * *

[FR Doc. 2019–14136 Filed 7–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0371; FRL–9995–84–Region 4]

Air Plan Approval; Alabama: PSD Replacement Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of revisions to the Alabama State Implementation Plan (SIP), submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), via two letters dated May 7, 2012, and August 27, 2018. The SIP revisions relate to the State's Prevention of Significant Deterioration (PSD) permitting regulations. In particular, the revisions add a definition of ''replacement unit'' and provide that a replacement unit is a type of existing emissions unit under the definition of ''emissions unit.'' This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective August 2, 2019.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0371. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division (formerly the Air, Pesticides and Toxics Management Division), Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8966. Mr. Febres can also be reached via electronic mail at *febres-martinez.andres@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 7, 2012, Alabama submitted for EPA approval amendments to its PSD permitting regulations as part of the State's New Source Review (NSR) permitting program, found in ADEM Administrative Code Rule 335–3–14–.04—*Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]*.[1] [2] Subsequently, Alabama submitted a May 5, 2017, withdrawal letter clarifying the May 7, 2012, submittal. EPA issued a direct final rule—with a concurrent Notice of Proposed Rulemaking (NPRM)—on August 24, 2017, approving those changes. *See* 82 FR 40072 and 82 FR 40085, respectively. However, EPA received an adverse comment on that action, and subsequently withdrew its direct final rule approval of the May 7, 2012, submittal. *See* 82 FR 47397 (October 12, 2017). EPA is not finalizing the August 24, 2017, proposed rule.

Alabama later submitted a second revision to Rule 335–3–14–.04 on August 27, 2018.[3] Together, the May 7, 2012, and August 27, 2018, submittals, along with the State's May 5, 2017, withdrawal letter, include revisions to Alabama's PSD permitting regulations by adding a definition of ''replacement unit'' at Alabama Rule 335–3–14–.04(2)(bbb), and by modifying the definition of ''emissions unit'' to expressly include replacement units as existing emissions units at Alabama Rule 335–3–14–.04(2)(g). [4] In addition, Alabama's August 27, 2018, SIP revision adds a fifth condition to the new definition of a ''Replacement Unit'' requiring any source qualifying as a replacement unit to use the actual-to-projected-actual test for PSD applicability at Alabama Rule 335–3–14–.04(1)(f). Alabama's definition of ''replacement unit,'' and its provision defining a replacement unit as an ''existing emissions unit'' for purposes of PSD applicability, are consistent with Federal PSD regulations at 40 CFR 51.166.

In a NPRM published on March 29, 2019 (84 FR 11914), EPA proposed to approve the revisions to Alabama Rule 335–3–14–.04 included in the State's May 7, 2012, submittal, as amended by the May 5, 2017, withdrawal letter, and the August 27, 2018, submittal. Comments on the NPRM were due on or before April 29, 2019. EPA received one adverse comment during the comment period for this action and offers a response below.

II. Response to Comments

The Commenter generally supports EPA's proposed approval of revisions to Alabama Rule 335–3–14–.04(2)(bbb) and Rule 335–3–14–.04(2)(g). However, the Commenter states that EPA must require revision of Alabama's SIP to remove a separate definition—the definition of ''actual emissions'' at Alabama Rule 335–3–14–.04(2)(u)—because that definition is ''unlawful and arbitrary.'' The Commenter further states that EPA constructively reopened its approval of the ''actual emissions'' definition when it proposed approval of the May 7, 2012, version of Alabama Rule 335–3–14–.04(2)(bbb) on August 24, 2017 (82 FR 40072).

EPA approved Alabama's definition of ''actual emissions'' on May 1, 2008 (73 FR 23957), and that approval is outside the scope of this action. Additionally, EPA disagrees that it constructively reopened its prior approval of the

[1] EPA's regulations governing the implementation of the NSR permitting programs are contained in 40 CFR 51.160 through 51.166; 52.21, 52.24; and part 51, Appendix S. The CAA NSR program is composed of three separate programs: PSD, Nonattainment (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—or ''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—or ''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—or ''nonattainment areas.'' The Minor NSR program addresses construction or modification activities that do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Together, these programs are referred to as the NSR programs.

[2] EPA notes that it received this SIP revision on May 16, 2012.

[3] EPA notes that it received this SIP revision on September 4, 2018.

[4] EPA is not taking action on the portions of Alabama's May 7, 2012, and August 27, 2018, submittals regarding ADEM Administrative Code Chapter 335–3–10—*Standards of Performance for New Stationary Sources,* and Chapter 335–3–11—*National Emission Standards for Hazardous Air Pollutants.* In the cover letter for these SIP revisions, Alabama acknowledges that these regulations are not part of Alabama's SIP and states that these regulations are not to be incorporated into the SIP.

''actual emissions'' definition through this action. Courts have explained that an agency reopens a prior action in two circumstances: (1) When it implicitly or explicitly solicits comment or otherwise indicates its willingness to reconsider such regulation by inviting and responding to comments; or (2) when the new rule increases the significance of the preexisting regulation, and thus significantly alters the stakes of judicial review. *See Natural Resources Defense Council* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009).

Neither of these circumstances is present here. First, as explained in our March 29, 2019, proposal, EPA withdrew the August 24, 2017, direct final rule and is not finalizing it, so the Commenter's assertions regarding that action are moot. Moreover, EPA did not cite to or otherwise refer to the provision raised in the comment, nor did it request public input on that provision in either its August 24, 2017, or March 29, 2019, proposals.

Second, EPA's action here does not increase the significance of Alabama's definition of ''actual emissions,'' nor does it alter the stakes of judicial review of EPA's May 1, 2008 approval of that provision. Under the SIP revision EPA is finalizing here, sources qualifying as replacement units must use the actual-to-projected-actual test for determining PSD applicability, which relies on the ''baseline actual emissions'' of the source, rather than the ''actual emissions'' definition raised by the Commenter. In other words, no aspect of EPA's action today relies on or otherwise impacts the applicability or effect of Alabama's ''actual emissions'' definition. EPA also notes that, because it withdrew its August 24, 2017, direct final rule and is not finalizing that action, the action considered in EPA's August 24, 2017, proposed rule also does not impact the significance of Alabama's ''actual emissions'' definition.

For these reasons, EPA has not constructively reopened its May 1, 2008, approval of Alabama's definition of ''actual emissions'' and, therefore, that rulemaking is outside the scope of this action.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of ADEM Administrative Code Rule 335–3–14–.04(2)(g) and 335–3–14–.04(2)(bbb), state effective on October 5, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[5]

IV. Final Action

EPA is approving changes to the Alabama SIP, that were provided to EPA through Alabama's May 7, 2012 and August 27, 2018 SIP revisions, as well as the May 7, 2017 withdrawal letter. Specifically, EPA is finalizing approval of changes to ADEM Administrative Code Rule 335–3–14–.04(2)(g) and 335–3–14–.04(2)(bbb), in order to make Alabama's PSD program consistent with Federal provisions and the CAA. This action is limited to the two rules currently before the Agency and does not modify any other PSD rules in Alabama's SIP.

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 Act and applicable Federal regulations. *See* 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. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are 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);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do 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, these rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These actions are not ''major rules'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by September 3,

[5] *See* 62 FR 27968 (May 22, 1997).

2019. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rules or actions. These actions may not be challenged later in proceedings to enforce their requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 7, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart B—Alabama

■ 2. In § 52.50, the table in paragraph (c) is amended under Chapter No. 335–3–14 Air Permits by revising the entry for ''Section 335–3–14-.04'' to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter No. 335–3–14 Air Permits				
*	*	*	*	*
Section 335–3–14–.04	Air Permits Authorizing Construction in in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)].	10/5/2018	7/3/2019 [Insert citation of publication].	Except for changes to 335–3–14–.04(2)(w)1., state effective July 11, 2006, which lists a 100 ton per year significant net emissions increase for regulated NSR pollutants not otherwise specified at 335–3–14–.04(2)(w). Except for the significant impact levels at 335–3–14–.04(10)(b) which were withdrawn from EPA consideration on October 9, 2014. Except for the second sentence of paragraph 335–3–14–.04(2)(bbb)2., as well as the second and fourth sentences of paragraph 335–3–14–.04(2)(bbb)3., which include changes from the vacated federal ERP rule and were withdrawn from EPA consideration by the State on May 5, 2017.
*	*	*	*	*

* * * * *

[FR Doc. 2019–14142 Filed 7–2–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 190415375–9498–02]

RIN 0648–BI92

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder Fishery; Fishing Year 2019

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

ACTION: Final rule.

SUMMARY: NMFS announces management measures for the 2019 summer flounder recreational fishery. The implementing regulations for this fishery require NMFS to publish recreational measures for the fishing year. The intent of this action is to achieve, but not exceed, the 2019 summer flounder recreational harvest limit and thereby prevent overfishing on the summer flounder stock.

DATES: This rule is effective July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Emily Gilbert, Fishery Policy Analyst, (978) 281–9244.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission), in consultation with the New England and South Atlantic Fishery Management Councils. The management unit specified in the FMP includes summer flounder (Paralichthys dentatus) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border. States manage summer flounder within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder. The summer flounder Federal regulations govern vessels and individual fishermen fishing in Federal waters of the Exclusive Economic Zone (EEZ), as well as vessels possessing a summer flounder charter/party vessel permit, regardless of where they fish.

In this final rule, NMFS is implementing conservation equivalency (*i.e.,* waiving Federal measures in light of the existence of appropriate measures in state waters) to manage the 2019 summer flounder recreational fishery, as proposed on May 17, 2019 (84 FR 22426). These measures are consistent with the recommendations of the Council and the Commission. NMFS is waiving Federal summer flounder recreational measures in Federal waters and to all federally permitted summer flounder party/charter vessels, regardless of where they fish, because the states, through the Commission, are collectively implementing measures designed to constrain landings to the 2019 recreational harvest limit. Additional information on the development of these measures is provided in the proposed rule and not repeated here.

Conservation equivalency, as established by Framework Adjustment 2 (July 11, 2001; 66 FR 36208), allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit established by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as Federal coastwide measures. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allows states to form regions for conservation equivalency in order to minimize differences in regulations for anglers fishing in adjacent waters.

Similar to the 2016–2018 program, the 2019 management program adopted by the Commission divides the coastline into six management regions: (1) Massachusetts; (2) Rhode Island; (3) Connecticut-New York; (4) New Jersey; (5) Delaware-Virginia; and (6) North Carolina. Each state within a region must implement identical or equivalent measures (minimum size, bag limit, and fishing season length), and the combination of those measures must be sufficient to achieve, but not exceed, the recreational harvest limit.

By a letter dated May 20, 2019, the Commission certified that the combined measures implemented by individual states and regions are the conservation equivalent of coastwide measures that would be expected to result in the 2019 recreational harvest limit being achieved, but not exceeded.

Based on the Commission's recommendations, we find that the 2019 recreational fishing measures required to be implemented in state waters are, collectively, the conservation equivalent of the season, minimum size, and possession limit prescribed in 50 CFR 648.104(b), 648.105, and 648.106(a). According to § 648.107(a)(1), vessels subject to the recreational fishing measures are not subject to Federal measures, and instead are subject to the recreational fishing measures implemented by the state in which they land. Section 648.107(a) is amended through this final rule to recognize state-implemented measures as the conservation equivalent of the Federal coastwide recreational management measures for 2019.

In addition, this action reaffirms the default coastwide measures (a 19-inch (48.3-cm) minimum size, 4-fish possession limit, and May 15 through September 15 open fishing season), that become effective January 1, 2020, upon the expiration of the 2019 conservation equivalency program. These are coastwide measures that were discussed in the proposed rule as measures that would apply in the absence of conservation equivalency. These default measures would then remain effective until replaced by the 2020 recreational management measures in the spring of next year.

This final rule also removes a black sea bass prohibition to address text that is unnecessary, outdated and unclear. NMFS implements these changes, consistent with section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to a fishery management plan (FMP) are carried out in accordance with the FMP and the Magnuson-Stevens Act. This final rule removes 50 CFR 648.14(p)(2)(ii)(B), which pertains to a prohibition against possessing, retaining, or landing black sea bass harvested from the EEZ in excess of the commercial possession limit, from the regulations. There is no Federal waters commercial black sea bass possession limit and, as such, this regulatory text is confusing and unnecessary.

Comments and Responses

NMFS received three comments on the proposed rule. Only one of these comments was directly pertinent to the proposed Federal recreational measures. This commenter questioned why the increased recreational harvest limit did not result in more liberal non-preferred coastwide measures or state measures. Using the Fishing Effort Survey, the 2018 Marine Recreational Information Program estimated that catch is very close to the 2019 revised recreational harvest limit, indicating that the 2018 measures in place for last year are appropriate to achieve, but not exceed, catch to the 2019 harvest limit.

The remaining comments, which were related to state-specific measures outside the scope of this action, offered concerns over MRIP estimates, requested more focus on ecosystem-based management for a number of species in the region, and relayed general complaints over the management of summer flounder. No changes to the final rule are made based on the submitted comments.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that these management measures are necessary for the conservation and management of the summer flounder fishery and are consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule, to ensure that the final management measures are in place as soon as possible.

This rule is being issued at the earliest possible date. Preparation of the proposed rule was dependent on the submission of documentation developed by the Council in support of these recreational management measures. NMFS received a complete document in April 2019. Documentation in support

of the Council's recommended management measures is required for NMFS to provide the public with information from the environmental and economic analyses, as required in rulemaking, and to evaluate the consistency of the Council's recommendation with the Magnuson-Stevens Act and other applicable law. NMFS must also wait for a letter from the Commission that certifies the states' measures as being appropriate to achieve but not exceed the recreational harvest limit. We received this letter on May 20, 2019. The proposed rule published on May 17, 2019 (84 FR 22426), with a 15-day comment period ending June 3, 2019.

The Federal coastwide regulatory measures for summer flounder that were codified last year (83 FR 24945; May 31, 2018) remain in effect until the decision to waive Federal measures for 2019 is made effective by this final rule. Although the states' summer flounder fisheries are already open, additional delay in implementing the measures of this rule will increase confusion on what measures are in place in Federal waters. Inconsistencies between the states' measures and the Federal measures could lead to potential confusion and misunderstanding of the applicable regulations and could increase the likelihood of illegal landings. Additionally, the Federal measures currently in place are more restrictive than many of the measures in state waters, which will unnecessarily disadvantages federally permitted vessels who are subject to these more restrictive measures until this final rule is effective.

In response to this action, unlike actions that require an adjustment period to comply with new rules, charter/party operators will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Rather, complying with this final rule simply means adhering to the published management measures for summer flounder while the charter/party operators are engaged in fishing activities.

For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay of effectiveness period and to implement this rule upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. A final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 28, 2019.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

§ 648.14 [Amended]

■ 2. In § 648.14, remove and reserve paragraph (p)(2)(ii)(B).

■ 3. In § 648.107, the introductory text to paragraph (a) is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2019 are the conservation equivalent of the minimum size, season, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

[FR Doc. 2019–14242 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 84, No. 128

Wednesday, July 3, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

[Docket No. CFPB–2019–0020]

RIN 3170–AA97

Home Mortgage Disclosure (Regulation C) Data Points and Coverage; Extension of Comment Period

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On May 8, 2019, the Bureau of Consumer Financial Protection (Bureau) published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPR) soliciting comments relating to the data points the Bureau's October 2015 final rule implementing the Home Mortgage Disclosure Act (HMDA) added to Regulation C or revised to require additional information. The ANPR also solicits comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C. The ANPR provided a 60-day comment period that will end on July 8, 2019. To allow interested persons more time to consider and submit their responses, the Bureau has determined that an extension of the comment period until October 15, 2019 is appropriate.

DATES: The comment period for the ANPR published May 8, 2019, at 84 FR 20049, is extended. Responses must now be received on or before October 15, 2019.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2019–0020 or RIN 3170–AA97, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2019-ANPR-HMDA@cfpb.gov.* Include Docket No. CFPB–2019–0020 or RIN 3170–AA97 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: When responding to a particular question, please note the question number at the top of the response. You are not required to answer all questions to receive consideration of your comments. The Bureau encourages the early submission of comments.

All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

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

The Bureau invites comment on all aspects of the ANPR from all interested parties. In the event that a respondent may have concerns about revealing proprietary or personal information, the Bureau welcomes comments from attorneys, consumer advocacy organizations, trade associations, or other representatives that do not identify their clients.

FOR FURTHER INFORMATION CONTACT: Shaakira Gold-Ramirez, Counsel; or David Hixson, Senior Counsel, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2019, the Bureau issued the ANPR. The ANPR was published in the **Federal Register** on May 8, 2019. The ANPR seeks comment, data, and information from the public relating to whether to make changes to the data points the Bureau's October 2015 final rule implementing HMDA added to Regulation C or revised to require additional information. The ANPR also seeks comment, data, and information from the public relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C.

The comment period for the ANPR was set to close on July 8, 2019. The Bureau has received multiple written requests asking that the Bureau extend the comment period. The requests indicated that additional time would enable interested parties to more thoroughly consider and respond to the questions presented in the ANPR. For example, a group of three industry trade associations asked that the Bureau extend the comment period from 60 to 90 days so that, among other things, they would have sufficient time to survey their members about the questions presented in the ANPR. A group of 18 consumer advocacy and other non-profit organizations asked that the Bureau reissue the ANPR and allow for a new 90-day comment period after the release of the national loan level dataset for the data collected by financial institutions in 2018 and the Bureau's annual overview of residential mortgage lending based on that data (collectively, the 2018 HMDA Data).[1] These organizations noted that 2018 was the first year that HMDA and Regulation C have required institutions to collect and report the data points that are the subject of the ANPR.

The Bureau has balanced interested parties' desire to have additional time to consider the issues raised in the ANPR,

[1] With respect to the data collected by financial institutions in 2017, the national loan level dataset and the Bureau's annual overview can be found on the Bureau's website. *See* Bureau of Consumer Fin. Prot., ''Data Point: 2017 Mortgage Market Activity and Trends'' (May 7, 2018), *https://www.consumerfinance.gov/data-research/research-reports/cfpb-data-point-mortgage-market-activity-and-trends/.*

gather data, and prepare their responses, with the need to proceed expeditiously to consider comments and determine whether to issue a proposed rule. The Bureau expects the 2018 HMDA Data to be released in late summer. In light of these factors, the Bureau believes that an extension of the ANPR comment period to October 15, 2019 is appropriate and will allow interested parties adequate time to consider the 2018 HMDA Data before submitting their comments on the ANPR. The Bureau does not, however, believe it is necessary or appropriate to reissue the ANPR with a new 90-day comment period. The ANPR comment period will now close October 15, 2019.

Dated: June 24, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–14174 Filed 7–2–19; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 27, 29, 91, 121, 125, and 135

[Docket No.: FAA–2019–0491; Notice No. 19–09]

RIN 2120–AK34

Interior Parts and Components Fire Protection for Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing to amend certain airworthiness regulations for fire protection of interior compartments on transport category airplanes. This proposal would convert those flammability regulations from detailed, prescriptive requirements into simpler, performance-based standards. This proposal would divide these standards into two categories: Those designed to protect the airplane and its occupants from the hazards of in-flight fires, and those designed to protect the airplane and its occupants from the hazards caused by post-crash fires. In addition, this proposal would remove test methods from the regulations and allow applicants, in certain cases, to demonstrate compliance either without conducting tests or by providing independent substantiation of the flammability characteristics of a proposed material. This action is necessary to eliminate unnecessary testing, increase standardization, and improve safety. This proposal includes conforming changes to parts 27, 29, 91, 121, 125, and 135.

DATES: Send comments on or before October 1, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0491 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions concerning this action, contact Jeff Gardlin, AIR–600, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax (206) 231–3146; email *Jeff.Gardlin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design, material, construction, quality of work, and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It revises the safety standards for the flammability characteristics, and thus the design, material, and construction, of transport category airplanes.

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I. Overview of the Proposed Rule

This proposed amendment would eliminate and modify certain flammability and fire protection requirements of title 14, Code of Federal Regulations (14 CFR) part 25. The proposed changes would organize these requirements based on the type of fire—in-flight or post-crash—that is likely to affect a given component, part, or material, rather than basing such standards on the part's composition or function. In addition, the proposal would extend the fire protection requirements to any extensively used material [1] located in inaccessible areas.

The FAA proposes to convert the testing methods in appendix F to part 25 from regulations into guidance material. The proposal would also eliminate redundant or non-value-added tests when a more severe test is acceptable.

This proposal would replace mandatory testing methods with performance-based standards for flammability and fire protection. This change would improve safety and standardization and would be applicable to materials currently used to construct parts and components as well as to new materials that become available in the future. As discussed in section III.E of the NPRM, all of the proposed changes are interrelated. These proposals to remove or simplify requirements are only possible, from a safety perspective, because of other proposed changes that would compensate for removing requirements.

These revised regulations would affect applicants seeking new type certificates for transport category airplanes. These revised regulations would not apply to transport category airplanes currently in production under existing type certificates, unless the FAA approves a manufacturer's request to comply with an amendment level that incorporates these proposed changes, or a manufacturer triggers the requirement via an application for a significant product-level change under § 21.101.

Over a 19-year period of analysis, the FAA estimates the total present value costs of this proposed rule to be $71.1 million at a seven percent discount rate, with annualized costs of $6.9 million due to the extension of fire protection requirements to extensively used material in inaccessible areas. Over the same 19-year period, the FAA estimates the total quantified cost savings of this proposed rule to be $119.8 million at a seven percent discount rate, with annualized cost savings of $11.6 million. The cost savings would result from the elimination and streamlining of some tests, which would be made possible by the extension of fire protection requirements to inaccessible areas. Over the same 19-year period, the proposed rule would result in a net cost savings (cost savings minus costs) of $48.7 million at a seven percent discount rate, with annualized net cost savings of $4.8 million. The following table summarizes the costs and cost savings of this proposed rule.

COSTS AND SAVINGS OF THE PROPOSED RULE

	19-year total present value		Annualized	
	7%	3%	7%	3%
Cost Savings	$119,848,146	$178,395,887	$11,595,669	$12,454,509
Costs	71,105,318	80,387,114	6,879,654	5,612,136
Total Cost Savings	48,742,829	98,008,773	4,716,016	6,842,373

Airplane occupant safety benefits were not quantified. However, the proposed new safety requirements to extend the fire protection requirements to any extensively used material located in inaccessible areas would result in a safety benefit by reducing the likelihood of a fatal accident from a fire in an inaccessible area. FAA testing has indicated that typical in-service ducts can quickly spread fire from a small fire source in an inaccessible area, while ducts that would meet the new requirement can resist that small size fire and not propagate flames. Thus, the FAA believes there are safety benefits to this proposed rule in addition to cost savings.

II. Background

A. Statement of the Problem

Current part 25 regulations organize fire protection requirements for components in airplane interior compartments by the function, and sometimes composition, of each component. Appendix F to part 25 details comprehensive, mandatory testing methods. Each part of appendix F provides the test method required for a specific type of part or material, with the exception of part I, which applies to nearly all parts and materials and contains multiple test methods. While this method of organization is useful in standardizing the applicable tests and ensuring consistency among test results, regardless of the testing facility, it can create difficulties when an applicant wishes to deviate from the detailed test provisions, for example to implement improvements. Also, a given component

[1] Extensively used materials, for the purpose of this rulemaking, means any parts or system of parts that could permit a fire to propagate and grow to a hazardous level, for example, air ducting, electrical wiring/sleeving, thermal/acoustic insulation, and composite fuselage structure.

can be subject to multiple regulatory requirements depending on the component's composition, and the requirements may conflict with one another. In addition, it can be difficult to determine the applicable requirements, especially when applicants propose new components or materials that are not listed in § 25.853 and for which testing methods have not yet been developed. A final problem is that, with the exception of thermal/acoustic insulation and electrical wiring, the current fire protection requirements only apply to components and materials in occupiable areas or cargo compartments. The current requirements do not apply to components, parts, and materials in other areas, even if extensively used, and such components can be critical for fire safety.

B. History

The regulations governing the flammability of materials on transport category airplanes have evolved significantly since their adoption in 1964.[2] When initially adopted, these regulations mandated the most fire-resistant materials practically available at that time, without consideration of the types of fires to which each material might be exposed. The regulations described flammability requirements in terms of the objective—materials had to be at least flash resistant,[3] and certain types of parts had to be flame resistant,[4] a more stringent requirement. Until 1984, FAA flammability regulations only required applicants to demonstrate that proposed materials could resist small ignition sources such as a lit match or cigarette. The flammability requirements only applied to materials in compartments that could be occupied by passengers or crew.

Beginning with the 1984 adoption of improved flammability standards for seat cushions, the FAA revised the flammability requirements for other specific parts and components, including large surface areas, cargo compartment liners, and thermal/acoustic insulation. The FAA also revised and expanded mandatory test methods to ensure consistency in testing methodology and results. The FAA based these revised requirements on the type of fire threat (in-flight and post-crash) expected for a given component. However, the regulations continued to set standards for specific components, based on their function or construction.

Since the adoption of those flammability requirements, research into fire safety identified significant differences between the hazards posed by a post-crash fire and those posed by an in-flight fire.

Post-crash fires, or ''fuel fires'' since they are primarily fed by spilled aviation fuel, present two primary hazards to the airplane's occupants. First, a fuel fire can be a significant source of smoke and toxic gases. If these gases enter the cabin, they can cause injury and significantly reduce survivability. Second, a fuel fire can ignite cabin materials, which can accelerate the fire's growth. Research[5] by the FAA has found that the best way to prevent the first hazard—smoke and toxic gases—is to prevent the fire from penetrating the fuselage. The best way to prevent the second hazard—ignition of cabin materials—is to minimize the heat release[6] of cabin materials, so that they do not contribute significant energy to the fire. Post-crash fires can also reduce the time available for evacuation. The FAA studied the time necessary to complete evacuation and determined that roughly 90 percent of actual evacuations are completed within 5 minutes.[7] This proposal specifically references that 5-minute time when discussing protection under post-crash fire conditions. Proposed § 25.853(d) would add general flammability requirements to provide occupants time to evacuate during post-crash fires.

In contrast, the primary hazard from in-flight fires is to the continued safe flight and landing of the airplane. In-flight fires have historically only been a direct hazard to continued safe flight and landing when they begin in an area inaccessible to a person with a hand-held fire extinguisher. These areas tend to be in cargo compartments or behind interior panels, such as sidewalls or ceilings. The principal risk with such fires is that they grow and spread without the ability of the flightcrew to access and combat them, and then degrade critical systems and occupant survivability. The components, parts, and materials with the most potential to contribute to an in-flight fire hazard are the most extensive, including insulation, wiring, air ducts, and structure. FAA research determined that materials that self-extinguish and do not propagate a flame provide an acceptable level of safety. In-flight fires in areas that are readily accessible to a person with a hand-held fire extinguisher are still a concern, but are much less likely to evolve into a threat to the airplane. Therefore, these two types of fires (in-flight and post-crash) require different flammability standards.

Several elements of fire safety research were involved in the development of these flammability requirements. First, the FAA analyzed accident and incident data to identify the nature of the fire and its potential to affect the airplane and its occupants. Next, the threat was replicated (to the extent possible), and detailed measurements were made to characterize the key parameters[8] of the type of fire and its potential effect on the airplane and occupants. Finally, a laboratory test was developed that correlated with, and was derived from, the type of fire, so that repeatable and reproducible results could be obtained to assess the adequacy of proposed designs. This latter step was an evolutionary process as test protocols (test methods and test equipment) were continuously refined. Once the results for a particular protocol were reliable and repeatable, the FAA selected that test protocol, even though improvements in methods and equipment are expected to continue. A key consideration in this proposal is the availability of approved test methods in

[2] Published in the **Federal Register** on December 24, 1964 (29 FR 18289) and available on the internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFinalRule.nsf/861ae0b1f7efc3ee85256453007b0e8a/beee068568b285ea86256cc900543c9f!OpenDocument.*

[3] Flash resistant is defined as having a burn rate of no more than 20 inches per minute when exposed to a Bunsen burner flame. See FAA Flight Standards Service Release No. 453, dated November 9, 1961; and Advisory Circular (AC) 25–17A, Change 1, ''Transport Airplane Cabin Interiors Crashworthiness Handbook,'' dated May 24, 2016.

[4] Flame resistant is defined as having a burn rate of no more than 4 inches per minute when exposed to a Bunsen burner flame.

[5] See ''Application of Full-Scale Fire Tests to Characterize and Improve the Aircraft Postcrash Fire Environment,'' Constantine P. Sarkos, International Colloquium on Advances in Combustion Toxicology, April 11–13, 1995, available on the internet at *https://www.fire.tc.faa.gov/pdf/fsr-0196.pdf;* and FAA Report No. DOT/FAA/AR–TN11/8, ''Improvements in Aircraft Fire Safety Derived from FAA Research over the Last Decade,'' dated May 2011, available on the internet at *https://www.fire.tc.faa.gov/pdf/TN11-8.pdf.* Both of these reports are also available in the Docket.

[6] Heat release is the amount of heat energy created by a material when burned. The maximum heat release occurs when the material is burning most intensely. Also, see ''Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins,'' published in the **Federal Register** on July 21, 1986 (51 FR 26206) and available on the internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFinalRule.nsf/0/E2F0F4B91D02ADFB862568E7005C097C?OpenDocument.*

[7] See FAA Report No. DOT/FAA/AR–09/18, ''Determination of Evacuation and Firefighting Times Based on an Analysis of Aircraft Accident Fire Survivability Data,'' dated May 2009, available in the Docket and on the internet at *https://www.fire.tc.faa.gov/pdf/09-18.pdf.*

[8] For example, temperature, radiant heat flux, flame kinetic energy.

advisory material [9] to support all of the proposed requirements.

C. Aviation Rulemaking Advisory Committee

In light of the problems with the current part 25 regulations previously discussed, the FAA recognized that it needs a new approach to the regulatory structure of flammability requirements. Since amendments to the regulations since the 1980s had been based on an assessment of the type of fire, but not structured that way in the regulatory text, the FAA determined that the regulations should align with the type of fire that could threaten the airplane. However, because of the scope of the change under consideration, the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) [10] to review the FAA's proposed approach and provide recommendations. ARAC assigned the task to the Materials Flammability Working Group (MFWG) under the Transport Airplane and Engines Issues Group (TAEIG), an ARAC subcommittee. The MFWG reviewed the proposed concept and, in a report [11] dated July 2012, recommended its adoption along with several associated advisory circulars (ACs). The MFWG also raised several questions that required FAA resolution prior to rulemaking, including consideration of an approved materials list, availability of advisory material, and means to address so-called rogue failures.

When drafting the NPRM, the FAA determined that a more comprehensive estimate of costs and benefits was necessary. Therefore, the FAA put the rulemaking project on hold and re-tasked ARAC [12] to provide an estimate of costs and benefits. The FAA provided assumptions to use in making those estimates. ARAC reassigned the task to the MFWG. The MFWG completed the task and submitted a report [13] in October 2015. This proposal is based on recommendations and information provided in both MFWG reports and addresses the open issues raised by the MFWG.

III. Discussion of the Proposal

The current regulatory structure in the primary regulations that this action proposes to amend, §§ 25.853, 25.855, 25.856, and 25.1713, organizes the flammability requirements by the type of testing required for a specific part or component. Section 25.853 applies to parts and components that are located in compartments that can be occupied by crew or passengers, and requires compliance with the applicable parts of appendix F to part 25. Section 25.855 states similar requirements that are applicable to cargo or baggage compartments; § 25.856 provides requirements for thermal/acoustic insulation materials; and § 25.1713 addresses electrical wiring components. Each of these sections requires compliance with a particular test method in appendix F.

For example, § 25.853(a) requires that all materials used in occupiable compartments meet the test criteria (Bunsen burner) in part I of appendix F to part 25. Section 25.853(d) requires certain interior components, including partitions, ceilings, and wall panels, to also meet the heat release rate (HRR) [14] and smoke emission test requirements in parts IV and V of appendix F. This proposal would eliminate the requirement to meet the tests in part I of appendix F for components required to comply with § 25.853(d), since the Bunsen burner tests do not add any level of safety for components that meet part IV of appendix F.

This proposed amendment would revise § 25.853 to apply to general categories of parts or components rather than to specific items. For example, § 25.853(d)(1) would apply to large surface area components, rather than to partitions, ceilings, and wall panels. It would set performance standards for those components based on the type of fire the component is likely to be exposed to and whether or not its location is accessible during flight.

Stating the requirements as performance standards would make them applicable to parts and materials that are not listed in the current regulations and to new materials in emerging areas of aviation design. These include materials used in inaccessible portions of the fuselage, escape slides, and the use of flammable metals in the cabin.

The mandatory testing methods in appendix F to part 25 would be removed. Instead, appendix F would allow applicants to omit certain tests if the material passes certain more severe tests. Advisory material would provide the details of approved test methods. By moving compliance testing methods to advisory material, applicants would have more flexibility to propose alternative methods, and the FAA would have more flexibility to approve improved testing methods.

This proposal would also standardize the required number of test samples, and pass rate, among the various tests. Proposed § 25.853(b) would require a minimum of three specimen sets for any test used to show compliance.

Because fewer post-crash flammability requirements currently apply to airplanes designed to carry 19 or fewer passengers, many of the proposed simplifications would only apply to larger airplanes. For the same reason, for airplanes designed to carry 19 or fewer passengers, fewer in-flight flammability tests would be eliminated by meeting post-crash flammability test requirements. Thus, applicants for type certification of airplanes with 19 or fewer passengers might not benefit from the same degree of simplified testing, as would applicants seeking approval of larger airplanes.

A. Flammability Testing Requirements

1. Bunsen Burner Test (Current § 25.853(a) and Part I of Appendix F to Part 25)

Sections 25.853 and 25.855 require Bunsen burner testing of all materials used in interior compartments, and in certain parts of cargo compartments, even if an additional, more severe test is required. Bunsen burner tests, detailed in part I of the current appendix F to part 25, have multiple variations that are used to determine the resistance of materials to flame, flame penetration, or flame propagation. Although Bunsen burner tests would be an acceptable means of compliance for several requirements, this proposal would eliminate the requirement for Bunsen burner testing when a required test method simulates a post-crash fire. Bunsen burner testing to address in-flight fire threats would be less frequently required, since extensively used materials would be required to meet a more stringent standard, and materials and parts that are not extensively used may show their in-flight fire resistance by more than one means.

Two other requirements intended to protect the airplane from in-flight fires, proposed § 25.853(c)(1)(i) regarding parts or components that are accessible

[9] This advisory material will take the form of several proposed ACs, as discussed in section III.D of this NPRM.

[10] Published in the **Federal Register** on August 27, 2010 (75 FR 52807) and available on the internet at *https://www.govinfo.gov/content/pkg/FR-2010-08-27/pdf/2010-21333.pdf.*

[11] See ''Materials Flammability Working Group Report,'' dated July 9, 2012, available in the Docket and on the internet at *https://www.fire.tc.faa.gov/materials.asp.*

[12] Published in the **Federal Register** on January 20, 2015 (80 FR 2772) and available on the internet at *https://www.govinfo.gov/content/pkg/FR-2015-01-20/pdf/2015-00749.pdf.*

[13] See ''Materials Flammability Working Group Continuation of Task Report,'' dated October 7, 2015, available in the Docket.

[14] The heat release rate test measures both total heat release and peak heat release rate.

to the flightcrew during flight, and proposed § 25.853(c)(2)(iv) regarding floor liners in cargo compartments, would require that those parts, components, and materials be self-extinguishing when exposed to a small flame,[15] unless another regulation requires the materials to meet a higher standard, such as a post-crash test. Applicants would typically use the 12-second vertical Bunsen burner test to show that the materials are self-extinguishing. This proposal would eliminate the requirement for materials to pass horizontal Bunsen burner tests because other requirements would ensure acceptable flammability characteristics of any other materials for which that test is currently applied. This includes parts currently listed in appendix F, part I, paragraph (a)(1)(iv) of part 25, such as clear plastic windows and signs, which would fall under one of the proposed requirements for a more stringent test, unless the applicant is able to show the part or material serves a necessary function and has no suitable substitute material.

For post-crash fires on transport category airplanes with 19 or fewer passengers, this proposal would, as a practical matter, retain the requirement, currently in appendix F, part I, paragraph (b)(4) of part 25, that the applicant conduct a 60-second vertical Bunsen burner test for large surface interior materials. That test, unlike the 12-second vertical test, screens out materials, such as certain thermoplastics, that have unacceptable flammability performance, even though the test method is not specifically designed to represent post-crash fires. Because of the greater evacuation capability inherent in these smaller airplanes, they are not, and would not under this proposal, be subject to the more severe post-crash, fire-based standards for interior materials and lower lobe [16] fire penetration proposed in §§ 25.853(d)(2) and 25.856(b), respectively.

This proposal would also continue to require, in § 25.853(c)(1)(i), that waste receptacles (compartments) and cargo compartment liners resist fire penetration. One means of compliance would continue to be the 45-degree orientation Bunsen burner test, which is currently described in part I of appendix F to part 25, but would be removed from part 25 and made available in guidance material. However, if an applicant proposes to construct waste compartments from the same materials as will be used for other interior features that are required to meet the HRR test,[17] no Bunsen burner test would be required. The fire containment test for the waste compartments would still be required. Most cargo compartment liners, as components in an inaccessible area, would still be required by proposed § 25.853(c)(2) to meet the flammability performance standard currently encompassed by the oil burner test in part III of appendix F. Exceptions would include liners on the floor and certain aspects of Class E cargo compartment liners, which would only need to pass the 45-degree Bunsen burner test, *i.e.,* resist penetration by a small flame (proposed § 25.853(c)(iv)).

Finally, for materials that must be self-extinguishing under current regulations, the FAA has reviewed the detailed pass/fail criteria for the vertical Bunsen burner test in appendix F, part I, paragraph (b)(4) of part 25 and concluded that those criteria could also be simplified. The current pass/fail criteria are regulatory and involve burn length, after-flame time, extinguishing time of any drips, and, in some cases, after-glow time. These criteria would no longer be regulatory. Instead, proposed AC 25.853–4X would describe one means of compliance that incorporates only the criteria of burn length and that the material be self-extinguishing. The self-extinguishing criteria would apply to drips as well as the test sample.

2. Oil Burner Test for Seat Cushions (Current § 25.853(c) and Part II of Appendix F to Part 25)

Currently, § 25.853(c) requires that seat cushions, except those on flight crewmember seats, meet the test requirements of part II of appendix F to part 25, which involves the use of an oil burner. The oil burner test for cushions simulates the effect of a post-crash fire by exposing the material to a high-intensity open flame to evaluate its burn resistance and other characteristics.

This proposal would extend this level of flammability performance to any cushion, including flight crewmember seats and mattresses on berths. When the FAA adopted its current flammability rule [18] for seat cushions, the materials available to applicants were limited, and it was not clear that flightcrew could achieve the posture and comfort necessary to safely operate the airplane using materials that complied with the oil burner test. However, since that time, advances in cushion materials have essentially eliminated this issue and any reason for different treatment of flight crewmember seats. Mattresses or other cushions on berths should meet the same standards. The omission of cushions on berths in the current § 25.853(c) was largely an oversight in the way the FAA worded the rule.[19]

Proposed § 25.853(d)(3) would create a performance-based standard for the flammability of seat cushions. In the event that a post-crash fire enters the airplane, the seat cushions would have to resist involvement in that fire, and not propagate it. (Resist, for the purposes of this proposed rule, means to not become involved in a fire to the extent that survivability is adversely affected, commensurate with the historical benefit provided by the oil burner test. Involvement, for the purposes of this proposed rule, means ignition, pyrolysis, or combustion.) Since the oil burner test represents the hazard posed by a post-crash fire, it would continue to be, in most cases, an acceptable test to show compliance with this proposed rule. However, in certain applications, an applicant could show compliance with the HRR test. The oil burner test measures both flame spread and material consumption rates, and the HRR test only measures the latter. Therefore, an applicant's use of the HRR test will generally be limited to designs where flame spread does not affect safety, and would, in most circumstances, apply to small cushions or cushions such as padding on an angled surface. Proposed appendix F to part 25 would allow this substitution of one test method for another.

The proposed revisions to § 25.853 would no longer require cushions to meet a Bunsen burner test because the oil burner test, which most applicants would use to demonstrate the flammability performance of their cushions, is more severe. Although the Bunsen burner test would not be required for seat cushions, applicants could still choose to generate Bunsen burner test data, where that data may be used to support substitution of upholstery (dress covers) under the provisions of proposed § 25.853(e)(3).

This proposal would also remove the mandatory and detailed testing methods from appendix F to part 25. Instead, AC 25.853–2X, would provide guidance on

[15] Represented by a flame from a Bunsen burner.

[16] For the purpose of this NPRM, ''lower lobe'' refers to the geometric lower half of the airplane fuselage.

[17] Part 25, appendix F, part IV.

[18] Published in the **Federal Register** on October 26, 1984 (49 FR 43188) and available on the internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFinalRule.nsf/0/31FBF691A3BCE69C86256825004F9E02?OpenDocument.*

[19] Section 25.853(c) specifically referred to ''seats,'' whereas elsewhere in the regulations, seats and berths are both mentioned when requirements apply to both. From a fire safety standpoint, there is no distinction.

acceptable tests, including the oil burner test and use of the HRR test.

3. Heat Release Rate Test (Current § 25.853(d) and Part IV of Appendix F to Part 25)

Currently, the requirements to conduct the HRR test, in § 25.853(d) and part IV of appendix F to part 25, apply to specific interior features: Interior ceiling and wall panels, partitions, galley structures, large cabinets, and cabin stowage compartments that are in a passenger compartment that may be occupied during takeoff and landing.

This proposal would replace this requirement with performance-based standards in § 25.853(d)(2) applicable to any large [20] surface area in the same compartment, based on the type of fire it may be exposed to, and without regard to whether a particular surface is associated with a specific feature. These revisions, therefore, would extend the flammability requirements to all large surface areas within the portions of the fuselage currently covered by the HRR tests. This proposal would remove the details of HRR tests from appendix F to part 25. HRR tests would be one means of compliance, and detailed in proposed AC 25.853–1A.

A design development that the FAA did not anticipate following the 1986 adoption of part IV of appendix F to part 25, which details the HRR test, and a change to § 25.853(a) to require the HRR test (at amendment 25–61 [21]), was industry's use of large area panels on seat assemblies.[22] Because § 25.853(d) at amendment 25–83 [23] (paragraph (a) at amendment 25–61) does not list seats, the FAA has applied special conditions to address fire protection of these large-area parts. The proposed revisions to § 25.853 would eliminate the need for these special conditions, since the revisions would apply to any component or part that is a large surface within the fuselage.

The FAA also proposes, however, that this broader standard only apply to items more than 15 inches above the floor because full-scale fire tests [24] show that (with the exception of materials near the fire entry point) the materials very near the floor do not significantly contribute to a post-crash fire until conditions have become non-survivable. Therefore, in order to simplify compliance demonstrations and focus the requirement on the most critical components, proposed § 25.853(d)(2)(i) would only apply to large-surface components and parts that are more than 15 inches from the cabin floor. For example, a kick panel that extends upward from the floor to 16 inches above the floor would be required to pass the HRR test. For airplanes with more than one passenger deck, the 15-inch dimension would apply to each deck separately. The FAA based the 15-inch dimension on test data and the objective of such materials not adversely affecting safety. This provision is relieving and should reduce costs. The proposal to exclude surfaces 15 inches and below would not apply to large area surfaces on seats because seats could be located in or near a fire's entry point through the fuselage and, therefore, would be more likely to be involved in a post-crash fire. FAA full-scale fire tests have shown that there could be an adverse impact on safety if parts on seats that are less than 15 inches from the floor did not meet the heat release requirements.[25]

4. Smoke Emissions Test (Current § 25.853(d) and Part V of Appendix F to Part 25)

This proposal would remove the requirement for testing of smoke emissions. The smoke emissions test, detailed in the current part V of appendix F to part 25 that is required by § 25.853(d), measures the smoke emissions characteristics of materials used in cabin components. The smoke emissions test is currently required in addition to the HRR test. The FAA adopted the smoke emissions test requirement at amendment 25–66 [26] after concluding that smoke may hamper emergency egress and is, therefore, a survivability factor in the event of a fire. Thus, all materials, parts, and components that must meet the HRR test requirements are also required to pass the smoke emissions test in accordance with current § 25.853(d).

However, FAA research data have also shown that, for the materials and configurations typically used in transport category airplanes, the heat release of the materials used drives occupant survivability, rather than the materials' smoke emission. Heat release dictates how quickly the conditions progress to flashover.[27] Before flashover, conditions are largely survivable. Due to the importance of heat release, the FAA initially adopted regulations (at amendment 25–61) that only contained requirements for the HRR test and did not address smoke emission.

In fact, the data do not correlate smoke emission test results with post-crash survivability as they do with heat release. The FAA is unaware of any data showing that smoke emission testing has contributed to fire safety in an actual accident. Although the rule has been in effect for more than 20 years and has prevented applicants from using certain materials, the FAA has concluded, pursuant to the following discussions, that the smoke emission testing requirement is not adding to post-crash fire safety. The smoke emission requirement may be contributing to in-flight fire safety, but the extent of that contribution is unknown. However, by adding standards for extensively used materials in inaccessible areas, the potential contribution to an in-flight fire from materials that would no longer be subject to the smoke emission requirement will be minimized. For example, the proposal would eliminate the test that measures smoke emissions for certain large surface area parts, such as sidewalls. If a fire was to propagate on ducting behind the sidewall (an inaccessible area), it could spread to a sidewall that had not been tested for smoke emission, and the quantity of smoke could become a risk to continued safe flight and landing. If the ducting met the flammability standard in this proposal, the fire would not reach the sidewall, and the quantity of smoke would be minimal. Thus, the relief in the smoke emission requirements for sidewalls depends on improving the

[20] For purposes of this proposed rule, ''large'' excludes surfaces that are less than 1 square foot and includes all surfaces that are 2 square feet and greater, with square footage in between as explained in amendment 25–83 (60 FR 6615, February 2, 1995), which is available on the internet at *https://www.govinfo.gov/content/pkg/FR-1995-02-02/pdf/95-2114.pdf.*

[21] Published in the **Federal Register** on July 21, 1986 (51 FR 26206).

[22] In this context, seat assemblies include the seat and furniture associated with that seat. The furniture need not be an airplane sidewall or bulkhead to affect the overall post-crash flammability characteristics and therefore should simply be treated as a large surface area.

[23] Published in the **Federal Register** on February 2, 1995 (60 FR 6615) and available on the internet at *https://www.govinfo.gov/content/pkg/FR-1995-02-02/pdf/95-2570.pdf.*

[24] One example is FAA Report No. DOT/FAA/TC–13/52, ''Development of a Laboratory-Scale Flammability Test for Magnesium Alloys Used in Aircraft Seat Construction,'' dated February 2014, available in the Docket and on the internet at *https://www.fire.tc.faa.gov/pdf/TC-13-52.pdf.*

[25] FAA Report No. DOT/FAA/TC–16/42, ''A Comparison of Performance of OSU-Compliant Versus Non-OSU-Compliant Thermoplastics Used in the Lower Area of Aircraft Seats during a Simulated Post-Crash Fire Scenario,'' dated September 2017, available in the Docket and on the internet at *https://www.fire.tc.faa.gov/pdf/TC-16-42.pdf.*

[26] See ''Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins,'' published in the **Federal Register** on August 25, 1988 (53 FR 32564) and available on the internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFinalRule.nsf/0/7B29EAF2EAC36594862568FC005465CD?OpenDocument.*

[27] A flashover is the near-simultaneous ignition of all combustible material within an enclosed area.

standards for ducting. This philosophy of interdependency is true throughout the proposal.

The MFWG discussed smoke emission testing at length during its activity leading to this proposal, but the MFWG did not reach a consensus on whether the FAA should retain a requirement for smoke emission testing. Some members were concerned that the removal of the requirement could lead to applicants using materials with excessive smoke emission properties, if those materials offered weight or cost advantages. Other members believed the FAA could eliminate the smoke emission test requirement because smoke emissions had not been correlated to post-crash survivability, and FAA data suggested it was not needed. Also, most airplane manufacturers have their own design standards that include tests for smoke emissions. These internal manufacturer requirements were in place before the FAA adopted the current regulatory requirement; therefore, the FAA expects they would remain in use to some extent if the regulatory requirement were removed. Thus, the FAA anticipates that some of the smoke emission testing that existed before the current regulatory requirement would continue to take place if this proposed amendment removed the regulatory requirement. In other words, manufacturers might choose to maintain the design standards that were in place before amendment 25–66 [28] was adopted. Amendment 25–66 imposed a certification process that drives costs, in terms of the quantity of tests, the documentation necessary, and the engineering assessments to identify the correct tests. These costs would be relieved by this proposed rule and are included in the cost savings estimates.

Based on this information, the FAA proposes to remove the requirement for testing of smoke emissions. However, because smoke is an important survivability parameter, and materials that have high smoke emission without significant HRR are theoretically possible, § 25.853 of this proposal would establish a general performance standard that components must maintain occupant survivability during a post-crash fire. One means of showing compliance would be HRR testing, described in chapter A4 of FAA Report No. DOT/FAA/TC–17/55, ''Aircraft Materials Fire Test Handbook,'' Revision 3, dated June 2019. If data from the HRR testing does not ensure the post-crash fuel fire performance of a given material, an applicant could show compliance via another means. The FAA anticipates, however, that HRR tests will be adequate to determine the post-crash fire performance of components made from materials currently in use such as phenolic, epoxy, and thermoplastic.

5. Oil Burner Test for Cargo Compartment Liners (Current § 25.855(c) and Part III of Appendix F to Part 25)

Proposed § 25.853(c)(2) would set performance standards requiring all Class C, and certain Class E and F, cargo compartment ceiling and sidewall liners to resist penetration by a fire within that compartment and protect the airplane's structure and critical systems from the effects of those fires. The section on cargo or baggage compartments would include a reference (§ 25.855(c)) requiring compliance with the applicable provisions of § 25.853(c). In addition, as a minor editorial change, this proposal eliminates the term ''panels'' from ''liner panels,'' the term used in the current regulation. Most liners are panels. However, many components serving the role of the cargo compartment liner are not panels, and the term can sometimes be confusing. The proposed rule would simply refer to cargo compartment liners, but there would be no change in the scope of the requirement.

Currently, § 25.855(b) requires any Class B through E, and certain Class F, cargo compartments to have a liner. Section 25.855(c) requires the ceiling and sidewall liner panels of Class C and F cargo compartments to meet the requirements currently in part III of appendix F to part 25, the oil burner test (proving resistance to flame penetration). The requirement for cargo compartment liners to resist fire penetration would be retained, as a performance standard, in § 25.853(c)(2)(ii). Proposed § 25.853(c)(1)(iii) would continue to require Class B cargo compartment liners, as well as any other cargo compartment liners, to resist penetration from a small ignition source. This requirement is currently met using the less severe 45-degree Bunsen burner test required by appendix F, part I, paragraph (a)(2)(ii) of part 25. A Class F cargo compartment is not required to have a liner if it has other means of containing a fire and protecting critical systems and structure, but if it does have a liner, it is currently required by § 25.855(b)(2) to meet the oil burner test like Class C cargo compartments.

With this proposal, all Class E cargo compartment liners necessary to protect critical systems and structure would be required to meet standards identical to those required of Classes C and F, under proposed § 25.853(c)(2)(iii). The FAA's rationale for requiring the same performance of those cargo compartment liners is that any cargo compartment liner necessary to protect the airplane structure or its systems should also protect against in-flight cargo fires.

The oil burner test would continue to be an acceptable means of showing that the liner resists penetration as that test represents the hazard posed by in-flight cargo fires, but this proposal would remove the requirement to pass the test in part III of appendix F to part 25, which would become an optional means of compliance under proposed AC 25.853–1A.

Other methods of meeting the proposed performance standards for Class E cargo compartments could be the use of fire containment covers or containers, or dedicated shrouds to protect flight-critical systems. In such cases, proposed § 25.853(c)(2)(iv) would still require the liner to resist penetration from a small ignition source, which could be shown by passing the 45-degree Bunsen burner test, which also would be described in proposed AC 25.853–1A.

In addition, application of § 25.855(c) has often resulted in multiple tests for a given liner configuration or slight variants of the configuration. This regulation would be replaced by the performance standards discussed previously, and proposed AC 25.855–1X would provide guidance on simplified methods that should reduce the testing required to show compliance.

Lastly, this proposal would eliminate the requirement in § 25.855(d) to test the flammability of materials used in the construction of items such as cargo covers and tiedown equipment within a Class C cargo compartment. Section 25.855(d) currently applies to all other materials used in the construction of the cargo or baggage compartment and requires testing according to part I of appendix F to part 25, the Bunsen burner tests, for any such materials. This proposal would add an exception to § 25.855(d) for materials located entirely within a Class C cargo or baggage compartment. The rationale for this proposed relief is that Class C compartments are already required by § 25.857(c) to withstand and contain a fire from cargo or baggage of arbitrary

[28] See ''Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins,'' published in the **Federal Register** on August 25, 1988 (53 FR 32564). Available at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgFinalRule.nsf/0/7B29EAF2EAC36594862568FC005465CD?OpenDocument.*

flammability characteristics, and these compartments must have a fire suppression system. Materials used within the Class C compartment would be no more flammable than the cargo itself. Since the cargo makes up most of the potential fire load, requiring all of these materials or components to be tested does not add to safety. However, this proposal would not provide similar relief for other classifications of cargo compartments because those compartments use different approaches to fire protection.

These proposed changes would apply to cargo compartments, not cargo containers, even though the National Transportation Safety Board has recommended improved flammability standards for cargo containers. Cargo containers [29] are used in a variety of applications, including within Class C cargo compartments. Unlike the cargo compartments that house them, cargo containers are usually not part of the airplane type design, and so are not directly affected by the requirements of part 25. The FAA often approves cargo containers in accordance with Technical Standard Order (TSO) C90d, ''Cargo Pallets, Nets and Containers (Unit Load Devices),'' which contains minimum performance standards for the container itself, without regard to the type of compartment where the container will be used. The FAA's analysis of potential regulatory actions with respect to cargo containers is ongoing and independent of this proposal.

6. Radiant Panel Test for Thermal/Acoustic Insulation (Current § 25.856(a) and Part VI of Appendix F to Part 25)

Thermal/acoustic insulation protects the airplane and occupants from temperature and acoustic extremes, and it is often located in places not accessible to the flightcrew during flight. This proposal would remove the requirement for radiant panel testing of thermal/acoustic insulation, currently in § 25.856(a) and part VI of appendix F to part 25. This proposal would instead require that thermal/acoustic insulation comply with proposed § 25.853(c)(2)(i), which would set performance standards for all extensively used parts, components, and assemblies that are not accessible to the flightcrew during flight. The proposed performance is that the parts not propagate the largest fire that, by itself, would not be a hazard to the airplane. The reason this standard was selected, originally by the MFWG, is to prevent the risk that a fire that is any larger would be a hazard to the airplane and its occupants, regardless of the materials used.

One means of showing compliance with the proposed performance standards for inaccessible materials would be the radiant panel test method, which determines the flammability and flame propagation characteristics of thermal/acoustic insulation when it is exposed to both a radiant heat source and a flame. This method would be detailed in proposed AC 25.856–1A.

In contrast, thermal/acoustic insulation that is accessible to the flightcrew during flight would only be required to be self-extinguishing when exposed to a small flame, as set forth in proposed § 25.853(c)(1)(i).

7. Oil Burner Test for Thermal/Acoustic Insulation (Current § 25.856(b) and Part VII of Appendix F to Part 25)

For airplanes with a passenger capacity of 20 or more, this proposal would revise § 25.856(b) to state two performance standards, that thermal/acoustic insulation installed in the lower half of the fuselage resist penetration of a post-crash fuel fire and provide at least 5 minutes of survivability in the occupied portions of the airplane. Section 25.856(b) currently requires that thermal/acoustic insulation installed in the lower half of the fuselage meet the burnthrough resistance (or oil burner) test in part VII of appendix F to part 25 unless the FAA determines that the insulation would not contribute to fire penetration resistance. If thermal/acoustic insulation is not installed, there is currently no requirement that the airplane resist post-crash fire penetration.

The MFWG recommended that the FAA expand the applicability of the burnthrough resistance requirement beyond just insulation, to require a means of providing post-crash fire penetration protection. For some airplane designs, that approach could require some other type of fire barrier, in areas where insulation is not installed, that would have to meet the same performance standards as thermal/acoustic insulation.

The FAA is not proposing to adopt the MFWG recommendation to expand the applicability of the burnthrough resistance requirement. It is difficult to quantify the benefits of requiring a fire penetration barrier, since the majority of in-production airplanes are largely insulated in the lower lobe. Adding a fire barrier to areas not traditionally insulated, such as the wing box or certain cargo areas, would provide some, albeit limited, fire safety benefit. In addition, with the increased use of composite skin structure, some airplane models have fire penetration resistance without using insulation. However, if the FAA were to separately require fire penetration resistance for the entire lower lobe, applicants would incur substantial development costs, including increased testing, and more significantly, increased airplane weight. The FAA cannot, at present, justify these costs against the potential benefits they would provide. Instead, proposed § 25.856(b) would allow for another means of providing fire penetration resistance, and proposed AC 25.856–2B would address the use of fuselage structure in an equivalent means of providing fire penetration resistance. These provisions should reduce the administrative actions necessary if an applicant chooses to provide a fire penetration barrier by means other than insulation.

8. Radiant Heat Resistance Test for Escape Slides (§ 25.853(d)(5))

Proposed § 25.853(d)(5) would incorporate a requirement from TSO–C69C, ''Emergency Evacuation Slides, Ramps, Ramp/Slides, and Slide/Rafts,'' for applicants to conduct tests to ensure the continued functioning of escape systems when those systems are exposed to the effects of radiant heat from a post-crash fuel fire. Since all escape slides currently comply with the radiant heat resistance requirement of TSO–C69C, this proposal would add no compliance burden. Compliance with TSO–C69C would also provide the necessary data for compliance with the new part 25 requirement. Proposed AC 25.853–6X would contain details of the radiant heat test method and pass/fail criteria and would include refinements developed since the TSO–C69C was last updated.

9. Fire Containment Compliance of Waste Receptacles (Current § 25.853(h))

The fire containment requirements for waste receptacles would remain the same with this proposal. However, because of the reorganization of § 25.853, this proposal would move the waste receptacle requirements from § 25.853(h) to proposed § 25.853(c)(1)(ii). In addition, proposed § 25.853(c)(1)(ii) would require at least one test specimen to show compliance. This change is necessary because proposed § 25.853(b) adds a general test requirement that three specimen sets be used to show compliance with proposed §§ 25.853(c) and (d). Requiring one test specimen for waste receptacles is

[29] Cargo containers are portable devices that are carried within airplane cargo compartments to transport cargo or baggage. They are used to facilitate loading and maximize use of space.

consistent with the current § 25.853(h), which requires demonstration by test.

Waste receptacles face the threat of an in-flight fire occurring within the receptacle. The current § 25.853(h) addresses this threat, but the requirement does not specify a test method from appendix F to part 25 as do the other paragraphs of the current § 25.853. AC 25–17A, Change 1, ''Transport Airplane Cabin Interiors Crashworthiness Handbook,'' dated May 24, 2016, currently summarizes an acceptable method of compliance for waste receptacles. This method would be updated in chapter B1 of FAA Report No. DOT/FAA/TC–17/55, in order to reflect current knowledge about in-flight fire sources and typical waste materials.

10. Extensively Used Materials in Inaccessible Areas (Proposed § 25.853(c)(2)(i))

The FAA is proposing new fire safety standards that would apply to all materials that are extensively used within and including the fuselage but are not accessible in flight. Proposed § 25.853(c) would set a performance standard of prohibiting the flammability characteristics of parts, components, and materials involved in an in-flight fire from creating a hazard to the occupants or to the continued safe flight of the airplane. For the purposes of this proposed rule, the ''flammability characteristics'' of a part, component, or assembly (or the materials from which they are made) are all of the ways those items respond to a particular fire threat. Such flammability characteristics include the material's ease of ignition, its tendency to propagate a flame, and its HRR, as well as other parameters correlated with heat release, including the emission of smoke and toxic gases.

Proposed § 25.853(c)(2)(i) would set the performance standard that extensively used parts, components, and assemblies must not propagate the largest fire that, by itself, would not be a hazard to the airplane.

When the FAA adopted the flammability requirements for thermal/acoustic insulation in 2003 (amendment 25–111),[30] the FAA's regulatory evaluation estimated that the requirements would mitigate [31] roughly half the potentially catastrophic in-flight fires that might occur over a 20-year period. In order to more completely address the risk due to in-flight fire, the FAA determined that all extensively used materials in inaccessible areas should have the same level of fire resistance as thermal/acoustic insulation, currently addressed in § 25.856(a). Therefore, proposed § 25.853(c)(2)(i) would set the same performance standard for extensively used parts in inaccessible areas that is in the current § 25.856(a).

To further explain the reason for this proposal, the parts and materials of primary concern in inaccessible areas are electrical wiring, ducting, and composite structure. Each of these is ''extensively used,'' in the meaning set forth in this proposal, and could permit a fire to propagate inside the airplane. Since the areas in question are not accessible by the flightcrew, there is no effective way to fight the fire, so the flammability (flame propagation) resistance of the materials is paramount in in-flight fire safety. This proposal would also revise § 25.856(a), which states the requirements for thermal/acoustic insulation, to require the same performance standards as § 25.853(c)(2)(i). This would have the effect of limiting the applicability of the in-flight flame propagation requirement to thermal/acoustic insulation that is located in an area that is inaccessible in flight. Proposed AC 25.853–5X would provide additional detail on the types of components that are affected by this requirement, as well as methods of compliance.

Section 25.1713, ''Fire protection: EWIS,'' applies to electrical wire and cable wherever it is used. Materials used in any electrical wire and cable insulation, including protective shrouds, are considered extensively used. This proposal would restate the current fire protection requirements relative to whether the wire is installed within or outside the fuselage. For electrical wiring interconnected systems (EWIS) components installed within the fuselage, under proposed § 25.1713(c)(2) the insulation would have to meet the performance standards in proposed § 25.853(c), which includes different standards for installations in areas that are accessible and inaccessible in-flight, and in a post-crash environment. For EWIS installed outside the fuselage, because such areas are inaccessible, proposed § 25.1713(c)(1) would require that such components not propagate the largest fire that, by itself, would not be a hazard to the airplane. This proposal would also add a new paragraph (d) to § 25.853 to require testing, except for wiring installations that would not pose a risk to fire safety. Proposed AC 25.853–5X would provide accepted test methods for showing compliance with the new performance standards.

Other extensively used materials include nonmetallic or flammable metals used in some fuselage construction today. Since the use of these materials in this manner constitutes a novel or unusual design feature, the FAA has addressed the issue of in-flight fire safety for designs using these materials through special conditions. Those special conditions are intended to ensure that the use of nonmetallic or flammable metal structure does not reduce the level of in-flight fire safety from the level that would have been provided with a traditional metallic fuselage. Proposed § 25.853(a) would include the fuselage in the fire protection requirements regardless of the type of material used in its construction and would eliminate the need for such special conditions. Proposed § 25.853(d)(4) would require that flammable metals used in cabin construction be able to resist a post-crash fire, and that they be readily extinguishable. ''Readily extinguishable,'' in this instance, means that a fire extinguishing system in common use in aviation (including a hand-held fire extinguisher or airport emergency response) can promptly extinguish the materials, rather than spreading the fire or otherwise making the fire worse.

Under § 25.853(c)(2) of this proposal, the back sides of many existing interior features (*e.g.,* galleys, sidewalls, ceilings) would meet the definition of extensively used and would, therefore, be required to show by test their fire propagation resistance. However, the FAA has assessed the performance of these materials, both in service and in testing. Since the materials' fire propagation resistance has been satisfactory, and because they are subject to other flammability requirements, the FAA does not see a need to require additional tests for the portion of these parts that face inaccessible areas. Therefore, proposed appendix F to part 25 and proposed AC 25.853–1A would summarize conditions under which methods of compliance other than testing would be acceptable in order to meet the in-flight fire requirements for inaccessible areas.

Proposed § 25.853(c)(2)(v) would require that all other parts, components, and materials located in inaccessible areas be self-extinguishing when exposed to a small flame or electrical arc. However, since these would by definition be components that are not extensively used, an applicant could document a process whereby the

[30] See ''Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes,'' published in the **Federal Register** on July 31, 2003 (68 FR 45045) and available on the internet at *https://www.govinfo.gov/content/pkg/FR-2003-07-31/pdf/03-18612.pdf.*

[31] I.e., prevent the fire from becoming catastrophic.

flammability of parts used in inaccessible areas is controlled to meet the required level of safety of the proposed rule. Specifically, an applicant could show that its design/production system includes provisions such that parts used in inaccessible areas have only known flammability characteristics, or any parts that do have unknown flammability characteristics are insignificant in the event of a fire. Proposed AC 25.853–1A would discuss this in more detail.

11. Exclusions From Testing (Proposed § 25.853(e))

Proposed § 25.853(e) would allow applicants to substantiate certain components without the testing required by § 25.853(b). Section 25.853(e) would establish five classes of parts that would not require certification testing in order to show compliance. Each individual class would be based on a combination of factors that affect fire safety and complexity of certification. The classes maintain the level of safety provided in the current regulations.

The applicant would have to prove that the part or component meets the criteria of one of the five classes listed in proposed § 25.853(e), in order to obtain the FAA's approval to exempt those parts from testing. Proposed AC 25.853–1A would provide examples that would qualify for this relief and guidance for justifying it.

The classes are as follows:

- Class 1 parts are small (each able to fit, in its entirety, within a cube measuring two inches on each side) and separated from one another so that they will not propagate a fire.
- Class 2 parts are larger than Class 1 parts and are self-extinguishing. These parts would be limited in size to a volume of 113 cubic inches and an exposed area of 200 square inches.
- Class 3 parts are those that the applicant can show, through a method acceptable to the Administrator, are a size, construction, or location that their flammability characteristics do not threaten the airplane or its occupants. By threaten, the FAA means pose a risk to continued safe flight and landing or a hazard to the occupants.
- Class 4 parts are those that are essential to the safety of the airplane, its occupants, or the functionality [32] of the airplane and cannot reasonably be made from a material that meets the flammability requirements without compromising the part's integrity or functionality. Although this paragraph provides an exception, the FAA expects the proposed design would come as closely as possible to full compliance, including the use of best available materials and showing that there is no adverse effect on safety.
- Class 5 parts are those that have already passed a more stringent test as outlined in appendix F to part 25.

All of these provisions would apply to testing requirements for both the in-flight and post-crash fires.

The FAA is proposing these exceptions because the current general exclusion of small parts from testing requirements in part I of appendix F to part 25 has been problematic. There is currently no definition of small parts in the flammability regulations, only examples. Since testing is not required, the flammability characteristics of those small parts can be unknown. In addition, there is no consideration of accessibility, extensive use, or potential type of fire exposure. Adopting different classes of parts would simplify the requirements and bring standardization to those situations where parts are not tested. Proposed AC 25.853–1A would provide examples that would qualify for this relief and guidance on justifying it.

12. Pass/Fail Criteria

This proposal would remove the detailed pass/fail criteria from appendix F to part 25. Section 25.853(b) of this proposal would define the number of specimen sets required for tests that the applicant uses to show compliance. The applicable proposed AC would provide approved number of passing samples for certain testing methods.

The detailed pass/fail criteria, currently in appendix F to part 25, are specific to the test method. Depending on what the test is measuring, the pass/fail criteria relate to the key parameters of interest (*e.g.,* burn length, extinguishing time, HRR) necessary to meet the level of safety that the requirement. The pass/fail criteria are based on a required number of test samples and the number of samples that meet the specified criteria. All of the current test methods require at least three sets of test samples, which may include more than one specimen depending on the test method.

Some current test methods require the average value of the test results to be at or below a certain level; others require that no sample can fail. For example, the seat cushion test in current appendix F to part 25 requires that two thirds of the test samples meet certain criteria as well as the average of all test samples. One of the key ongoing difficulties with these criteria is how to recover from failure of a single sample, where that sample may be an outlier. For those methods that require an average, simply testing more samples improves the statistical significance of the average, and has generally been acceptable (although the FAA must approve in advance the number of additional samples to be tested). For test methods that do not permit any sample to exceed specified values, a failure of one sample is problematic, since one failure would violate the criteria no matter how many additional samples are tested. Such failures are often attributed to so-called ''rogue'' samples: Samples that have some irregular characteristic that makes their performance unrepresentative of the material (part or component) in general. While rogue samples undoubtedly occur, it is often difficult to pinpoint their cause.

This proposal would address this issue in § 25.853(b) by standardizing the number of samples and required pass rate: 80 percent for every new or improved test method, based on a minimum of three test sample sets. The effect would be that if only three samples are tested, all must pass. If one of the three samples fails, then at least two additional samples would be needed to obtain an 80 percent passing rate. This standard would be effectively relieving for tests on thermal/acoustic insulation and Class C cargo compartment liners because those methods in part III of appendix F to part 25 currently permit no failures. In contrast, this method could be more stringent for Bunsen burner and HRR tests because it could require more samples. The method is similar to the method currently required for testing seat cushions. However, since this proposal would eliminate many Bunsen burner tests and the test for smoke emissions (all in appendix F), even if an applicant needed additional samples to show compliance, the total number of required tests should be very close to the number required today. Also, samples that are invalidated due to an assignable cause could still be discarded and replaced with new samples.

Most of the test methods currently in use would continue to be acceptable for certification. An applicant could choose to use these existing methods to show compliance with the relevant portions of this proposal. However, the FAA considers the revised versions of these test methods, as documented in FAA Report No. DOT/FAA/TC–17/55, to be more reliable than the previous versions. The only test methods currently required that would not be carried forward under this proposal are

[32] Such necessary functionality does not include entertainment systems but would include lavatories and potable water tanks.

the horizontal Bunsen burner test and the test for smoke emissions. If an applicant uses a current test method to comply with a performance standard in this proposal, then the applicant should use existing pass/fail criteria (including all measured parameters). In that case, an applicant would be trading the lower reliability of the older test method against the need to prepare additional test samples. For new tests, such as those for extensively used materials in inaccessible areas, at this time there are no proven optional methods to those presented in the proposed guidance, which includes the 80-percent criteria.

The table below identifies each test method; the current location of the detailed test method in regulatory requirements and non-regulatory procedures; and the location where each test method could be found, in non-regulatory procedures, if this proposal is adopted.

Test method	Currently approved (or required) procedures	Non-regulatory procedures
Bunsen burner	Part I of appendix F to part 25, AMFTH,* Chapters 1–4.	AMFTH,** Chapters A1 and A2.
Oil burner—seats	Part II of appendix F to part 25, AMFTH,* Chapter 7.	AMFTH,** Chapters A5.
Oil burner—cargo liner	Part III of appendix F to part 25, AMFTH,* Chapter 8.	AMFTH,** Chapters B2.
Oil burner—insulation	Part VII of appendix F to part 25	AMFTH,** Chapter A5.
Oil burner—Mg alloy	N/A	AMFTH,** Chapter A6.
Heat release rate	Part IV of appendix F to part 25, AMFTH,* Chapter 5.	AMFTH,** Chapter A4.
Radiant heat—escape slide	TSO C69C	AMFTH,** Chapter A2.
Radiant panel	Part VI of appendix F to part 25	AMFTH,** Chapter B2.
Vertical flame propagation—Wiring	N/A	AMFTH,** Chapter B5.
Vertical flame propagation—Ducting	N/A	AMFTH,** Chapter B4.
Vertical flame propagation—Composite structure.	N/A	AMFTH,** Chapter B3.
Fire containment	AMFTH,* Chapter 10	AMFTH,** Chapter B1.

* FAA Report No. DOT/FAA/AR–00/12, ''Aircraft Materials Fire Test Handbook,'' dated April 2000.
** FAA Report No. DOT/FAA/TC–17/55, ''Aircraft Materials Fire Test Handbook,'' Revision 3, dated June 2019.

While the previous test methods, as shown in the table above, would continue to be acceptable, the FAA will not continue to refine these methods to improve their repeatability and reproducibility. The FAA's future focus on refining and improving test methods will be on the new and improved test methods documented in FAA Report No. DOT/FAA/TC–17/55, since these are now the preferred methods and would become the preferred methods of compliance with the performance standards of this proposal.

B. Reorganization of Appendix F to Part 25

1. General Structure

The FAA is proposing to substantively change appendix F to part 25 by removing its many specifications for flammability tests and adding a list of flammability test methods that applicants can use in lieu of other test methods. The FAA would remove and update the detailed testing criteria from the current appendix F, although it would continue to be available in advisory material. This proposal would provide flexibility for applicants in showing compliance with the proposed revisions to the fire protection standards in § 25.853.

Currently, appendix F to part 25 is divided into seven parts, each providing details of different test methods, with variations for specific airplane parts, and acceptable outcomes for each test variation. Because of the importance of maintaining standardization, these test methods are very detailed and, therefore, lengthy. Since appendix F to part 25 is a regulation, applicants must get the FAA's approval to depart from any of the test details. As the test methods have become more complicated and sophisticated over time, following every detail has become more important in obtaining reliable results. Conversely, as technology advances, providing more opportunities to refine and improve the test methods, requests for deviation from appendix F to part 25 have become more frequent. To deal with these requests, the FAA issued a policy statement to permit use of FAA Report No. DOT/FAA/AR–00/12 as an acceptable method of compliance for many of the test methods in appendix F to part 25. The FAA also developed a method for updating the handbook, so that improvements could be implemented quickly and used by industry without extensive administrative burden.

Given this experience, the FAA has determined that the detailed test methods should no longer be regulatory.

In conjunction with this proposal, the detailed test methods would be contained in ACs (see section III.D, ''Advisory Materials'' of this NPRM), which are easier to update than a regulation and allow for more flexibility as refinements and improvements to the test methods become available. As with any advisory material, the method would not be mandatory, but applicants would have to justify and obtain approval of other compliance methods.

To improve the effectiveness of the handbook approach to compliance, a new document would serve as a compendium of the relevant test methods. The associated ACs would reference this compendium, and the FAA would update it as advances and improvements in test methods and equipment are developed. However, the original version and subsequent versions of the compendium would remain an acceptable method of compliance with these proposed regulations, unless the FAA discovers a deficiency in a given version, or changes the regulatory requirements after notice and comment.

2. Hierarchy of Tests

This proposal would add provisions to appendix F to part 25 that would allow applicants to demonstrate compliance with a requirement in one of the proposed paragraphs of § 25.853 via a test method at least as rigorous as one acceptable for showing compliance with the original requirement. Appendix F to part 25 would contain a table of these performance standards indicating whether showing compliance with one standard would be sufficient to satisfy showing compliance with another. This table would help applicants determine the relative

severity of the testing methods that the FAA would find acceptable for showing compliance and, therefore, would allow applicants to eliminate redundant or non-value-added testing. Since the critical performance parameters (*e.g.,* flame propagation and fire penetration) differ according to the type of fire (in-flight or post-crash fuel fire), the proposed revisions to appendix F to part 25 would clarify which types of compliance tests the FAA would find acceptable as substitutions for a given type of fire threat.

This would allow a successful result on other, more stringent, testing to prove that a given material will not pose a hazard in that type of fire. For example, appendix F to part 25 would allow applicants to use a successful HRR test to show compliance with the requirement to pass a Bunsen burner test, or to use a post-crash fire test method, coupled with experience for certain classes of materials, to show compliance with an otherwise required in-flight fire test method. The FAA has determined that, for certain classes of materials, complying with one requirement provides sufficient data to show compliance with another, subject to certain conditions. Each instance where compliance with the post-crash requirements is sufficient to meet the in-flight requirement would be discussed in more detail in proposed AC 25.853–1A.

An example of the allowable use of a post-crash requirement to meet an in-flight requirement would be for the back sides of the large interior surfaces (sidewalls, ceilings, floors, galleys, etc.) not exposed to the cabin. As discussed previously, these surfaces would be subject to proposed § 25.853(c)(2), which would require that, for in-flight fires, extensively used materials in inaccessible areas not propagate the largest fire that, by itself, would not be a hazard to the airplane. The vertical flame propagation test is currently the expected means of compliance to this standard. However, with the exception of floor panels, the types of materials used for these applications have not been a safety concern for in-flight fires, and these materials would still have to meet the stringent requirements related to heat release for the post-crash environment. With the proposed hierarchy table in appendix F to part 25, if these materials pass the HRR tests, they would not also have to pass the vertical flame propagation test.

The same allowance is true for the back side of cargo compartment liners, even though they are subject to a different probable type of fire threat (post-crash fuel fires) and required by appendix F to be tested using the oil burner test. Although the oil burner and vertical flame propagation tests are not universal substitutes for each other, the materials on the back of cargo compartment liners have exhibited satisfactory behavior in the presence of in-flight fires, as demonstrated by FAA testing, and should not require further testing by the vertical flame propagation test. Should new materials be developed whose performance in an in-flight fire has not been established, then the proposed rule would provide the means to address and allow them, and both test methods may be necessary to demonstrate that compliance. This would be indicated in the note to the table in proposed appendix F to part 25.

As a final note, the FAA recognizes that its current regulations provide flexibility for an applicant via the repeated provision allowing ''other approved test methods.'' However, this provision does not adequately address the need for consistency in test methods because it is optional, and each applicant could seek approval of a unique alternative method. This can result in the same material passing one applicant's test and failing another, even though both test methods could be approved by the FAA. The FAA expects that this proposal would provide the same level of flexibility, but increased consistency over time as consensus on testing methods develops.

C. Conformal and Editorial Changes

Special Federal Aviation Regulation (SFAR) 109 to part 25 also requires compliance with certain paragraphs of § 25.853 that would be changed by this proposal. Consequently, the FAA would modify SFAR 109 so that those requirements continue after § 25.853 is amended.

Certain sections of 14 CFR parts 27 and 29, for normal and transport category rotorcraft, currently require testing in accordance with appendix F to part 25. Although this proposal would remove those testing requirements from appendix F for transport category airplanes, the FAA does not propose to remove or change those requirements for normal and transport category rotorcraft. Therefore, this proposal would add an amendment level to the appendix F references in §§ 27.1365, 29.853, and 29.1359 to continue those requirements after appendix F is amended.

The proposed rule would also remove certain testing requirements regarding average burn length from paragraphs (a)(1) and (a)(2) of § 29.853 because those requirements are redundant with current appendix F to part 25.

Operational rules in certain sections of 14 CFR parts 91, 121, 125, and 135 also currently require testing in accordance with §§ 25.853 and 25.856 and appendix F to part 25. The FAA proposes to add the phrase ''or as subsequently amended'' to §§ 91.613, 121.312, 121.314, 125.113, 135.169, and 135.170, so that airplanes approved in accordance with the amendment resulting from this proposal would be able to comply with the operational rules. The ''or'' in that phrase serves the purpose of making compliance with this proposal or a later amendment optional.

In addition, appendix L to part 121 contains information regarding referenced sections of part 25 that have subsequently changed through amendments. Appendix L would also be updated to conform to this proposal.

These changes to parts 25, 27, 29, 91, 121, 125, and 135 would have no substantive impact on safety or the cost of compliance.

This proposal also contains some editorial changes to existing regulatory language, where that language does not reflect how the rule is applied, or its intent. Specifically, current § 25.853(e) excepts certain compartments from compliance with § 25.853(d) if they are isolated by a door that would be closed during an emergency landing condition. In practice, this exception has been applied when such compartments are isolated by a door that is closed for taxi, takeoff, and landing, in general. The proposal is changed accordingly and will have no impact on the requirement. The proposal moves this exception in § 25.853(e) for parts inside of compartments isolated from the main passenger cabin to a new § 25.853(d)(2)(ii).

Current § 25.853(h) requires that disposal receptacles be made from materials that are ''fire resistant.'' The term ''fire resistant'' is defined in 14 CFR part 1 as having properties equivalent to aluminum alloy appropriate for the purpose. In practice, the means of compliance has been by meeting the test method specified in current part I of appendix F for Class B cargo compartment liners, which is to resist penetration by a small flame. The proposal would state the requirement in that way to avoid any ambiguity regarding the level of protection required. This will also have no impact since it aligns the rule language with how the requirement has historically been actually met.

This proposal contains only minor editorial changes to the requirements related to smoking in § 25.853(f) and (g). The requirements would remain the

same, but the paragraphs would be renumbered and restated for clarity.

D. Advisory Material

The FAA is developing six new ACs and revising three ACs that will be published for public comment concurrently with this NPRM. These proposed ACs can be found in the same public docket as this NPRM. The draft ACs would provide guidance for acceptable means, but not the only means, of showing compliance with proposed §§ 25.853, 25.855, and 25.856. The FAA will accept public comments on the following proposed ACs on the ''Aviation Safety Draft Documents Open for Comment'' web page at *http://www.faa.gov/aircraft/draft_docs/:*

1. AC 25.853–1A, ''Flammability Requirements for Transport Category Airplanes.''
2. AC 25.853–2X, ''Flammability Requirements for Aircraft Seat Cushions.''
3. AC 25.853–3X, ''Flammability Testing Requirements for Commonly Constructed Parts, Construction Details, and Materials Used on Transport Category Airplanes.''
4. AC 25.853–4X, ''Vertical Bunsen Burner Tests.''
5. AC 25.853–5X, ''Flammability Requirements for Materials in Inaccessible Areas of Transport Category Airplanes.''
6. AC 25.853–6X, ''Flammability Requirements for Escape System Materials for Transport Category Airplanes.''
7. AC 25.855–1X, ''Flammability Requirements of Cargo Liners for Transport Category Airplanes.''
8. AC 25.856–1A, ''Thermal/Acoustic Insulation Flame Propagation Test Method Details.''
9. AC 25.856–2B, ''Fuselage Burnthrough Protection.''

The FAA is also revising Report No. DOT/FAA/AR–00/12 to update the test methods contained within this report, as described previously. This interim report will be published concurrently with this NPRM as FAA Report No. DOT/FAA/TC–17/55, and it can be found in the same public docket as this NPRM.

E. Application of §§ 21.17

This proposal would revise the flammability standards for transport category airplanes, but would not impose any requirements to retrofit existing airplanes or conduct a production-cut in on new airplanes. Since this proposal would simplify or remove some of the flammability requirements, some applicants may wish to use the standards of this proposal instead of an earlier amendment level. Applicants may elect to apply the later amendment under § 21.17 or seek exceptions in accordance with § 21.101.

Section 21.17(e) permits an applicant for a type certificate to elect compliance with an amendment effective after the date of application, as long as all ''directly related'' amendments, as determined by the FAA, are complied with as well.

The FAA has considered which regulatory amendments must be regarded as ''directly related'' and, therefore, applied together under § 21.17. An analysis of what is ''directly related'' requires examination of which provisions have been made more flexible and which have been made more stringent because these factors are often causally related. In some areas, the additional flexibility is the result of a requirement that has become more stringent. The primary areas of increased flexibility are the proposed removal of the testing requirements in appendix F, and the proposed removal of the smoke emission requirement. The removal of the appendix F testing requirements is only possible, from a safety perspective, because of the additional performance standards for inaccessible areas. The main area where requirements would become more stringent is extensively used components in inaccessible regions of the airplane. These areas are mainly threatened by in-flight fires, although improved flammability resistance of materials can also benefit post-crash safety. Therefore, the FAA considers the entire proposal to be interrelated, such that all the proposed changes could be characterized as ''directly related'' to each other. However, the FAA expects that a practical application of the ''directly related'' provision could simplify compliance under § 21.17 and maximize safety, as discussed below.

Among those components that would be subjected to new test methods under this proposal, composite fuselage structure is already subject to meeting special conditions, and this proposal would codify the requirements in those conditions. Also, aviation-grade electrical wiring is for the most part already compliant with the proposed flammability requirements. Ducting is one area, however, where many of the currently used parts would not meet the proposed requirement for extensively used materials in inaccessible areas, and where a significant safety benefit would accrue from the higher standard. The type of fire that primarily threatens ducting is in-flight. However, accidents have shown that ducting can spread and intensify post-crash fires. Thus, the safety improvement that would result from applying the proposed standards to ducts would enhance fire safety with regard to both types of fire, and the FAA considers this safety enhancement integral to the proposed changes that would reduce or eliminate other testing.

Therefore, an applicant that elects compliance with the amendment level that results from this proposal, in order to take advantage of the provisions that reduce or eliminate tests, would also have to ensure that ducting complies with the new standards proposed in § 25.853(c)(2).

The exception to the requirement to apply directly related changes when an applicant elects compliance with the later amendment would be the substitution of tests in proposed appendix F to part 25. Such substitution is already allowed under the current flammability rules, which repeatedly allow applicants to show compliance by ''other equivalent method.'' Applicants could apply proposed appendix F to part 25 to models approved under earlier certification bases without affecting safety and without applying other portions of the proposal. An applicant's selection of the amendment that most materially contributes to safety could eliminate the need to run multiple tests on many parts with the recognition that some tests are sufficiently stringent that they would satisfy the concerns addressed by other tests. Substituting some tests would neither eliminate the need to conduct smoke emissions tests, nor alter the applicability of current requirements. Proposed appendix F to part 25 would simply permit substitution of one test method for another, where the substitute method has been determined to be more stringent.

- *Example 1:* An applicant for a supplemental type certificate desires to use only the new appendix F that would result from this proposal. In this case, the applicant would be limited to applying the hierarchy of appendix F, and no other relief.
- *Example 2:* An applicant for a change to a type certificate (either through amended or supplemental type certification) desires to elect compliance with the entire amendment that results from this proposal. The applicant must comply with § 25.853(c)(2)(i) as it pertains to air ducting, even if the air ducting is unchanged or not affected by the proposed design change. Any other provision of the proposed rule could then be included at the applicant's choosing.

F. Application of §§ 21.101

Section 21.101(a) requires design change applicants to meet the standards in effect on the date of application that are applicable to the change and areas affected by the change, unless exceptions are requested and are granted under the provisions of § 21.101(b). Section 21.101(b) allows the applicant to show compliance with an earlier amendment level for changes found to be not significant, or found to not materially contribute to safety, or found to be impractical. The FAA does not regard any of the standards proposed here as impractical. The degree to which application of these standards would ''materially contribute to safety'' will depend on the current design.

As discussed previously, acceptable wiring would be documented in proposed AC 25.853–5X and include wiring already widely used by applicants; the safety of composite fuselage structure will have been covered by special conditions; and ducting may comply with these proposed standards, even though certification testing has not been performed. In those cases, an applicant may be able to argue that including the later amendment would not materially contribute to safety, but that use of other provisions (*e.g.,* those that would eliminate tests) of the proposal would provide significant benefits to the applicant. In that case, the FAA agrees that compliance with the later amendment could be acceptable to eliminate tests, provided improved design features used to justify the exception are a condition of the certification basis in the ''Additional Design Requirements and Conditions'' section of the type certificate data sheet.

The following examples illustrate how this could work in practice:

- *Example 1:* An applicant for a significant product-level change seeks exception, under § 21.101(b), from the amendment that results from this proposal on the basis that full compliance would not materially contribute to safety. As discussed above, an exception would have to be based on substantial compliance with this proposal, such that few components are not in compliance, and they would not be significant from a fire safety standpoint.
- *Example 2:* An applicant applies for a fuselage length change. The change is considered a significant product-level change per the guidance in AC 21.101–1B. AC 21.101–1B also states that the simultaneous introduction of a new cabin interior is considered related since occupant safety considerations are impacted by a cabin length change. The FAA considers this proposed amendment to be directly related to occupant safety. As such, for a fuselage change, this proposed amendment would be an applicable requirement for the airplane (*e.g.,* changed and unchanged areas of the airplane would need to meet the requirement). The applicant may request an exception under § 21.101 by showing compliance with this proposal to a substantial extent, such that the few parts not in compliance would not be significant from a fire safety standpoint.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39 as amended) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this proposed rule: (1) Has benefits that justify its costs; (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

1. Summary of Costs and Benefits

By extending fire protection requirements to any extensively used material located in inaccessible areas the proposal is likely to be beneficial by reducing the likelihood of a fatal accident. Over a 19-year period of analysis, the FAA estimates the total present value cost savings of this proposed rule to be $119.8 million at a seven percent discount rate, with annualized cost savings of $11.6 million. The cost savings would result from the elimination and streamlining of some tests, which would be made possible by the extension of fire protection requirements to inaccessible areas. Over the same 19-year period, the FAA estimates the total present value costs of this proposed rule to be $71.1 million at a seven percent discount rate, with annualized costs of $6.9 million due to the extension of fire protection requirements to extensively used material in inaccessible areas. A full explanation of how these costs and cost savings were estimated may be found in the regulatory impact assessment accompanying this NPRM. The present value net cost savings (cost savings minus cost) is $48.7 million, with annualized net cost savings of $4.7 million. The following table summarizes the costs and cost savings of this proposed rule.

SUMMARY OF COSTS AND COST SAVINGS (2016 $)

	19-year total present value		Annualized	
	7%	3%	7%	3%
Cost Savings	$119,848,146	$178,395,887	$11,595,669	$12,454,509

SUMMARY OF COSTS AND COST SAVINGS (2016 $)—Continued

	19-year total present value		Annualized	
	7%	3%	7%	3%
Costs	71,105,318	80,387,114	6,879,654	5,612,136
Total Net Cost Savings	48,742,828	98,008,773	4,716,015	6,842,373

2. Who is potentially affected by this proposed rule?

Manufacturers of part 25 transport category airplanes would be potentially affected by the proposed rule.

3. Assumptions

- Totals converted to 2016 constant dollars.[33]
- Time horizon for analysis 19 years.[34]
- Fifty percent of the current $42.8 million annual costs for smoke emissions testing is incurred by domestic airplane manufacturers.[35]
- Cost savings from eliminating smoke emissions tests would increase linearly to the level of the current cost savings over 25 years.[36]
- Large transport category aircraft.[37]
  - One manufacturer.
  - Four type certificates.
  - Twenty-seven airplanes produced annually.
  - Nineteen-year production period.
- Small transport category aircraft.[38]
  - One manufacturer.
  - Three type certificates.
  - Twenty-one airplanes produced annually.
  - Fifteen-year production cycle.

4. Benefits of This Rule

The proposed new safety requirements to extend the fire protection requirements to any extensively used material [38] located in inaccessible areas would result in a safety benefit by reducing the likelihood of a fatal accident from a fire in an inaccessible area. This benefit was not quantified. Even though there has fortunately not been a catastrophic in-flight fire of a passenger carrying airplane since the Swissair accident in 1998, the continued occurrence of in-flight fire incidents and the growing number of devices using lithium ion batteries increase the risk of a catastrophic accident, a risk that this proposal would reduce.

5. Costs of This Proposed Rule

Over a 19-year period of analysis, the FAA estimates the total present value costs of this proposed rule to be $71.1 million at a seven percent discount rate, with annualized costs of $6.9 million, which would result from extending the standards developed for thermal/acoustic insulation to all extensively used materials in inaccessible areas. A full explanation of how these costs were estimated may be found in the regulatory impact assessment accompanying this NPRM.

Over the same 19-year period, the FAA estimates the total quantified cost savings of this proposed rule to be $119.8 million at a seven percent discount rate, with annualized cost savings of $11.6 million. The cost savings would result from the elimination and streamlining of some tests, which would be made possible by the extension of fire protection requirements to inaccessible areas. The total net cost savings of the proposed rule at a seven percent discount rate would be $48.7 million, with annualized net cost savings of $4.7 million.

6. Minimal to No Cost Provisions Including Conforming Changes

Numerous provisions within this proposal would result in minimal to no cost to possibly small cost savings. These include provisions that continue to accept previous test methods or current systems in addition to proposing new ones, those that maintain current requirements or current practice, and small edits to maintain consistency with the current rule.

Also included are conforming changes to parts 27, 29, 121, 125, 135, and appendix L to part 121. These sections make reference to, or require testing in accordance with, certain sections of appendix F to part 25. Because sections of appendix F would be removed, some changes refer to the new location of the requirements. The proposed changes to these parts also include language to operating requirements. This new language would give operators the choice of meeting the proposed requirements, or complying with the old requirements. For airplanes type certificated in accordance with the proposed requirements, this change would enable them to be in compliance with the operating rules, while allowing aircraft manufactured under existing type certificates and the current fleet to comply with the old requirements. Therefore, this proposed rule would impose no retrofit requirements on the current fleet or a production cut-in to aircraft manufactured under existing type certificates. Consequently, these provisions would impose minimal to no cost.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule would have a significant economic impact on a substantial number of small entities. Under Section 603 of the RFA, the FAA has prepared an initial regulatory flexibility analysis addressing the following:

[33] Calculations were presented in 2015 dollars because most cost estimates were received in 2015 but totals were then converted to 2016 dollars to be compliant with OMB guidance implementing Executive Order 13771.

[34] A 19-year time horizon was chosen to be inclusive of the 19-year production cycle for large and the 15-year production cycle for small transport category airplanes.

[35] Fifty percent is an estimate of the share of the worldwide transport airplane market held by U.S. manufacturers.

[36] Based on manufacturers recommendation in MFWG Report.

[37] Based on FAA analysis of Boeing data, OAG Aviation Solutions Fleet Database, FAA Type Certificate Data Sheet database.

[38] Extensively used materials, for the purpose of this rulemaking, means any parts or system of parts that could permit a fire to propagate and grow to a hazardous level, for example, air ducting, electrical wiring/sleeving, thermal/acoustic insulation, and composite fuselage structure.

- A description of the reasons why the action by the agency is being considered.
- A succinct statement of the objectives of, and legal basis for, the proposed rule.
- A description and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.
- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that would be subject to the requirement and the types of professional skills necessary for preparation of the report or record.
- An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule.
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes, and that minimize any significant economic impact of the proposed rule on small entities.

1. A Description of the Reasons Why the Action by the Agency Is Being Considered

The FAA is publishing this proposed rule to simplify flammability regulations and provide a higher level of safety for transport category airplanes. The current regulations are complicated, sometimes conflicting, sometimes redundant, occasionally incomplete, and may be obsolete for dealing with present-day airplanes. Simplifying these regulations can lead to cost savings.

A key safety benefit of this proposed rule is the extension of fire protection requirements to any extensively used material located in inaccessible areas. FAA research found airplanes are at risk due to flammable materials in inaccessible areas. FAA testing has indicated that typical in-service ducts can quickly spread fire from a small fire source in an inaccessible area, while ducts that would meet the new requirement can resist that small size fire and not propagate flames. Also, due to the rapidly increasing number of events due to lithium battery fires, the chances of a lithium battery fire in the cabin getting to an inaccessible area are increasing.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for the design, material, construction, quality of work, and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It revises the safety standards for the flammability characteristics, and thus the design, material, and construction, of transport category airplanes.

3. Description and, Where Feasible, an Estimate of the Number of Small Entities To Which the Proposed Rule Would Apply

This proposed rule would affect U.S. manufacturers of part 25 transport category airplanes requesting a new type certificate. According to the small business administration, the size standard for aircraft manufacturers (NAICS code 336411) to be considered a small business is 1,500 employees or less. None of the manufacturers who manufacture transport category airplanes have fewer than 1,500 employees; therefore, none of them are small businesses.

The proposed rule might also indirectly affect businesses that modify transport category airplanes. At this time, the FAA has not identified any affected small entities without larger U.S. or foreign ownership or business relationships. The FAA requests comments on this finding.

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Will be Subject to the Requirement and the Types of Professional Skills Necessary for Preparation of the Report or Record

Requirements are governed by 14 CFR part 21 and are not changing with this proposal. Applicants are required to show compliance under § 21.20, and this will continue to apply. Therefore, the proposed rule would not impose additional reporting, recordkeeping, or other compliance requirements on small entities.

5. An Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

There are no federal rules that may duplicate, overlap, or conflict with this proposal.

6. A Description of any Significant Alternatives to the Proposed Rule

The FAA considered two alternatives to the proposed rule. The first alternative was to not make any changes to the fire protection requirements. This would leave in place complicated, conflicting, redundant, occasionally incomplete, and obsolete regulations. Cost savings would not be achieved. This alternative would also not extend fire protection requirements to extensively used materials located in inaccessible areas. This would leave airplanes at risk due to flammability materials in inaccessible areas.

The FAA also considered making only some of the proposed changes; however, this would provide limited benefit and no safety improvement. This is because the significant safety improvements facilitate the significant simplifications in the proposal. Without the safety enhancements, the amount of simplification would be limited. If the FAA proposed only the safety enhancements, the resulting cost would be difficult to quantitatively balance against the resulting safety improvement. The proposal intends to achieve a significant reduction in costs and simplify the requirements, while substantively improving safety.

The FAA expects this proposed rule would not result in a significant economic impact on a substantial number of small entities. The FAA requests comments on this finding.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where

appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this proposed rule and determined that it does not exclude imports that meet the safety objective. As a result, this proposed rule is not considered as creating an unnecessary obstacle to foreign commerce.

The proposed rule would impose the same costs and cost savings on domestic and international manufacturers selling airplanes to airlines that wish to operate within the United States because U.S.-registered transport category airplanes must comply with part 25 in order to be operated within the United States. Therefore, the same cost relief would accrue to all manufacturers selling airplanes to airlines operating within the U.S. However, the effect this proposed rule would have on sales of domestically produced airplanes relative to airplanes produced by foreign companies to airlines operating abroad and not in the U.S. might be either an advantage due to cost savings or a disadvantage due to increased costs, depending on the standards to which foreign airplanes are manufactured.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155.0 million in lieu of $100 million.

This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6 and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, ''Federalism.'' The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, International Cooperation

Executive Order 13609, ''Promoting International Regulatory Cooperation,'' promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements.

As determined in section IV.A, above, this is not a significant rule under Executive Order 12866. Accordingly, this rule is not subject to the requirements of Executive Order 13771.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as

proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
3. Accessing the Government Printing Office's web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements

14 CFR Part 27

Aircraft, Aviation safety

14 CFR Part 29

Aircraft, Aviation safety

14 CFR Part 91

Air carrier, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Alaska, Aviation safety, Canada, Charter flights, Cuba, Drug traffic control, Ethiopia, Freight, Incorporation by reference, Iraq, Mexico, Noise control, North Korea, Political candidates, Reporting and recordkeeping requirements, Somalia, Syria, Transportation

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter 1 of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704.

■ 2. Amend Special Federal Aviation Regulation No. 109 to part 25 by revising paragraphs 12 and 14(e) to read as follows:

Special Federal Aviation Regulation No. 109

* * * * *

12. *Materials for Compartment Interiors.* An applicant must comply with the applicable provisions of § 25.853, except that demonstration of compliance with § 25.853(d)(2) is not required if the applicant can show by test, or a combination of test and analysis, that the maximum time for evacuation of all occupants does not exceed 45 seconds under the conditions specified in appendix J to part 25.

* * * * *

14. * * *

(e) The surfaces of the galley surrounding the cooktop that would be exposed to a fire on the cooktop surface or in cookware on the cooktop must be constructed of materials that comply with the flammability requirements of § 25.853(c)(2)(ii). This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, an applicant must account for the flammability characteristics of the materials to ensure these characteristics will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

* * * * *

■ 3. Revise § 25.853 to read as follows:

§ 25.853 Interior parts and components fire protection.

(a) *General.* Each airplane part, component, and assembly must protect the airplane and its occupants from in-flight and post-crash fire threats. For the purposes of this section an airplane part, component, or assembly is one that is located within, and including, the fuselage.

(b) *Testing.* Except as provided in paragraph (e) of this section, an applicant must conduct tests to show compliance with paragraphs (c) and (d) of this section. Except as provided in paragraph (c)(1)(ii) of this section, for any tests used to show compliance, the applicant must use a minimum of three specimen sets.

(c) *In-flight requirements.* During an in-flight fire, the flammability characteristics of each part, component, and assembly must not present a hazard to the occupants and must not prevent the continued safe flight and landing of the airplane.

(1) *Accessible areas.* (i) Each part, component, and assembly that is accessible to the flightcrew during flight must be self-extinguishing when exposed to a small flame.

(ii) Each receptacle used for the disposal of flammable waste material must be fully enclosed, constructed of materials that resist penetration from a small ignition source, and must contain fires likely to occur in it under normal use. At least one test must show the capability of the receptacle to contain those fires under all probable conditions of wear, misalignment, and ventilation expected in service.

(iii) Each ceiling and sidewall liner of a Class B cargo compartment must resist penetration by a small flame.

(2) *Inaccessible areas.* (i) Each extensively used airplane part, component, and assembly that is not accessible to the flightcrew during flight but that could be subjected to an in-flight fire must not propagate the largest fire that, by itself, would not be a hazard to the airplane.

(ii) Each ceiling and sidewall liner of a Class F cargo compartment, if installed to meet the requirements of § 25.855(b)(2), and of a Class C cargo compartment must resist penetration by a fire within that compartment and must protect the airplane's structure and

critical systems from the effects of that fire.

(iii) Each ceiling and sidewall liner of a Class E cargo compartment must resist penetration by a fire within that compartment and must protect the airplane's structure and critical systems from the effects of that fire, unless the design provides a means other than a liner that protects the airplane's structure and critical systems from the effects of that fire.

(iv) The floor liner of any class of cargo compartment, and any ceiling and sidewall liner of a Class E cargo compartment, must resist penetration by a small flame.

(v) All other parts, components, and assemblies that are not accessible by the flightcrew during flight must be self-extinguishing when exposed to a small flame or electrical arc.

(d) *Post-crash requirements.* During a post-crash fuel fire, the flammability characteristics of each part, component, and assembly must maintain survivable cabin conditions for enough time to allow evacuation.

(1) For airplanes with a passenger capacity of 19 or less, each large surface in the passenger cabin must be self-extinguishing when exposed to a small flame for at least 60 seconds.

(2) For airplanes with a passenger capacity of 20 or more, each large surface in the passenger cabin must resist involvement in a post-crash fuel fire that has entered the fuselage, except:

(i) A large surface, no part of which is more than 15'' above the floor, need not comply with paragraph (d)(2) of this section if it is located in such a manner that it would not be directly exposed to the effects of a post-crash fuel fire.

(ii) A large surface in the interior of a compartment other than a cargo or baggage compartment need not comply with paragraph (d)(2) of this section if the interior of the compartment is isolated from the main passenger cabin by doors or equivalent means that would normally be closed during taxi, takeoff, and landing.

(3) Each cushion used to support the occupant of a seat or berth must resist involvement in a post-crash fuel fire that has entered the airplane, and must not propagate that fire.

(4) In addition to resisting involvement in a post-crash fuel fire that has entered the airplane, each flammable metal must be readily extinguishable.

(5) The design must ensure the continued function of all escape systems when those systems are exposed to the effects of radiant heat from a post-crash fuel fire.

(e) *Exceptions.* A part, component, and assembly does not require testing to meet the requirements specified in paragraph (c) or (d) of this section if it meets the criteria of at least one of the following classes:

(1) *Class 1.* Parts, components, and assemblies that would each fit within a cube measuring two inches on each side and are sufficiently separated from the same type of part, component, or assembly such that collectively they will not propagate a fire.

(2) *Class 2.* Parts, components, and assemblies that are not extensively used, are made from materials that are self-extinguishing, do not individually exceed a volume of 113 cubic inches, have an exposed surface area not exceeding 200 square inches, and do not propagate a flame vertically.

(3) *Class 3.* Parts, components, and assemblies that applicants can show, through a method acceptable to the Administrator, are a size, construction, or location that their flammability characteristics do not threaten the airplane or its occupants.

(4) *Class 4.* Parts, components, and assemblies that are essential to the safety of the airplane, its occupants, or the functionality of the airplane and cannot reasonably be constructed of a less flammable material without compromising the integrity or functionality of that part, component, or assembly.

(5) *Class 5.* Parts, components, and assemblies that have successfully met one or more of the alternate requirements, including any applicable conditions, set forth in appendix F to part 25.

(f) *Smoking.* (1) Smoking is not allowed in lavatories. If smoking is allowed in any area occupied by the crew or passengers, an adequate number of self-contained, removable ashtrays must be provided in designated smoking sections for all seated occupants.

(2) Regardless of whether smoking is allowed in any other part of the airplane, lavatories must have self-contained, removable ashtrays located conspicuously on or near the entry side of each lavatory door, except that one ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory served.

■ 4. Amend § 25.855 by revising paragraphs (c) and (d) to read as follows:

§ 25.855 Cargo or baggage compartments.

* * * * *

(c) Cargo compartment liners must comply with the applicable provisions of § 25.853.

(d) All other materials used in the construction of the cargo or baggage compartment, other than material located entirely within a Class C cargo or baggage compartment, must be self-extinguishing when exposed to a small flame.

* * * * *

■ 5. Revise § 25.856 to read as follows:

§ 25.856 Thermal/Acoustic insulation materials.

(a) All thermal/acoustic insulation material installed in inaccessible areas of the fuselage must comply with § 25.853(c)(2)(i) unless it qualifies for one of the exceptions in § 25.853(e).

(b) For airplanes with a passenger capacity of 20 or more, all thermal/acoustic insulation materials installed in the lower half of the airplane fuselage must resist penetration of a post-crash fuel fire and provide a minimum of 5 minutes survivability in the occupied portions of the airplane, unless the applicant provides an equivalent means of post-crash fire penetration protection. This requirement does not apply to thermal/acoustic insulation installations that the Administrator finds would not contribute to fire penetration resistance. For the purposes of this paragraph, thermal/acoustic insulation materials include the means of fastening the materials to the fuselage.

■ 6. Amend § 25.1713 by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 25.1713 Fire protection: EWIS.

* * * * *

(c) All insulation on electrical wire and electrical cable, and all materials used to provide additional protection for that wire and cable:

(1) If installed in any area outside of the fuselage, must not propagate the largest fire that, by itself, would not be a hazard to the airplane, and

(2) If installed in any area within the fuselage, must meet the requirements of § 25.853(c), unless it meets the requirements of paragraph (c)(1) of this section.

(d) To show compliance with paragraph (c) of this section, an applicant must conduct tests, unless the applicant can show that the insulation and materials are of a size, location, and quantity that their flammability characteristics do not threaten the airplane or its occupants. For any tests used to show compliance, the applicant must use a minimum of three specimen sets.

■ 7. Revise appendix F to part 25 to read as follows:

Appendix F to Part 25—Flammability Test Hierarchy

Applicants may substitute compliance with the standards in the first row of the table below by meeting the standards in the first column, as indicated at the appropriate intersection, subject to the noted conditions:

Substitution	Standard					
	In-flight accessible; small flame resistance § 25.853 (c)(1)(i)	Post-crash <20; small ignition resistance § 25.853 (d)(1)	In-flight cargo liner; small flame penetration resistance § 25.853 (c)(1)(iii)	In-flight inaccessible; fire propagation § 25.853 (c)(2)(i)	In-flight cargo liner fire penetration resistance § 25.853 (c)(2)(ii)/(iii)	Seat cushion fire resistance § $25.853 (d)(3)
Post-crash <20; small ignition resistance § 25.853(d)(1).	Yes	No	No	No	No	No.
In-flight inaccessible; fire propagation § 25.853(c)(2)(i).	Yes	Yes	No	No	No	No.
Post-crash ≥20; large surface fire resistance § 25.853(d)(2).	Yes	Yes	No	Note [1]	No	Note [2].
Seat cushion fire resistance § 25.853(d)(3).	Yes	Yes	No	No	No	No.
Post-crash ≥20; fire penetration resistance § 25.853(b)(2).	Yes	Yes	Yes	No	Yes	No.
In-flight cargo liner fire penetration resistance § 25.853(c)(2)(ii)/(iii).	Yes	Yes	Yes	Note [3]	No	No.

[1] When the facesheet on the back .....(inaccessible) side of the large surface is of the same material system as the facesheet on the front side.
[2] When the cushion does not directly support the occupant and can be tested in its actual thickness.
[3] When the back side of the liner is made from glass fiber reinforced epoxy and phenolic resin.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

■ 8. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44704.

■ 9. Amend § 27.1365 by revising paragraph (c) to read as follows:

§ 27.1365 Electric cables.

* * * * *

(c) Insulation on electrical wire and cable installed in the rotorcraft must be self-extinguishing when tested in accordance with appendix F, part I(a)(3), of part 25 of this chapter at amendment 25–138.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

■ 10. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44704.

■ 11. Amend § 29.853 by revising paragraphs (a) and (b) to read as follows:

§ 29.853 Compartment interiors.

* * * * *

(a) The materials (including finishes or decorative surfaces applied to the materials) must meet the following test criteria as applicable:

(1) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of appendix F to part 25 of this chapter at amendment 25–138, or other approved equivalent methods.

(2) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and non-decorative coated fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting joint and edge covering, cargo compartment liners, insulation blankets, cargo covers, and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing) that are constructed of materials not covered in paragraph (a)(3) of this section, must be self-extinguishing when tested vertically in accordance with the applicable portion of appendix F to part 25 of this chapter at amendment 25–138, or other approved equivalent methods.

(3) Acrylic windows and signs, parts constructed in whole or in part of elasto-metric materials, edge lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of appendix F to part 25 of this chapter at amendment 25–138, or other equivalent methods that the Administrator approves.

(4) Except for electrical wire and cable insulation, and for small parts (such as knobs, handles, rollers, fasteners, clips, grommets, rub strips, pulleys, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, materials in items not specified in paragraph (a)(1), (2), or (3) of this section may not have a burn rate greater than 4 inches per minute when tested horizontally in accordance with the applicable portions of appendix F to part 25 of this chapter at amendment 25–138, or other equivalent methods that the Administrator approves.

(b) In addition to meeting the requirements of paragraph (a)(2) of this section, seat cushions, except those on flight crewmember seats, must meet the test requirements of part II of appendix F to part 25 of this chapter at amendment 25–138, or equivalent.

* * * * *

■ 12. Amend § 29.1359 by revising paragraph (c) to read as follows:

§ 29.1359 Electrical system fire and smoke protection.

* * * * *

(c) Insulation on electrical wire and cable installed in the rotorcraft must be self-extinguishing when tested in accordance with appendix F, part I(a)(3), of part 25 of this chapter at amendment 25–138.

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 13. The authority citation for part 91 continues to read as follows:

Authority: 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 14. Amend § 91.613 by revising paragraphs (b)(1) introductory text and (b)(2) to read as follows:

§ 91.613 Materials for compartment interiors.

* * * * *

(b) * * *

(1) For airplanes manufactured before September 2, 2005, when thermal/acoustic insulation is installed in the fuselage as replacements after September 2, 2005, the insulation must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended, if it is:

* * * * *

(2) For airplanes manufactured after September 2, 2005, thermal/acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 15. The authority citation for part 121 continues to read as follows:

Authority: 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95 126 Stat 62 (49 U.S.C. 44732 note).

■ 16. Amend § 121.312 by revising paragraphs (b) introductory text, (e)(1) introductory text, and (e)(2) and (3) to read as follows:

§ 121.312 Materials for compartment interiors.

* * * * *

(b) *Seat cushions.* Seat cushions, except those on flight crewmember seats, in each compartment occupied by crew or passengers, must comply with the requirements pertaining to seat cushions in § 25.853(c) effective on November 26, 1984; or in § 25.853(d) effective on [EFFECTIVE DATE OF FINAL RULE]; or as subsequently amended, on each airplane as follows:

* * * * *

(e) * * *

(1) For airplanes manufactured before September 2, 2005, when thermal/acoustic insulation is installed in the fuselage as replacements after September 2, 2005, the insulation must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended, if it is:

* * * * *

(2) For airplanes manufactured after September 2, 2005, thermal/acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended.

(3) For airplanes with a passenger capacity of 20 or greater, manufactured after September 2, 2009, thermal/acoustic insulation materials installed in the lower half of the fuselage must meet the flame penetration resistance requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended. If the airplane's type design was approved based on a finding of equivalent level of safety to § 25.856 in accordance with § 21.21(b)(1) of this chapter, the certificate holder is in compliance with this section of this part as long as the aircraft conforms to the approved type design.

■ 17. Amend § 121.314 by revising paragraph (a)(2) to read as follows:

§ 121.314 Cargo and baggage compartments.

* * * * *

(a) * * *

(2) Materials that meet the test requirements of part 25, appendix F, part III of this chapter effective on June 16, 1986; or the test requirements of § 25.853(c)(2)(ii) of this chapter effective on [EFFECTIVE DATE OF FINAL RULE]; or as subsequently amended; or

* * * * *

■ 18. Revise appendix L to part 121 to read as follows:

Appendix L To Part 121—Type Certification Regulations Made Previously Effective

(a) Appendix L lists regulations in this part that require compliance with standards contained in superseded type certification regulations that continue to apply to certain transport category airplanes. The table below sets out citations to the current CFR section, applicable aircraft, superseded type certification regulation and applicable time periods, and the CFR edition and **Federal Register** documents where the regulation having prior effect is found. Copies of all superseded regulations may be obtained at the Federal Aviation Administration Law Library, Room 924, 800 Independence Avenue SW, Washington, DC.

Part 121 section	Applicable aircraft	Provisions: CFR/FR references
§ 121.312(a)(1)(i)	Transport category; or nontransport category type certificated before January 1, 1965; passenger capacity of 20 or more; manufactured prior to August 20, 1990.	Heat release rate testing. 14 CFR 25.853(d)(2) effective [effective date of final rule]: 14 CFR parts 1 to 59, Revised as of January 1, [**Federal Register** revision year], and amended by Amdt. [amendment level and **Federal Register** citation and publication date of final rule]. Formerly 14 CFR 25.853(d) effective March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995, and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a–1) effective August 20, 1986: 14 CFR parts 1 to 59, Revised as of January 1, 1986.

Part 121 section	Applicable aircraft	Provisions: CFR/FR references
§ 121.312(a)(1)(ii)	Transport category; or nontransport category type certificated before January 1, 1965; passenger capacity of 20 or more; manufactured after August 19, 1990.	Heat release rate testing. 14 CFR 25.853(d)(2) effective [effective date of final rule]: 14 CFR parts 1 to 59, Revised as of January 1, [insert **Federal Register** revision year], and amended by Amdt. [amendment level and **Federal Register** citation and publication date of final rule]. Formerly 14 CFR 25.853(d) effective March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995, and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a–1) effective September 26, 1988: 14 CFR parts 1 to 59, Revised as of January 1, 1988, and amended by Amdt. 25–66, 53 FR 32584, August 25, 1988. Smoke testing. 14 CFR 25.853(d) effective March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995, and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a–1) effective September 26, 1988: 14 CFR parts 1 to 59, Revised as of January 1, 1988, and amended by Amdt. 25–66, 53 FR 32584, August 25, 1988.
§ 121.312(a)(2)(i)	Transport category; or nontransport category type certificate before January 1, 1965; application for type certificate filed prior to May 1, 1972; substantially complete replacement of cabin interior on or after May 1, 1972.	Provisions of 14 CFR 25.853 in effect on April 30, 1972: 14 CFR parts 1 to 59, Revised as of January 1, 1972.
§ 121.312(a)(3)(i)	Transport category type certificated after January 1, 1958; nontransport category type certificated after January 1, 1958, but before January 1, 1965; passenger capacity of 20 or more; substantially complete replacement of the cabin interior on or after March 6, 1995.	Heat release rate testing. 14 CFR 25.853(d) in effect March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995; and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a–1) in effect August 20, 1986: 14 CFR parts 1 to 59, Revised as of January 1, 1986.
§ 121.312(a)(3)(ii)	Transport category type certificated after January 1, 1958; nontransport category type certificated after January 1, 1958, but before January 1, 1965; passenger capacity of 20 or more; substantially complete replacement of the cabin interior on or after August 20, 1990.	Heat release rate testing. 14 CFR 25.853(d)(2) effective [effective date of final rule]: 14 CFR parts 1 to 59, Revised as of January 1, [**Federal Register** revision year], and amended by Amdt. [amendment level and **Federal Register** citation and publication date of final rule]. Formerly 14 CFR 25.853(d) effective March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995, and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a—-1) effective September 26, 1988: 14 CFR parts 1 to 59, Revised as of January 1, 1988, and amended by Amdt. 25–66, 53 FR 32584, August 25, 1988. Smoke testing. 14 CFR 25.853(d) effective March 6, 1995; 14 CFR parts 1 to 59, Revised as of January 1, 1995; and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995. Formerly 14 CFR 25.853(a–1) effective September 26, 1988: 14 CFR parts 1 to 59, Revised as of January 1, 1988, and amended by Amdt. 25–66, 53 FR 32584, August 25, 1988.
§ 121.312(b)(1) and (2)	Transport category airplane type certificated after January 1, 1958; nontransport category airplane type certificated after December 31, 1964.	Seat cushions. 14 CFR 25.853(d)(3) effective [effective date of final rule]: 14 CFR parts 1 to 59, Revised as of January 1, [**Federal Register** revision year], and amended by Amdt. [amendment level and **Federal Register** citation and publication date of final rule]. Formerly 14 CFR 25.853(c) effective November 26, 1984: 14 CFR parts 1 to 59, Revised as of January 1, 1984, and amended by Amdt. 25–59, 49 FR 43188, October 26, 1984.
§ 121.312(c)	Airplane type certificated in accordance with SFAR No. 41; maximum certificated takeoff weight in excess of 12,500 pounds.	Compartment interior requirements. 14 CFR 25.853(a) in effect March 6, 1995: 14 CFR parts 1 to 59, Revised as of January 1, 1995, and amended by Amdt. 25–83, 60 FR 6623, February 2, 1995.

Part 121 section	Applicable aircraft	Provisions: CFR/FR references
§ 121.314(a)	Transport category airplanes type certificated after January 1, 1958.	Formerly 14 CFR 25.853(a), (b–1), (b–2), and (b–3) in effect on September 26, 1978: 14 CFR parts 1 to 59, Revised as of January 1, 1978. Class C or D cargo or baggage compartment definition. 14 CFR 25.853(c)(2)(ii) effective [effective date of final rule] (part III of appendix F no longer exists): 14 CFR parts 1 to 59, Revised as of January 1, [**Federal Register** revision year], and amended by Amdt. [amendment level and **Federal Register** citation and publication date of final rule]. Formerly 14 CFR 25.857 effective June 16, 1986, 14 CFR parts 1 to 59, Revised January 1, 1997, and amended by Amdt 25–60, 51 FR 18243, May 16, 1986.

(b) For the purposes of compliance with the sections of 14 CFR part 25 referenced in the table in paragraph (a) of this appendix, findings of equivalent level of safety in accordance with § 21.21(b)(1) of this chapter are considered to satisfy the referenced requirement.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 19. The authority citation for part 125 continues to read as follows:

Authority: 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 20. Amend § 125.113 by revising paragraphs (c)(1) introductory text and (c)(2) to read as follows:

§ 125.113 Cabin interiors.

* * * * *

(c) * * *

(1) For airplanes manufactured before September 2, 2005, when thermal/acoustic insulation is installed in the fuselage as replacements after September 2, 2005, the insulation must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended, if it is:

* * * * *

(2) For airplanes manufactured after September 2, 2005, thermal/acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 21. The authority citation for part 135 continues to read as follows:

Authority: 106(f), 106(g), 40113, 41706, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 22. Amend § 135.169 by revising paragraph (d)(1)(ii) to read as follows:

§ 135.169 Additional airworthiness requirements.

* * * * *

(d) * * *

(1) * * *

(ii) Materials that meet the test requirements of part 25, appendix F, part III of this chapter effective on June 16, 1986; or the test requirements of § 25.853(c)(2)(ii) of this chapter effective on [EFFECTIVE DATE OF FINAL RULE]; or as subsequently amended; or

* * * * *

■ 23. Amend § 135.170 by revising paragraphs (b)(2), (c)(1) introductory text, and (c)(2) to read as follows:

§ 135.170 Materials for compartment interiors.

* * * * *

(b) * * *

(2) For airplanes type certificated after January 1, 1958, seat cushions, except those on flight crewmember seats, in any compartment occupied by crew or passengers must comply with the requirements pertaining to fire protection of seat cushions in § 25.853(c) effective November 26, 1984; or in § 25.853(d) effective on [EFFECTIVE DATE OF FINAL RULE]; or as subsequently amended.

(c) * * *

(1) For airplanes manufactured before September 2, 2005, when thermal/acoustic insulation is installed in the fuselage as replacements after September 2, 2005, the insulation must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended, if it is:

* * * * *

(2) For airplanes manufactured after September 2, 2005, thermal/acoustic insulation materials installed in the fuselage must meet the flame propagation requirements of § 25.856 of this chapter, effective September 2, 2003, or as subsequently amended.

Issued under the authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on June 12, 2019.

Chris Carter,

Acting Executive Director, Aircraft Certification Service.

[FR Doc. 2019–13646 Filed 7–1–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0492; Product Identifier 2019–NM–045–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 certain Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as

applicable, to incorporate new or more restrictive airworthiness limitations. 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 19, 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 Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; internet *http://www.airbus.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.

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–2019–0492; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229.

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–2019–0492; Product Identifier 2019–NM–045–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, 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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0047, dated March 11, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes. The MCAI states:

> The airworthiness limitations for the Airbus A330 aeroplanes, which are approved by EASA, are currently defined and published in the A330 ALS [airworthiness limitations section] documents. The airworthiness limitations applicable to the System Equipment Maintenance Requirements, which are approved by EASA, are published in the ALS.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2017–0228 [which corresponds to FAA AD 2019–01–05, Amendment 39–19544 (84 FR 4310, February 15, 2019) (''AD 2019–01–05'')] to require accomplishment of all maintenance tasks as described in A330 ALS Part 4 at Revision 06.
>
> Since that [EASA] AD was issued, Airbus published the ALS, as defined in this [EASA] AD, including new and/or more restrictive tasks.
>
> For the reasons described above, this [EASA] AD takes over the requirements for Airbus A330 aeroplanes from EASA AD 2017–0228, and requires accomplishment of the actions specified in the ALS.
>
> This [EASA] AD also takes over Airbus A330 requirements from EASA AD 2013–0201 [which corresponds to FAA AD 2014–16–22, Amendment 39–17946 (79 FR 49442, August 21, 2014) (''AD 2014–16–22'')] and [EASA] AD 2017–0044 [which corresponds to FAA AD 2017–25–13, Amendment 39–19127 (82 FR 59960, December 18, 2017) (''AD 2017–25–13'')], as the requirements of these [EASA] ADs have been embodied into the ALS.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0492.

Relationship Between NPRM and ADs 2019–01–05, 2017–25–13, and 2014–16–22

This NPRM does not propose to supersede AD 2019–01–05. Rather, the FAA has determined that a stand-alone AD is more appropriate to address the changes in the MCAI. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2019–01–05.

EASA AD 2019–0047 added new tasks that replaced tasks in each of two EASA ADs: 2013–0201 (which corresponds to FAA AD 2014–16–22) and 2017–0044 (which corresponds to FAA AD 2017–25–13). Accomplishment of the new tasks as specified by this proposed AD terminates the requirements of FAA ADs 2014–16–22 and 2017–25–13 for Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes.

Related Service Information Under 1 CFR Part 51

Airbus has issued A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, including Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Variation 7.1, dated November 5, 2018. This service information describes airworthiness limitations for system equipment maintenance requirements. 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

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 and service information referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

Difference Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. The FAA considers those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Costs of Compliance

The FAA estimates that this proposed AD affects 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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–2019–0492; Product Identifier 2019–NM–045–AD.

(a) Comments Due Date

The FAA must receive comments by August 19, 2019.

(b) Affected ADs

This AD affects AD 2019–01–05, Amendment 39–19544 (84 FR 4310, February 15, 2019) (''AD 2019–01–05''); AD 2017–25–13, Amendment 39–19127 (82 FR 59960, December 18, 2017) (''AD 2017–25–13''); and AD 2014–16–22, Amendment 39–17946 (79 FR 49442, August 21, 2014) (''AD 2014–16–22'').

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before October 15, 2018.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by the need for new or more restrictive airworthiness limitations that refer to preventive maintenance tasks including replacement of life-limited parts. Failure to accomplish the tasks could result in an unsafe condition such as reduced airplane controllability due to the failure of system components.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, including Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Variation 7.1, dated November 5, 2018. The component life limits and the initial compliance time for doing the tasks are at the times specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, including Airbus A330 Airworthiness Limitations Section (ALS) Part 4—System Equipment Maintenance Requirements (SEMR), Variation 7.1, dated November 5, 2018, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or

intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Actions

(1) Accomplishing the actions required by this AD terminates all requirements of AD 2019–01–05.

(2) Accomplishing the action required by task number 274400–00004–1–E of Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, within the compliance time specified for that task in Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, terminates all requirements of AD 2017–25–13 for Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes only.

(3) Accomplishing the action required by task number 213100–00001–1–E of Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, within the compliance time specified for that task in Airbus A330 Airworthiness Limitations Section (ALS) Part 4, System Equipment Maintenance Requirements (SEMR), Revision 07, dated October 15, 2018, terminates all requirements of AD 2014–16–22 for Airbus SAS Model A330–200, A330–200 Freighter, and A330–300 series airplanes only.

(j) 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 (k)(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 corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (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):* If any service information contains procedures or tests that are identified as RC, those 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.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0047, dated March 11, 2019, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0492.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3229.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com*; internet *http://www.airbus.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 25, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14047 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0498; Product Identifier 2019–NM–073–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 certain Airbus SAS Model A330–202, –243, –243F, –302, –323, and –343 airplanes. This proposed AD was prompted by a report that cracks have been found within the ring gears of the slat geared rotary actuators (SGRAs) due to a change in the manufacturing process and inadequate post-production non-destructive testing for potential cracking. This proposed AD would require an inspection to determine the part number and serial number of the SGRAs, and replacement of each affected SGRA with a serviceable part, 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 19, 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 the EASA, at Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0498.

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–2019–0498; 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229.

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–2019–0498; Product Identifier 2019–NM–073–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 the agency receives, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0093, dated April 26, 2019 (''EASA AD 2019–0093'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A330–202, –243, –243F, –302, –323, and –343 airplanes. The MCAI states:

> Cracks have been found within the ring gears of an SGRA. Investigation identified that this is due to a change in the manufacturing process of the 300M steel raw material in conjunction with inadequate post-production non-destructive testing for potential cracks. A batch of SGRA has been identified as having been subject to this manufacturing process.
>
> This condition, if not detected and corrected, could, in combination with an independent failure on the second SGRA of the same slat surface, lead to an uncontrolled movement of the affected slat surface in flight, or detachment of the slat surface, possibly resulting in damage to the stabilizers, or reduced control of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued the SB [service bulletin] to provide instructions to replace the affected parts, referencing the Liebherr SB for in-shop correction.
>
> For the reasons described above, this [EASA] AD requires [an inspection to determine the part number and serial number of an SGRA and] replacement of each affected part with a serviceable part [if necessary].

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0093 describes procedures for an inspection to determine the part number and serial number of the SGRAs, and replacement of each affected part with a serviceable part.

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 a 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 the agencey 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 EASA AD 2019–0093 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the MCAI.''

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 2019–0093 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0093, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2019–0093 that is required for compliance with EASA AD 2019–0093 will be available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0498 after the FAA final rule is published.

Difference Between This Proposed AD and the MCAI

EASA AD 2019–0093 requires that operators report to Airbus when all affected parts have been replaced. This AD, however, does not include that requirement. The FAA has determined that reporting may be done at the discretion of the operators, but reporting is not necessary. Only two U.S.-registered airplanes are affected. Reporting would not provide useful statistical information to Airbus. Further, any affected part must be sent to the parts manufacturer for repair, which will provide the visibility of a discrepant part that was initially installed.

Costs of Compliance

The FAA estimates that this proposed AD affects 2 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
Up to 2 work-hours × $85 per hour = $170	$0	Up to $170	Up to $340.

The FAA estimates the following costs to do any necessary on-condition action 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 this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 15 work-hours × $85 per hour = $1,275	*	Up to $1,275. *

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

Authority for This Rulemaking

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

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: Is not a ''significant regulatory action'' under Executive Order 12866; Will not affect intrastate aviation in Alaska; and 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–2019–0498; Product Identifier 2019–NM–073–AD.

(a) Comments Due Date

We must receive comments by August 19, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A330–202, –243, –243F, –302, –323, and –343 airplanes, certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2019–0093, dated April 26, 2019 (''EASA AD 2019–0093'').

(d) Subject

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

(e) Reason

This AD was prompted by a report that cracks have been found within the ring gears of the slat geared rotary actuators (SGRAs) due to a change in the manufacturing process and inadequate post-production non-destructive testing for potential cracking. The FAA is issuing this AD to address cracking of an SGRA, which, in combination with an independent failure on the second SGRA of the same slat surface, could lead to an uncontrolled movement of the affected slat surface in flight, or detachment of the slat surface, and could possibly result in damage to the stabilizers and reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0093.

(h) Exceptions to EASA AD 2019–0093

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0093 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0093 does not apply to this AD.

(i) No Reporting Requirement

Although EASA AD 2019–0093 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 (k)(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 2019–0093 that contains RC procedures and tests: Except as required by paragraph (j)(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.

(k) Related Information

(1) For information about EASA AD 2019–0093, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu*; Internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*. You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2019–0093 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0498.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229.

Issued in Des Moines, Washington, on June 25, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14046 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0521; Product Identifier 2019–NM–047–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) 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 Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. This proposed AD was prompted by reports of cracks in the o-ring groove of magnetic fuel level indicators. This proposed AD would require a one-time detailed inspection of the magnetic fuel level indicator for cracks and replacement of cracked magnetic fuel level indicators. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 19, 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 Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com*; internet *http://www.saabgroup.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.

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–2019–0521; 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 in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

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–2019–0521; Product Identifier 2019–NM–047–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 NPRM.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2019–0053, dated March 14, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Saab AB, Saab Aeronautics Model SAAB 2000 airplanes. The MCAI states:

> Occurrences have been reported where, during maintenance, magnetic fuel level indicators were found with cracks in the O-ring groove. Investigation results indicate that these cracks may be due to over-torque during installation of the unit, although the applicable Aircraft Maintenance Manual instructs that the proper nut torque is between 2.8 and 3.4 Nm.
>
> This condition, if not detected and corrected, could lead to failure of an indicator, possibly resulting in a puncture of the fuel tank bottom, with consequent fuel leakage and risk of fuel starvation.
>
> To address this potential unsafe condition, SAAB issued the SB [service bulletin] to provide inspection instructions.
>
> For the reason described above, this [EASA] AD requires a one-time inspection of affected parts and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0521.

Related Service Information Under 1 CFR Part 51

Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) has issued Service Bulletin 2000–28–027, dated January 15, 2019. This service information describes procedures for a one-time detailed inspection of the magnetic fuel level indicator for cracks and replacement of cracked magnetic fuel level indicators. 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

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The agency is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously 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 the service information described previously, except as discussed under ''Differences Between this Proposed AD and the MCAI or Service Information.''

Differences Between This Proposed AD and the MCAI or Service Information

Saab Service Bulletin 2000–28–027, dated January 15, 2019, specifies to return faulty parts to the manufacturer. This proposed AD would not include that requirement.

Costs of Compliance

The FAA estimates that this proposed AD affects 11 airplanes of U.S. registry. The agency 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
6 work-hours × $85 per hour = $510	$0	$510	$5,610

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$20,000	$20,170

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):

Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems): Docket No. FAA–2019–0521; Product Identifier 2019–NM–047–AD.

(a) Comments Due Date

The FAA must receive comments by August 19, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics Model SAAB 2000 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of cracks in the o-ring groove of magnetic fuel level indicators. The FAA is issuing this AD to address this condition, which, if not detected and corrected, could result in a severe fuel leak and consequent risk of fuel starvation.

(f) Compliance

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

(g) Definitions

(1) For the purposes of this AD, an affected part is any magnetic fuel level indicator having part number 35081587.

(2) For the purposes of this AD, a serviceable part is an affected part that is new (not previously installed); or an affected part that, before installation, has passed an inspection in accordance with the instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(h) Inspection

Within 3,000 flight hours or 24 months, whichever occurs first after the effective date of this AD, remove and perform a one-time detailed inspection of each affected part for cracks in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(i) Corrective Action

If, during the inspection required by paragraph (h) of this AD, any crack is detected on an affected part, before further flight, replace that affected part with a serviceable part in accordance with the Accomplishment Instructions of Saab Service Bulletin 2000–28–027, dated January 15, 2019.

(j) No Parts Return

Although Saab Service Bulletin 2000–28–027, dated January 15, 2019, specifies to return faulty parts to the manufacturer, this AD does not require returning the faulty parts to the manufacturer.

(k) Parts Installation Limitation

As of the effective date of this AD, it is allowed to install on any airplane an affected part, provided that it is a serviceable part as defined in paragraph (g)(2) of this AD.

(l) 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 (m)(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 corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2019–0053, dated March 14, 2019, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0521.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220.

(3) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com*; internet *http://www.saabgroup.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 24, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–14048 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–121508–18]

RIN 1545–BO97

Multiple Employer Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed regulations relating to the tax qualification of plans maintained by more than one employer. These plans, maintained pursuant to section 413(c) of the Internal Revenue Code (Code), are often referred to as multiple employer plans or MEPs. The proposed regulations would provide an exception, if certain requirements are met, to the application of the ''unified plan rule'' for a defined contribution MEP in the event of a failure by an employer participating in the plan to satisfy a qualification requirement or to provide information needed to determine compliance with a qualification requirement. These proposed regulations would affect MEPs, participants in MEPs (and their beneficiaries), employers participating in MEPs, and MEP plan administrators.

DATES: Comments and requests for a public hearing must be received by October 1, 2019.

ADDRESSES: Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–121508–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment received to its public docket, whether submitted electronically or in hard copy. Send hard copy submissions to: CC:PA:LPD:PR (REG–121508–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–121508–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Pamela Kinard at (202) 317–6000 or Jamie Dvoretzky at (202) 317–4102; concerning submission of comments or to request a public hearing, email or call Regina Johnson at *notice.comments@irscounsel.treas.gov,* (202) 317–5190, or (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document sets forth proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 413(c) of the Internal Revenue Code (Code). Section 413(c) provides rules for the qualification of a plan maintained by more than one

employer.[1] A section 413(c) plan is often referred to as a multiple employer plan (MEP).

Final regulations under section 413 were published in the **Federal Register** on November 9, 1979, 44 FR 65061 (the final section 413 regulations). The final section 413 regulations apply to multiple employer plans described in section 413(c) and to collectively bargained plans described in section 413(b) (plans that are maintained pursuant to certain collective-bargaining agreements between employee representatives and one or more employers).

Pursuant to section 413(c) and the final section 413 regulations, all of the employers maintaining a MEP (participating employers) are treated as a single employer for purposes of certain section 401(a) qualification requirements. For example:

- Under section 413(c)(1) and § 1.413–2(b), the rules for participation under section 410(a) and the regulations thereunder are applied as if all employees of each of the employers who maintain the plan are employed by a single employer;
- Under section 413(c)(2) and § 1.413–2(c), in determining whether a MEP is, with respect to each participating employer, for the exclusive benefit of its employees (and their beneficiaries), all of the employees participating in the plan are treated as employees of each such employer; and
- Under section 413(c)(3) and § 1.413–2(d), the minimum vesting standards under section 411 are applied as if all employers who maintain the plan constitute a single employer.

Other rules are applied separately to each participating employer.[2] For example, under § 1.413–2(a)(3)(ii), the minimum coverage requirements of section 410(b) generally are applied to a MEP on an employer-by-employer basis.

A plan is not described in section 413(c) unless it is maintained by more than one employer[3] and is a single plan under section 414(l).[4] *See* §§ 1.413–2(a)(2)(i) and 1.413–1(a)(2). Under § 1.414(l)–1(b), a plan is a single plan if and only if, on an ongoing basis, all of the plan assets are available to pay benefits to employees who are covered by the plan and their beneficiaries.

Under § 1.413–2(a)(3)(iv) (sometimes referred to as the ''unified plan rule''), the qualification of a MEP is determined with respect to all employers maintaining the MEP. Consequently, § 1.413–2(a)(3)(iv) provides that ''the failure by one employer maintaining the plan (or by the plan itself) to satisfy an applicable qualification requirement will result in the disqualification of the MEP for all employers maintaining the plan.'' Section 1.416–1, Q&A G–2, includes a similar rule relating to the qualification of a MEP, providing that a failure by a MEP to satisfy section 416 with respect to employees of one participating employer means that all participating employers in the MEP are maintaining a plan that is not a qualified plan.[5]

Section 1101(a) of the Pension Protection Act of 2006 (PPA '06), Public Law 109–280 (120 Stat. 780 (2006)), provides that the Secretary has full authority to establish and implement EPCRS[6] (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure. Section 1101(b) of PPA '06 provides that the Secretary shall continue to update and improve EPCRS (or any successor program), giving special attention to a number of items, including special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures. EPCRS has been updated and expanded several times, most recently in Rev. Proc. 2019–19, 2019–19 I.R.B. 1086. In addition, as provided for in Section 1101 of PPA '06, the Treasury Department and the IRS are authorized to establish and implement other employee plans correction policies, outside of EPCRS.

On August 31, 2018, President Trump issued Executive Order 13847 (83 FR

[1] Section 210 of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), also provides rules relating to plans maintained by more than one employer. Similar to section 413(c) of the Code, section 210(a) of ERISA states that the minimum participation standards, minimum vesting standards, and benefit accrual requirements under sections 202, 203, and 204 of ERISA, respectively, shall be applied as if all employees of each of the employers were employed by a single employer. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over section 413 of the Code, as well as ERISA section 210.

[2] Proposed rules at § 1.413–2(e) and (f) (47 FR 54093) were issued in 1982. Proposed § 1.413–2(e) would have provided that the minimum funding standard for a MEP is determined as if all participants in the plan were employed by a single employer, and proposed § 1.413–2(f) would have provided rules relating to liability for the excise tax on a failure to meet the minimum funding standards. Because these rules were proposed in 1982, they do not reflect 1988 changes to section 413(c)(4) that were made by section 6058(a) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647 (102 Stat. 3342) (TAMRA). As amended by TAMRA, section 413(c)(4) generally provides that in the case of a plan established after December 31, 1988, and in the case of a plan established before that date for which an election was made, each employer is treated as maintaining a separate plan for purposes of the minimum funding standards. The proposed rules at § 1.413–2(e) and (f) are outside the scope of these proposed regulations. Therefore, paragraphs (e) and (f) are ''Reserved'' for future rulemaking. The Treasury Department and the IRS note that taxpayers must take into account the statutory changes made after the issuance of the proposed regulations as of the effective dates of the relevant legislation.

[3] Section 1.413–2(a)(2), issued in 1979, provides that for purposes of determining the number of employers maintaining a plan, any employers described in section 414(b) that are members of a controlled group of corporations or any employers described in section 414(c) that are trades or businesses under common control, whichever is applicable, are treated as if those employers are a single employer. Because § 1.413–2(a)(2) was issued in 1979, it does not address section 414(m), which was added in 1980 by section 201(a) of the Miscellaneous Revenue Act of 1980, Public Law 96–605 (94 Stat. 3521). Section 414(m) provides that all employers in an affiliated service group shall be treated as a single employer. Although amendments to § 1.413–2(a)(2) are outside the scope of these proposed regulations, the Treasury Department and the IRS note that taxpayers must take into account the statutory changes made after the issuance of the proposed regulations as of the effective dates of the relevant legislation.

[4] On October 23, 2018 proposed Department of Labor regulations were published in the **Federal Register** (83 FR 53534) clarifying the circumstances in which employer groups or associations and professional employer organizations can constitute ''employers'' within the meaning of section 3(5) of ERISA for purposes of establishing or maintaining an individual account ''employee pension benefit plan'' within the meaning of ERISA section 3(2). Those proposed regulations state that an ''employee pension benefit plan'' under section 3(2) of ERISA must be established by an ''employer,'' defined in section 3(5) of ERISA to include an ''entity acting indirectly in the interest of an employer in relation to an employee benefit plan.'' The proposed Department of Labor regulations define the terms ''bona fide group or association of employers'' and ''bona fide professional employer organization'' and state that, with respect to a ''multiple employer defined contribution pension plan,'' these entities ''shall be deemed to be able to act in the interest of an employer'' provided that certain conditions are met. *See* proposed rules at 29 CFR 2510.3–55(a). The proposed Department of Labor regulations solicit comments on, but do not address, other types of entities that may be an employer under ERISA section 3(5).

[5] This rule is based on the unified plan rule in § 1.413–2(a)(3)(iv). Therefore, if a defined contribution MEP has an unresponsive employer that fails to satisfy section 416 and the defined contribution MEP meets the conditions for the exception to the unified plan rule in these proposed regulations, the defined contribution MEP will not be disqualified for the section 416 failure. For further information, see the discussion in part II of the Explanation of Provisions section entitled *Conditions for Application of Exception to the Unified Plan Rule.* The rules in § 1.416–1 are outside the scope of these proposed regulations, but the Treasury Department and the IRS intend to address the topic in a broader guidance project updating the regulations under section 416.

[6] The Employee Plans Compliance Resolution System (EPCRS) is a comprehensive system of correction programs for sponsors of certain retirement plans, including plans that are intended to satisfy the qualification requirements of section 401(a). EPCRS provides procedures for an employer to correct a plan's failure to satisfy an applicable qualification requirement so that the failure does not result in disqualification of the plan.

45321 (Sept. 6, 2018)), titled ''Strengthening Retirement Security in America'' (Executive Order). The Executive Order states that it shall be the policy of the Federal Government to expand access to workplace retirement plans for American workers and that enhancing workplace retirement plan coverage is critical to ensuring that American workers will be financially prepared to retire. The Executive Order also states that, ''[e]xpanding access to [MEPs], under which employees of different private-sector employers may participate in a single retirement plan, is an efficient way to reduce administrative costs of retirement plan establishment and maintenance and would encourage more plan formation and broader availability of workplace retirement plans, especially among small employers.'' [7]

The Executive Order directs the Secretary of the Treasury to ''consider proposing amendments to regulations or other guidance, consistent with applicable law and the policy set forth in . . . this order, regarding the circumstances under which a MEP may satisfy the tax qualification requirements . . . , including the consequences if one or more employers that sponsored or adopted the plan fails to take one or more actions necessary to meet those requirements.'' [8] The Executive Order further directs the Secretary of the Treasury to consult with the Secretary of Labor in advance of issuing any such proposed guidance, and the Secretary of Labor to take steps to facilitate the implementation of any guidance, as appropriate and consistent with applicable law.

Stakeholders have expressed concerns about the risk that the actions of one or more participating employers might disqualify a MEP [9] and that some employers are reluctant to join MEPs without an exception to the unified plan rule. In particular, they have said that the cooperation of participating employers is needed for compliance and when a participating employer refuses to take the steps needed to maintain qualification, the entire plan is at risk of being disqualified. Stakeholders assert that without an exception to the unified plan rule, many employers perceive that the benefits of joining a MEP are outweighed by the risk of plan disqualification based on the actions of an uncooperative participating employer.

Explanation of Provisions

I. Overview

In accordance with the Executive Order and the policy of expanding workplace retirement plan coverage, these proposed regulations, which were developed in consultation with the Secretary of Labor, would provide an exception to the unified plan rule for certain defined contribution MEPs. Under the proposed regulations, a defined contribution MEP would be eligible for the exception to the unified plan rule on account of certain qualification failures due to actions or inaction by a participating employer, if the conditions set forth in the proposed regulations are satisfied. The exception generally would be available if the participating employer in a MEP is responsible for a qualification failure that the employer is unable or unwilling to correct. It would also be available if the participating employer fails to comply with the section 413(c) plan administrator's request for information about a qualification failure that the section 413(c) plan administrator reasonably believes might exist. For the exception to the unified plan rule to apply, certain actions are required to be taken, including, in certain circumstances, a spinoff of the assets and account balances attributable to participants who are employees of such an employer to a separate plan and a termination of that plan.

For purposes of applying the exception to the unified plan rule, under the proposed regulations: (1) A section 413(c) plan administrator is defined as the plan administrator of a MEP, determined under the rules of section 414(g); (2) a participating employer is defined as one of the employers maintaining a MEP; (3) an unresponsive participating employer is defined as a participating employer in a MEP that fails to comply with reasonable and timely requests from the section 413(c) plan administrator for information necessary to determine compliance with a qualification requirement or fails to comply with reasonable and timely requests from the section 413(c) plan administrator to take actions that are needed to correct a failure to satisfy a qualification requirement as it relates to the participating employer; and (4) an employee is defined as a current or former employee of a participating employer.

The exception to the unified plan rule would apply only in the case of certain types of failures to satisfy the qualification requirements, referred to in the proposed regulations as participating employer failures. A participating employer failure is defined as either a known qualification failure or a potential qualification failure. A known qualification failure is defined as a failure to satisfy a qualification requirement with respect to a MEP that is identified by the section 413(c) plan administrator and is attributable solely to an unresponsive participating employer. A potential qualification failure is a failure to satisfy a qualification requirement with respect to a MEP that the section 413(c) plan administrator reasonably believes might exist, but the section 413(c) plan administrator is unable to determine whether the qualification requirement is satisfied solely due to an unresponsive participating employer's failure to provide data, documents, or any other information necessary to determine whether the MEP is in compliance with the qualification requirement as it relates to the participating employer. For purposes of the definitions of known qualification failure and potential qualification failure, an unresponsive participating employer includes any employer that is treated as a single employer with that unresponsive participating employer under section 414(b), (c), (m), or (o).

II. Conditions for Application of Exception to Unified Plan Rule

Under the exception to the unified plan rule in the proposed regulations, a defined contribution MEP would not be disqualified on account of a participating employer failure, provided that the following conditions are satisfied: (1) The MEP satisfies certain eligibility requirements (such as a requirement to have established practices and procedures to promote compliance and a requirement to adopt relevant plan language); (2) the section 413(c) plan administrator provides notice and an opportunity for the unresponsive participating employer to take remedial action with respect to the participating employer failure; (3) if the unresponsive participating employer fails to take appropriate remedial action with respect to the participating employer failure, the section 413(c) plan administrator implements a spinoff; and (4) the section 413(c) plan administrator complies with any information request that the IRS or a representative of the spun-off plan makes in connection with an IRS examination of the spun-off plan, including any information request

[7] *Id.* at 45321.

[8] *Id.* at 45322.

[9] *See also,* U.S. Gov't Accountability Office, GAO–12–665, ''Federal Agencies Should Collect Data and Coordinate Oversight of Multiple Employer Plans'' (September 2012) (*https://www.gao.gov/assets/650/648285.pdf*) (identifying the unified plan rule as a potential problem for MEPs).

related to the participation of the unresponsive participating employer in the MEP for years prior to the spinoff. A spinoff may either be a spinoff that is initiated by the unresponsive participating employer and implemented by the section 413(c) plan administrator, or a spinoff-termination implemented by the section 413(c) plan administrator pursuant to plan terms.

A. MEP's Eligibility for Exception to the Unified Plan Rule

Under the proposed regulations, a threshold condition for the exception to the unified plan rule is that the MEP meet certain eligibility requirements. Specifically, the proposed regulations would require the section 413(c) plan administrator to have established practices and procedures (formal or informal) that are reasonably designed to promote and facilitate overall compliance with applicable Code requirements, including procedures for obtaining information from participating employers. In addition, the plan document would need to include language describing the procedures that would be followed to address participating employer failures, including the procedures that the section 413(c) plan administrator would follow if, after receiving notice from the section 413(c) plan administrator, an unresponsive participating employer fails to take appropriate remedial action or to initiate a spinoff from the MEP pursuant to the regulations.[10] Finally, a MEP is not eligible for the exception to the unified plan rule if, as of the date that the first notice is provided to an unresponsive participating employer, the MEP is under examination. For a description of the first notice, see part II.B. of this Explanation of Provisions section, entitled *Notice Requirements.*

For purposes of the proposed regulations, a plan is under examination if: (1) The plan is under an Employee Plans examination (that is, an examination of a Form 5500 series, ''Annual Return/Report of Employee Benefit Plan,'' or other examination by the Employee Plans Office of the Tax Exempt and Government Entities Division of the IRS (Employee Plans) (or any successor IRS office that has jurisdiction over qualified retirement plans)); (2) the plan is under investigation by the Criminal Investigation Division of the IRS (or its successor); or (3) the plan is treated as under an Employee Plans examination under special rules. Under these special rules, for example, a plan is under an Employee Plans examination if the section 413(c) plan administrator, or an authorized representative, has received verbal or written notification of an impending Employee Plans examination, or of an impending referral for an Employee Plans examination, or if a plan has been under an Employee Plans examination and the plan has an appeal pending with the IRS Office of Appeals (or its successor), or is in litigation with the IRS, regarding issues raised in the Employee Plans examination.

This definition of the term under examination is similar to the definition in EPCRS. *See* Rev. Proc. 2019–19, section 5.08. However, unlike in EPCRS, a plan is not under examination for purposes of these proposed regulations merely because it is maintained by an employer that is under an Exempt Organizations examination (that is, an examination of a Form 990 series or other examination by the Exempt Organizations Office of the Tax Exempt and Government Entities Division of the IRS).

B. Notice Requirements

The proposed regulations would require the section 413(c) plan administrator to provide up to three notices regarding a participating employer failure to the unresponsive participating employer; with the third notice, if applicable, also being provided to participants and beneficiaries and the Department of Labor.[11]

The first notice must describe the participating employer failure (or failures), as well as the remedial actions the unresponsive participating employer would need to take to remedy the failure and the employer's option to initiate a spinoff. The first notice must also explain the consequences under plan terms if the unresponsive participating employer neither takes appropriate remedial action with respect to the participating employer failure nor initiates a spinoff, including the possibility that a spinoff of the plan assets and account balances attributable to the employees of that employer into a separate single-employer plan would occur, followed by a termination of that plan (as discussed in this preamble under the heading *Spinoff-Termination*).

If, by the end of the 90-day period following the date the first notice is provided, the unresponsive participating employer neither takes appropriate remedial action nor initiates a spinoff, then no later than 30 days after the expiration of that 90-day period, the section 413(c) plan administrator must provide a second notice to that employer. The second notice must include the information required to be included in the first notice, and must also inform the employer that if it fails either to take appropriate remedial action or to initiate a spinoff within 90 days after the second notice then a notice describing the participating employer failure and the consequences of not correcting that failure will be provided to participants who are employees of the unresponsive participating employer (and their beneficiaries) and to the Department of Labor.

If, by the end of the 90-day period following the date the second notice is provided, the unresponsive participating employer neither takes appropriate remedial action nor initiates a spinoff, then no later than 30 days after the expiration of that 90-day period, the section 413(c) plan administrator must provide a third notice to the unresponsive participating employer, to participants who are employees of that employer (and their beneficiaries), and to the Department of Labor.[12] The third notice must include the information required to be included in the first notice, the deadline for employer action, and an explanation of any adverse consequences to participants in the event that a spinoff-termination occurs, and state that the notice is being provided to participants who are employees of the unresponsive participating employer (and their beneficiaries) and to the Department of Labor.

C. Actions by Unresponsive Participating Employer

The proposed regulations provide that after the unresponsive participating employer has received notice of the participating employer failure, the employer has the opportunity to either take appropriate remedial action or initiate a spinoff. The final deadline for an unresponsive participating employer to take one of these actions is 90 days after the third notice is provided. The consequences of the employer's failure to meet this deadline are described in this Explanation of Provisions section

[10] Once final regulations are issued, the Treasury Department and the IRS intend to publish guidance in the Internal Revenue Bulletin setting forth model language that may be used for this purpose.

[11] If the notices relate to a potential qualification failure, and the potential qualification failure becomes a known qualification failure, then a new series of notices may be required.

[12] The notice to the Department of Labor should be mailed to the Employee Benefits Security Administration's Office of Enforcement (or its successor office). The Office of Enforcement is currently located at 200 Constitution Ave. NW, Suite 600, Washington, DC 20210.

under part II.E., entitled *Spinoff-Termination.*

The proposed regulations provide that an unresponsive participating employer takes appropriate remedial action with respect to a potential qualification failure if the employer provides data, documents, or any other information necessary for the section 413(c) plan administrator to determine whether a qualification failure exists. If (1) the unresponsive participating employer provides this information, (2) the section 413(c) plan administrator determines that, based on this information, a qualification failure exists that is attributable solely to that employer, and (3) the participating employer fails to comply with reasonable and timely requests from the section 413(c) plan administrator to take actions that are needed to correct that qualification failure, then the qualification failure becomes a known qualification failure. In that case, the MEP would be eligible for the exception to the unified plan rule with respect to the known qualification failure by satisfying the conditions with respect to that known qualification failure, taking into account the rules described in this Explanation of Provisions section under part II.D., entitled *Actions by Section 413(c) Plan Administrator Relating to Remedial Action or Employer-Initiated Spinoff.* An unresponsive participating employer takes appropriate remedial action with respect to a known qualification failure if the employer takes action, such as making corrective contributions, that corrects, or enables the section 413(c) plan administrator to correct, the known qualification failure.

As an alternative to taking appropriate remedial action with respect to a potential or a known qualification failure, an unresponsive participating employer may, after receiving notice of the participating employer failure, initiate a spinoff by directing the section 413(c) plan administrator to spin off plan assets and account balances held on behalf of employees of that employer to a separate single-employer plan established and maintained by that employer in a manner consistent with plan terms. In that case, the section 413(c) plan administrator must implement that spinoff, as described in this Explanation of Provisions section under part II.D., entitled *Actions by Section 413(c) Plan Administrator Relating to Remedial Action or Employer-Initiated Spinoff.*

D. Actions by Section 413(c) Plan Administrator Relating to Remedial Action or Employer-Initiated Spinoff

For purposes of applying the conditions of the exception to the unified plan rule to a potential qualification failure that becomes a known qualification failure, actions taken (including notices provided) when the failure was a potential qualification failure are not taken into account. For example, a notice that the section 413(c) plan administrator provided in connection with the potential qualification failure would not satisfy the notice requirements for the known qualification failure. However, in determining whether the MEP is under examination as of the date of the first notice describing the known qualification failure, the section 413(c) plan administrator will be treated as providing that notice on the date the first notice was provided with respect to the related potential qualification failure, but only if the following conditions are satisfied: (1) After determining that a qualification failure exists, the section 413(c) plan administrator makes a reasonable and timely request to the participating employer to take actions that are needed to correct the failure, and (2) as soon as reasonably practicable after the participating employer fails to respond to that request, the section 413(c) plan administrator provides the first notice with respect to the known qualification failure.

The Treasury Department and the IRS anticipate revising EPCRS to provide that, if a 413(c) plan administrator provides the first notice with respect to a participating employer failure under a MEP at a time that the plan is not under examination, then the MEP will not be considered to be under examination for purposes of determining whether the participating employer failure is eligible to be corrected under the Self Correction Program or Voluntary Correction Program components of EPCRS. It is anticipated that this application of the term under examination under EPCRS will be conditioned on the 413(c) plan administrator complying with applicable conditions for the exception to the unified plan rule and, for a known qualification failure with respect to which the unresponsive participating employer takes appropriate remedial action, taking any remaining action necessary to correct the qualification failure as soon as reasonably practicable.

If an unresponsive participating employer takes appropriate remedial action with respect to a known qualification failure, then the section 413(c) plan administrator must take any remaining action necessary to correct the qualification failure. If the section 413(c) plan administrator fails to take any remaining action necessary to correct the known qualification failure, the exception to the unified plan rule will not apply and the section 413(c) plan may be disqualified on account of that failure.

If, instead of taking appropriate remedial action (as described in part II.C. of this Explanation of Provisions, entitled *Actions by Unresponsive Participating Employer*), an unresponsive participating employer initiates a spinoff of plan assets and account balances held on behalf of employees of that employer to a separate single-employer plan established and maintained by that employer, the section 413(c) plan administrator must implement and complete a spinoff of the plan assets and account balances held on behalf of the employees of the employer that are attributable to employment by the employer within 180 days of the date on which it was initiated. The section 413(c) plan administrator must also report the spinoff to the IRS (in the manner prescribed by the IRS in forms, instructions, and other guidance).

E. Spinoff-Termination

If, after the first notice of a participating employer failure is provided, the unresponsive participating employer neither takes appropriate remedial action nor initiates a spinoff by the date that is 90 days after the third notice is provided, then, for the exception to the unified plan rule to apply, there must be a spinoff of the plan assets and account balances held on behalf of employees of the unresponsive participating employer that are attributable to their employment with that employer to a separate plan, followed by a termination of that plan. The spinoff-termination must be pursuant to plan terms and in accordance with the proposed regulations. The MEP will satisfy this condition, if, as soon as reasonably practicable after the deadline for action by the unresponsive participating employer, the section 413(c) plan administrator: (1) Provides notice of the spinoff-termination to participants who are employees of the unresponsive participating employer (and their beneficiaries); (2) stops accepting contributions from the unresponsive participating employer; (3) implements a spinoff, in accordance with the transfer requirements of section 414(l) and the anti-cutback requirements of

section 411(d)(6), of the plan assets and account balances held on behalf of employees of the unresponsive participating employer that are attributable to their employment by that employer to a separate single-employer plan and trust that has the same plan administrator, trustee, and substantive plan terms as the MEP; and (4) terminates the spun-off plan and distributes assets of the spun-off plan to plan participants and beneficiaries as soon as reasonably practicable after the plan termination date.[13]

In terminating the spun-off plan, the section 413(c) plan administrator must:

- Reasonably determine whether, and to what extent, the survivor annuity requirements of sections 401(a)(11) and 417 apply to any benefit payable under the plan and take reasonable steps to comply with those requirements (if applicable);
- Provide each participant and beneficiary with a nonforfeitable right to his or her accrued benefits as of the date of plan termination, subject to income, expenses, gains, and losses between that date and the date of distribution; and
- Notify the participants and beneficiaries of their rights under section 402(f).

In providing notice of the spinoff-termination to participants (and their beneficiaries), the section 413(c) plan administrator must provide information relating to the spinoff-termination to participants who are employees of the unresponsive participating employer (and their beneficiaries), including the following: (1) Identification of the MEP and contact information for the section 413(c) plan administrator; (2) the effective date of the spinoff-termination; (3) a statement that no more contributions will be made to the MEP; (4) a statement that as soon as practicable after the spinoff-termination, participants and beneficiaries will receive a distribution from the spun-off plan; and (5) a statement that before the distribution occurs, participants and beneficiaries will receive additional information about their options with respect to that distribution.

The section 413(c) plan administrator must report the spinoff-termination to the IRS (in the manner prescribed by the IRS in forms, instructions, and other guidance).

III. Other Rules

A. Form of Notices

Any notices required to be provided under the proposed regulations may be provided in writing or in electronic form. For notices provided to participants and beneficiaries, see generally § 1.401(a)–21 for rules permitting the use of electronic media to provide applicable notices to recipients with respect to retirement plans.

B. Qualification of Spun-Off Plan

In the case of any plan that is spun off in accordance with the proposed regulations, any participating employer failure that would have affected the qualification of a MEP, but for the application of the exception to the unified plan rule, will be a qualification failure with respect to the spun-off plan. In the case of an employer-initiated spinoff, see EPCRS (or its successors) for rules relating to correcting qualification failures.

Under the authority provided by section 1101 of PPA '06, the proposed regulations provide that distributions made from a spun-off plan that is terminated in accordance with these regulations would not, solely because of the participating employer failure, fail to be eligible for favorable tax treatment accorded to distributions from qualified plans (including that the distributions will be treated as eligible rollover distributions under section 402(c)(4)), except as provided in the next paragraph. Under section 1101 of PPA '06, Congress gave the Secretary broad authority to establish employee plans correction policies. In developing a correction policy for MEPs, it is appropriate to treat distributions to rank-and-file participants following a spinoff-termination as eligible for tax-favored treatment in order to ensure that the tax or sanction is not excessive and bears a reasonable relationship to the nature of the failure.[14]

The regulations also provide that, notwithstanding the general rule regarding favorable tax treatment for distributions from a plan following spinoff-termination, the IRS reserves the right to pursue appropriate remedies under the Code against any party (such as the owner of the participating employer) who is responsible for the participating employer failure resulting in the spinoff-termination. The IRS may pursue appropriate remedies against a responsible party even in the party's capacity as a participant or beneficiary under the plan that is spun off and terminated (such as by not treating a plan distribution made to the responsible party as an eligible rollover distribution). This is similar to the approach adopted in EPCRS with respect to terminating orphan plans. *See* Rev. Proc. 2019–19, section 6.02(2)(e)(i).

The proposed regulations also provide that the Commissioner may provide additional guidance, such as in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin, or in forms and instructions, that the Commissioner determines to be necessary or appropriate with respect to the requirements of the regulations.

Proposed Applicability Date

These regulations generally are proposed to apply on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. Until regulations finalizing these proposed regulations are issued, taxpayers may not rely on the rules set forth in these proposed regulations.

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS website at *www.irs.gov* or contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Special Analyses

I. Regulatory Impact Analysis

Executive Orders 13771, 13563, and 12866 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health and safety effects, distributive impacts, and equity. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Executive Order 13771 designation for any final rule resulting from the proposed regulation will be informed by comments received. The preliminary Executive Order 13771 designation for this proposed rule is deregulatory.

The proposed regulation has been designated by the Office of Information

[13] The Pension Benefit Guaranty Corporation's Missing Participants Program provides a mechanism for distributing assets to plan participants in a terminating plan. *See* 29 CFR 4050.201 through 4050.207. Use of the Pension Benefit Guaranty Corporation's Missing Participants Program is optional for defined contribution plans. Under the program, the Pension Benefit Guaranty Corporation locates participants and beneficiaries who were missing when their plans terminated. When found, depending on arrangements made by the plan, the Pension Benefit Guaranty Corporation either provides the benefit or information about where the participant's account is being held.

[14] In addition, a participating employer failure could either be a known qualification failure or a potential qualification failure. Treating distributions from a spun-off and terminated plan relating to a potential qualification failure as ineligible for tax-favored treatment does not bear a reasonable relationship to the nature of the failure.

and Regulatory Affairs (OIRA) as significant under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

1. Introduction and Need for Regulation

The U.S. retirement system is comprised of three main pillars of savings: Social Security, workplace pension plans, and individual savings. Yet, roughly 30% of American workers lack access to an employer-sponsored savings vehicle (See Table 1 in Section 7 of this Regulatory Impact Analysis, entitled *Tables*). This is particularly true for employees at small firms, who are roughly half as likely to have access to a retirement plan compared to employees at large firms. This would lead to larger firms enjoying a competitive advantage in labor markets. One factor that may prevent small firms from offering a plan includes the high administrative costs associated with compliance. In order to receive preferential tax treatment, a plan must meet certain criteria specified in the Code and ensuring that those requirements are met can be costly. Furthermore, the costs associated with managing funds in retirement plans tends to be higher for a smaller pool of assets (See Table 3 in Section 7, later), which is more likely to be the case for smaller firms with fewer employees.

One solution that has developed for reducing these administrative and asset management costs is the MEP, through which different employers can form a single plan to take advantage of economies of scale. Under the current regulations under section 413(c), however, the unified plan rule creates a situation whereby should one employer fail to comply with the qualification requirements, then the preferential tax status for a qualified plan is lost for the entire MEP. The proposed regulation provides an exception to the unified plan rule for certain defined contribution MEPs, permitting compliant participating employers to continue to maintain a qualified plan if certain conditions are satisfied. Reducing the perceived risk that a MEP will be disqualified could lead to more small employers to adopt these plans.

2. Affected Entities

Based on the latest available data, as shown in Table 2, there are about 4,630 defined contribution MEPs with approximately 4.4 million total participants, 3.7 million of whom are active participants. Defined contribution MEPs hold about $181 billion in assets. Fifty-six percent of defined contribution MEP participants are in MEPs with 10,000 or more participants, and 98% are in MEPs with 100 or more participants. As noted earlier, about 30% of employees do not have access to a retirement savings plan through their employer. The proposed regulation, which is limited to defined contribution MEPs, may encourage both the creation of new defined contribution MEPs and the expansion of existing defined contribution MEPs. As a result of the proposed regulation, the cost of providing some existing employer-sponsored retirement plans could fall, and some employees would gain access to employer-sponsored retirement plans.

3. Baseline

The analysis in this section compares the proposed regulation to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

4. Benefits

a. Expanded Access to Coverage

Generally, employees rarely choose to save for retirement outside of the workplace, despite having options to save in tax-favored savings vehicles on their own; only about 10% of households without access to an employer-sponsored plan made contributions to traditional or Roth IRAs for 2014.[15] Thus, the availability of workplace retirement plans is a significant factor affecting whether individuals save for their retirement. Yet, despite the advantages of workplace retirements plans, access to such plans for employees of small businesses is relatively low.

The MEP structure may address significant concerns from employers about the costs to set up and administer retirement benefit plans. In order to participate in a MEP, employers would simply execute a participation agreement or similar instrument setting forth the rights and obligations of the MEP and participating employers. Each participating employer would then be participating in a single plan, rather than sponsoring its own separate plan. The individual employers would not be directly responsible for the MEP's overall compliance with reporting and disclosure obligations. Accordingly, the MEP structure may address small employers' concerns regarding the cost associated with fiduciary liability of sponsoring a retirement plan by effectively transferring much of the legal risks and responsibilities to professional fiduciaries who would be responsible for managing plan assets and selecting investment menu options, among other things. Participating employers' continuing involvement in the day-to-day operations and administration of their MEP generally would be limited to enrolling employees and forwarding employee and employer contributions to the plan. Thus, participating employers would keep more of their day-to-day focus on managing their businesses, rather than their retirement plans.

The proposed regulation would reduce the risk to small businesses participating in a MEP. Currently, if one participating employer fails to meet the qualification requirements in the Code for preferential tax treatment, then the entire plan may be disqualified, and employers participating in a MEP and their employees would lose the tax benefits of participating in a qualified retirement plan (deduction for contributions, exclusion of investment returns, deferred income recognition for employees). As a result, the current rule imposes an undue burden on employers who satisfied their requirements but happened to have a bad actor among their plan's other employers. The proposed regulation minimizes this burden by allowing noncompliant or unresponsive participating employers to be dealt with separately while the other participating employers maintain a qualified plan. Thus, the risk taken on by any one participating employer when joining a MEP is reduced as the employer no longer needs to consider the actions of other participating employers over which the employer exerts no control. The proposed regulation may therefore encourage formation of additional MEPs, as well as expanded participation in existing MEPs.

Because more plan formation and broader availability of such plans is likely to occur due to the proposed regulations, especially among small employers, the Treasury Department has determined that the proposed regulation would increase access to retirement plans for many American workers. However, the Treasury Department does not have sufficient data to determine precisely the likely extent of increased participation by small employers under the proposed regulation.

b. Reduced Fees and Administration Savings

Most MEPs could be expected to benefit from scale advantages that small businesses do not currently enjoy and to pass on some of the savings to participating employers and employees. Grouping small employers together into

[15] Based on tabulations from the Office of Tax Analysis' microsimulation model.

a MEP may facilitate savings through administrative efficiencies (economies of scale) and potentially through price negotiation (market power).

As scale increases, MEPs would spread fixed costs over a larger pool of participating employers and employee participants. Scale efficiencies can be very large with respect to asset management and may be smaller, but still meaningful, with respect to recordkeeping. Also, as scale increases, so does the negotiating power of MEPs. Negotiating power matters when competition among financial services providers is less than perfect, and they can command greater profits than in an environment with perfect competition. Very large plans may exercise their own market power to negotiate lower prices, translating into savings for member employees and employee participants.

Sometimes, scale efficiencies would not translate into savings for small employer members and their employee participants because regulatory requirements applicable to large MEPs may be more stringent than those applicable to most separate small plans. For example, some small plans are exempt from annual reporting requirements, and many others are subject to more streamlined reporting requirements than larger plans. But in most cases, the savings from the scale efficiency of MEPs would be greater than the savings from scale efficiencies that other providers of bundled financial services may offer to small employers.

First, the legal status of MEPs as a single large plan may streamline certain regulatory burdens under the Code and title I of ERISA. For example, a MEP can file a single annual return/report and obtain a single bond in lieu of the multiple reports and bonds necessary when other providers of bundled financial services administer many separate plans.

Second, relative to separate small employer plans, a MEP operating as a large single plan would likely secure substantially lower prices from financial services companies. Asset managers commonly offer proportionately lower prices, relative to assets invested, to larger investors, under so-called tiered pricing practices. For example, investment companies often offer lower-priced mutual fund share classes to customers whose investments in a fund surpass specified break points. These lower prices may reflect scale economies in any or all aspects of administering larger accounts, such as marketing, distribution, asset management, recordkeeping, and transaction processing. MEPs that are larger would likely qualify for lower pricing compared with separate plans of small employers. MEP participants that benefit from lower asset-based fees would enjoy superior investment returns net of fees.

The availability and magnitude of scale efficiencies may be different with respect to different retirement plan services. For example, asset management generally enjoys very large-scale efficiencies. Investors of all kinds generally benefit by investing in large co-mingled pools. Even within large pools, however, small investors often pay higher fees than larger ones. Investors with more assets to invest may pay lower costs when using mutual funds as investment vehicles.

As with asset management, scale efficiencies often are available with respect to other plan services. For example, the marginal costs of services such as marketing and distribution, account administration, and transaction processing often decrease as customer size increases. Similarly, small pension plans sometimes incur high distribution costs, reflecting commissions paid to agents and brokers who sell investment products to plans. MEPs, as large customers, may enjoy scale efficiencies in the acquisition of such services. It is also possible, however, that the cost to MEPs of servicing many small employer-members may diminish or even offset such efficiencies. Stated differently, MEPs' scale efficiencies may not always exceed the scale efficiencies from other providers of bundled financial services used by small employers that sponsor separate plans. In addition, even if MEPs are able to enjoy scale efficiencies greater than the scale efficiencies available from other providers of bundled financial services, the scale efficiencies of MEPs catering to small businesses would still likely be smaller than the scale efficiencies enjoyed by very large single-employer plans.

By reducing the risk to employers of participating in a MEP, the proposed regulation would allow more MEPs to be established and to pursue scale advantages. It would also extend scale advantages to some existing MEPs that otherwise might have been too small to achieve them and to small employers that absent the proposed regulation would have offered separate plans (or no plans), but that under this proposed regulation may participate in a MEP.

While MEP's scale advantages may be smaller than the scale advantages enjoyed by very large single-employer plans, it nonetheless is illuminating to consider the savings historically enjoyed by the latter. For an illustration of how much investment fees vary based on the amount of assets in a 401(k) plan, see Table 3 in Section 7 of this Regulatory Impact Analysis entitled *Tables.* The table focuses on mutual funds, which are the most common investment vehicle in 401(k) plans, and shows that the average expense ratio is inversely related to plan size. There are some important caveats to interpreting Table 3. The first is that it does not include data for most of the smallest plans since plans with fewer than 100 participants generally are not required to submit audited financial statements with their Form 5500. The second is that there is variation across plans in whether and to what degree the cost of recordkeeping is included in the expense ratios.

Another method for comparing plan size advantages is a broader measure called ''total plan cost'' calculated by BrightScope that includes fees reported on the audited Form 5500. As Table 4 shows, total plan cost yields generally similar results about the cost differences facing small and large plans. Deloitte Consulting LLP, for the Investment Company Institute, conducted a survey of 361 defined contributions plans.[16] The study calculates the ''all-in'' fee that is comparable across plans, and included both administrative and investment fees paid by the plan and participants. Generally, small plans with 10 or fewer participants are paying approximately 50 basis points more than plans with more than 1,000 participants. Generally, small plans with 10 or fewer participants are paying about 90 basis points more than large plans with more than 50,000 participants.

The research studies described under this heading, *Reduced Fees and Administrative Costs,* show that small plans and their participants generally pay higher fees than large plans and their participants. Because this rule would give many small employers the incentive to join a MEP, some of which may become very large plans, many of these employers would likely incur lower fees. Many employers that are not currently offering any retirement plan may join a MEP, leading their employees to save for retirement. Many employers already sponsoring a retirement plan might decide to join a MEP instead. If there are lower fees in the MEPs than in their previous plans,

[16] Deloitte Consulting and Investment Company Institute, ''Inside the Structure of Defined Contribution/401(k) Plan Fees, 2013: A Study Assessing the Mechanics of the 'All-in' Fee'' (Aug. 2014) (available at *https://www2.deloitte.com/content/dam/Deloitte/us/Documents/human-capital/us-cons-401k-fee-study-2013-082014.pdf*).

those lower fees would translate into higher savings.

c. Reduced Reporting and Audit Costs

The potential for MEPs to enjoy reporting cost savings merits separate attention because this potential is shaped not only by economic forces, but also the reporting requirements applicable to different plans. On the one hand, a MEP, as a single ERISA plan, can file a single report and conduct a single audit, while separate plans may be required to file separate reports and conduct separate audits. On the other hand, a MEP, as a large plan generally is subject to more stringent reporting and audit requirements than a small plan, which likely files no or streamlined reports and undergoes no audits. With respect to reporting and audits, MEPs may offer more savings to medium-sized employers (with 100 or more retirement plan participants) that are already subject to more stringent reporting and audit requirements than to small employers. Small employers that otherwise would have fallen outside of reporting and audit requirements sometimes would incur slightly higher costs by joining MEPs. This cost increase may still be offset by benefits described in other sections. From a broader point of view, if auditing becomes more prevalent because small employers join MEPs, that would lead to more and better quality data that would improve security for employers, participants and beneficiaries.

Sponsors of ERISA-covered retirement plans generally must file a Form 5500 annually, with all required schedules and attachments. The cost burden incurred to satisfy the Form 5500 related reporting requirements varies by plan type, size and complexity. Analyzing the 2016 Form 5500 filings, the Department of Labor estimates that the average cost to file the Form 5500 is as follows: $276 per filer for small (generally less than 100 plan participants) single-employer defined contribution plans eligible for Form 5500–SF; $437 per filer for small single-employer defined contribution plans not eligible to file Form 5500–SF; and $1,686 per filer for larger (generally 100 participants or more) single-employer defined contribution plans, plus the cost of an audit.

Additional schedules and reporting may be required for large and complex plans. For example, large retirement plans are required to attach auditor's reports to their Form 5500. Most small plans are not required to obtain or attach such reports. Hiring an auditor and obtaining an audit report can be costly for plans, and audit fees may increase as plans get larger or if plans are more complex. A recent report states that the fee to audit a 401(k) plan ranges between $6,500 and $13,000.[17]

If an employer joins a MEP, it may save some costs associated with filing Form 5500 and fulfilling audit requirements to the extent the MEP is considered a single plan under ERISA. Thus, one Form 5500 and audit report would satisfy the reporting requirements, and each participating employer would not need to file its own, separate Form 5500 and, for large plans or those few small plans that do not meet the small plan audit waiver, an audit report. Assuming reporting costs are shared by participating employers within a MEP, an employer joining a MEP can save virtually all the reporting costs discussed above. Large plans may enjoy even higher cost savings if audit costs are taken into account.

It is less clear whether the self-employed would experience similar reporting cost savings by joining a MEP. The Department of Labor estimated these potential cost savings by comparing the reporting costs of an employer that participates in a MEP rather than sponsoring its own plan. However, several retirement savings options are already available for self-employed persons, and most have minimal or no reporting requirements. For example, both SEP IRA and SIMPLE IRA plans are available for small employers and the self-employed and neither option requires Form 5500 filings. Solo 401(k) plans are also available for self-employed persons, and they may be exempt from the Form 5500–EZ reporting requirement if plan assets are less than $250,000. Thus, if self-employed individuals join a MEP, they would be unlikely to realize reporting cost savings. In fact, it is possible that their reporting costs may slightly increase, because the self-employed would share reporting costs with other MEP participating employers that they would otherwise not incur.[18]

d. Reduced Bonding Costs

The potential for bonding cost savings in MEPs merits separate attention. As noted above, ERISA section 412 and related regulations generally require every fiduciary of an employee benefit plan and every person who handles funds or other property of such a plan to be bonded. ERISA's bonding requirements are intended to protect employee benefit plans from risk of loss due to fraud or dishonesty on the part of persons who handle plan funds or other property, generally referred to as plan officials. A plan official must be bonded for at least 10 percent of the amount of funds he or she handles, subject to a minimum bond amount of $1,000 per plan with respect to which the plan official has handling functions. In most instances, the maximum bond amount that can be required under ERISA with respect to any one plan official is $500,000 per plan; however, the maximum required bond amount is $1,000,000 for plan officials of plans that hold employer securities.[19]

Under the proposed regulation, MEPs generally might enjoy lower bonding costs than would an otherwise equivalent collection of small, separate plans, for two reasons. First, it might be less expensive to buy one bond covering a large number of individuals who handle plan funds than a large number of bonds covering the same individuals separately or in small, more numerous groups. Second, the number of people handling plan funds and therefore subject to ERISA's bonding requirement in the context of a MEP may be smaller than in the context of an otherwise equivalent collection of smaller, separate plans.

e. Increased Retirement Savings

The various effects of this rule, if finalized, may lead in aggregate to increased retirement savings. As discussed above, many employees would likely go from not having any access to a retirement plan to having access through a MEP. This has the potential to result in an increase in retirement savings, on average, for this group of employees. While some employees may choose not to participate, surveys indicate that a large number would participate. For a defined contribution pension plan, about 73 percent of all employees with access

[17] See *https://www.thayerpartnersllc.com/blog/the-hidden-costs-of-a-401k-audit.* However, in a comment letter received by the Department of Labor in response to its October 23, 2018 (83 FR 53534), proposed rule clarifying the circumstances under which an employer group or association or PEO may sponsor a MEP, an association reported that the cost of its MEP audit was $24,000. See comment letter #6 Employers Association of New Jersey, EANJ at *https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB88/00006.pdf.*

[18] However, self-employed participants, like all participants in small plans, would benefit from these enhanced audit and reporting requirements.

[19] See DOL Field Assistance Bulletin 2008–04, *https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins/2008-04.*

participate in the plan.[20] Among employees whose salary tends to be in the lowest 10 percent of the salary range, this figure is about 40 percent.[21] One reason that these take-up rates are relatively high is that many plans use automatic enrollment to enroll newly hired employees, as well as, sometimes existing employees. Automatic enrollment is particularly prevalent among large plans; in 2017 about 74 percent of plans with 1,000–4,999 participants used automatic enrollment, while only about 27 percent of plans with 1–49 participants did.[22]

Some workers may be saving in an IRA, either in an employer-sponsored IRA, payroll deduction IRA, or on their own. If they begin participating in a MEP 401(k), they would have the opportunity to take advantage of higher contribution limits, and some individuals may begin receiving employer contributions when participating in a MEP when they did not previously.

In general, MEPs may offer participants a way to save for retirement with lower overall costs. In particular, the fees are likely to be lower than in most small plans and in retail IRAs. The savings in fees would result in higher investment returns and thus higher retirement savings.

f. Increased Labor Market Efficiency

The increased prevalence of MEPs would allow small employers the opportunity to offer retirement benefits that are comparable to what large employers provide. Since employees value retirement benefits, this development would tend to shift talented employees toward small businesses. Moreover, certain groups such as secondary earners in high income families who have high marginal tax rates, and therefore larger benefits from tax-preferred savings, might now be more inclined to work for small businesses as those businesses might now offer a retirement plan. Such shifts would make small businesses more competitive. The ensuing reallocation of talent across different sectors of the economy would increase efficiency.

5. Costs

While the proposed regulation effectively lowers the cost of participation in a MEP among employers, the rule may also lead to increased levels of noncompliance. For example, the section 413(c) plan administrator may become less diligent about ensuring that participating employers within a MEP are responsible employers. By potentially increasing noncompliance, the proposed regulation would impose new costs on section 413(c) plan administrators who are ultimately responsible for managing unresponsive employers. In particular, for a plan to maintain its tax-favored status, the section 413(c) plan administrator is required to send notice to an unresponsive employer giving it 90 days to remedy the situation. If the unresponsive employer fails to comply, the plan administrator must send a second notice and then a final notice if the unresponsive employer still fails to comply after specified time periods. In the event of the initiation of the spinoff process, in which assets associated with an unresponsive employer are separated into a new plan that is then terminated, additional costs from the resulting compliance measures will be incurred by the section 413(c) plan administrator, who among other things is tasked with notifying all impacted participants and beneficiaries. These additional costs may be directly passed on to unresponsive employers. However, it's possible that section 413(c) plan administrators may spread these costs across all participating employers that would either absorb or pass those costs on to their employees.

The proposed regulation may also indirectly lead to an increase in investment fees by increasing uncertainty in the size of a MEP's asset pool. For example, a plan may shrink considerably when assets of an unresponsive participating employer are spun off depending on that employer's share of the total asset pool. Since the cost savings in investment fees is derived from economies of scale, introducing uncertainty in plan size might induce management companies to increase prices to account for that risk. This cost would likely be spread across all employers participating in the MEP that might then pass those costs on to their employees.

More general concerns pertaining to MEPs include their potential for abuse, such as fraud, mishandling of plan assets, or charging excessive fees.[23] Relative to single-employer plans, MEPs may be more susceptible to abuse since coordination across participating employers may lead to confusion regarding each individual firm's fiduciary responsibilities. On the other hand, the enhanced disclosure and audit requirements applicable to large plans, together with the increased number of employers participating in a plan, might call attention to abuses that would have otherwise gone unnoticed had a small employer established its own plan.

6. Regulatory Alternatives

The Treasury Department and the IRS considered alternatives to the proposed regulation. One alternative would have been to extend the proposed regulations to include defined benefit MEPs. However, this alternative was rejected because defined benefit plans raise additional issues, including issues arising from the minimum funding requirements and spinoff rules, such as the treatment in such a spinoff of any plan underfunding or overfunding. Commenters are asked, in the Comments and Requests for Public Hearing section of the preamble, to address those issues, as well as the circumstances in which the exception to the unified plan rule should be available to defined benefit plans.

The Treasury Department and the IRS also considered whether the proposed regulation should include a more streamlined process for a section 413(c) plan administrator to satisfy the requirements for the exception to the unified plan rule. However, the notice requirements are intended to ensure that the affected participating employers and their employees are aware of the adverse consequences if the unresponsive participating employer neither takes appropriate remedial action nor initiates a spinoff, and the timing requirements are intended to give the unresponsive participating employer an adequate opportunity to take that remedial action or initiate a spinoff. These procedural requirements strike a balance between providing protection for unresponsive participating employers and their employees and not unduly burdening defined contribution MEPs. In the Comments and Requests for Public Hearing section of the preamble, commenters are asked to address whether the regulations should add mechanisms to avoid the potential for repetitive notices, as well as whether additional procedures should be added to facilitate the resolution of disputes between a section 413(c) plan administrator and an unresponsive participating employer.

[20] U.S. Bureau of Labor Statistics, National Compensation Survey, Employee Benefits in the U.S. (March 2018).

[21] Id.

[22] Plan Sponsor Council of America, ''61st Annual Survey of Profit Sharing and 401(k) Plans, Reflecting 2017 Plan Experience'' (2018), Table 111.

[23] (83 FR 53534) (October 23, 2018).

7. Tables

TABLE 1—RETIREMENT PLAN COVERAGE BY EMPLOYER SIZE

Establishment size: Number of workers	Workers		Establishments
	Share with access to a retirement plan (%)	Share participating in a retirement plan (%)	Share offering a retirement plan (%)
1–49	49	34	45
50–99	65	46	75
100–499	79	58	88
500+	89	76	94
All	66	50	48

Source: These statistics apply to private industry. U.S. Bureau of Labor Statistics, National Compensation Survey, Employee Benefits in the U.S. (March 2018).

TABLE 2—CURRENT STATISTICS ON MEPS

	Number of MEPs	Total participants	Active participants	Total assets
MEP Defined Contribution Plans	4,630	4.4 million	3.7 million	$181 billion.
As a share of all ERISA Defined Contribution Plans	0.7%	4.4%	4.6%	3.2%.
MEP Defined Contribution Plans	4,630	4.4 million	3.7 million	$181 billion.
401(k) Plans	4,391	4.1 million	3.4 million	$166 billion.
Other Defined Contribution Plans	239	0.4 million	0.3 million	$15 billion.

Source: The Department of Labor performed these calculations using the 2016 Research File of Form 5500 filings. The estimates are weighted and rounded, which means they may not sum precisely. These estimates were derived by classifying a plan as a MEP if it indicated ''multiple employer plan'' status on the Form 5500 Part 1 Line A and if it did not report collective bargaining.

TABLE 3—AVERAGE EXPENSE RATIOS OF MUTUAL FUNDS IN 401(k) PLANS IN BASIS POINTS, 2015

Plan assets	Domestic equity mutual funds	International equity mutual funds	Domestic bond mutual funds	International bond mutual funds	Target date mutual funds	Balanced mutual funds (non-target date)
$1M–$10M	81	101	72	85	79	80
$10M–$50M	68	85	59	77	68	64
$50M–$100M	55	72	44	66	54	50
$100M–$250M	52	68	40	64	55	45
$250M–$500M	49	63	36	67	50	42
$500M–$1B	45	60	33	65	50	39
More than $1B	36	52	26	65	48	32

Source: Average expense ratios are expressed in basis points and asset-weighted. The sample includes plans with audited 401(k) filings in the BrightScope database for 2015 and comprises 15,110 plans with $1.4 trillion in mutual fund assets. Plans were included if they had at least $1 million in assets and between 4 and 100 investment options. BrightScope/ICI, ''The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2015'' (March 2018).

TABLE 4—LARGER PLANS TEND TO HAVE LOWER FEES OVERALL

Plan assets	Total plan cost (in basis points)		
	10th Percentile	Median	90th Percentile
$1M–$10M	75	111	162
$10M–$50M	61	91	129
$50M–$100M	37	65	93
$100M–$250M	22	54	74
$250M–$500M	21	48	66
$500M–$1B	21	43	59
More than $1B	14	27	51

Source: Data is plan-weighted. The sample is plans with audited 401(k) filings in the BrightScope database for 2015, which comprises 18,853 plans with $3.2 trillion in assets. Plans were included if they had at least $1 million in assets and between 4 and 100 investment options. BrightScope/ICI, ''The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans, 2015'' (March 2018).

II. Paperwork Reduction Act

The collection of information in these proposed regulations is in: § 1.413–2(g)(3)(i)(B) (requirement to adopt plan language); § 1.413–2(g)(4) (requirement to provide notice with respect to a participating employer failure); § 1.413–2(g)(7)(i)(C) (requirement that spun-off plan have the same substantive terms as MEP); and § 1.413–2(g)(7)(i)(A) (requirement to provide notice of a spinoff-termination). The collection of information contained in proposed § 1.413–2(g) will be carried out by plan administrators of defined contribution MEPs seeking to satisfy the conditions for the exception to the unified plan rule. The collection of information in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

1. Plan Amendment Adoption Requirement, § 1.413–2(g)(3)(i)(B)

Section 1.413–2(g)(3)(i)(B) states that as a condition of the exception to the unified plan rule, a defined contribution MEP must be amended to include plan language that describes the procedures that would be followed to address participating employer failures, including the applicable procedures that apply if an unresponsive participating employer does not respond to the section 413(c) plan administrator's requests to remedy the failures.

A defined contribution MEP will not be eligible for the exception to the unified plan rule if it does not satisfy this plan-language requirement. Without it, the defined contribution MEP will not be able to avail itself of the exception to the unified plan rule, and will continue to be at risk of disqualification due to the actions or inactions of a single unresponsive participating employer. Since only one amendment is required, this is a one-time paperwork burden for each defined contribution MEP. In addition, after final regulations are issued, the IRS intends to publish a model plan amendment, which will help to minimize the burden.

We estimate that the burden for this requirement under the Paperwork Reduction Act of 1995 will be three hours per defined contribution MEP. Given the size of the burden and the potential benefits of satisfying the exception to the unified plan rule, we estimate that approximately 80 percent of defined contribution MEPs (3,704 MEPs [24]) will amend their plans to satisfy this condition. Therefore, the total burden of this requirement is estimated to be 11,112 hours (3,704 defined contribution MEPs times three hours). However, because each defined contribution MEP that adopts an amendment will do so on a one-time basis, to determine an annual estimate, the total time is divided by three, or 3,704 hours annually (3,704 defined contribution MEPs times one hour).

2. Notice Requirements, § 1.413–2(g)(4)

Notice is another condition of the exception to the unified plan rule. The proposed regulations would require a section 413(c) plan administrator to send up to three notices informing the unresponsive participating employer of the participating employer failure and the consequences if the employer fails to take remedial action or initiate a spinoff from the defined contribution MEP. After each notice is provided, the employer has 90 days to take appropriate remedial action or initiate a spinoff from the defined contribution MEP. If the employer takes those actions after the first or second notice is provided, subsequent notices are not required. Thus, it is possible that a section 413(c) plan administrator will send fewer than three notices to an employer. However, because the notice requirements only apply if an employer has already been unresponsive to the section 413(c) plan administrator's requests, we have estimated that in most cases, all three notices will be provided.

We estimate that the burden of preparing the three notices will be three hours. Most of this burden relates to the first notice, which must describe the qualification failure and the potential consequences if the employer fails to take action to address it. The burdens of preparing the second and third notices are expected to be relatively insignificant, given that these notices must generally repeat the information that was included in the first notice. We estimate that approximately 33.3 percent of all defined contribution MEPs (1,542 defined contribution MEPs) have or will have an unresponsive participating employer, necessitating the sending of these notices on an annual basis. Therefore, we estimate a burden of 4,626 hours (1,542 defined contribution MEPs times three hours). We expect to be able to adjust these estimates based on experience after the regulations are finalized.

Section 1.413–2(g)(4) also includes the burden of notice distribution. All three notices must be sent to the unresponsive participating employer. The third notice will also be provided to plan participants who are employees of the unresponsive participating employer and to the Department of Labor. We estimate that, on average, a section 413(c) plan administrator will send the third notice to approximately 50 recipients (employees of the unresponsive participating employer, the employer, and the Department of Labor). We expect that the burden of distributing these notices will be two hours per defined contribution MEP, for a total burden of 3,084 hours (1,542 defined contribution MEPs times two hours).

3. Terms of Spun-Off Plan, § 1.413–2(g)(7)(i)(C)

After the third notice is provided, § 1.413–2(g)(7)(i)(C) requires a section 413(c) plan administrator to implement a spinoff of the plan assets attributable to employees of an unresponsive participating employer. The assets must be spun-off into a separate plan that has the same substantive plan terms as the defined contribution MEP. We estimate that in a given year, a spinoff-termination for an unresponsive participating employer will be made with respect to 20 percent of all defined contribution MEPs (926 defined contribution MEPs therefore will be subject to this requirement). We also estimate that the burden associated with the requirement to create a spinoff plan will be 10 hours. Therefore, the total burden is estimated to be 9,260 hours (926 defined contribution MEPs times 10).

4. Notice of Spinoff-Termination, § 1.413–2(g)(7)(i)(A)

A section 413(c) plan administrator implementing a spinoff-termination pursuant to § 1.413–2(g)(7) must provide notification of the spinoff-termination to participants who are employees of the unresponsive employer. This notice requirement is in § 1.413–2(g)(7)(i)(A). We estimate that in a given year, 20 percent of all defined contribution MEPs (926 defined contribution MEPs) will implement a spinoff-termination of an unresponsive participating employer, and notice to participants will need to be provided with respect to those spinoff-terminations.

Using the same numbers as the estimates for notice requirements under § 1.413–2(g)(4), we estimate that for a defined contribution MEP that uses the

[24] This calculation uses data from the 2016 Form 5500, ''Annual Return/Report of Employee Benefit Plan.'' As noted earlier, these filings indicate that there are approximately 4,630 defined contribution MEPs.

exception to the unified plan rule, approximately 50 notices of a spinoff-termination will need to be sent to participants who are employees of the unresponsive participating employer (and their beneficiaries). We also estimate that the total burden for this requirement is five hours. Based on this number, we estimate that the burden of preparing and distributing the notices will be 4,630 hours (926 defined contribution MEPs times five hours).

5. Reporting Spinoff or Spinoff-Termination to IRS, §§ 1.413–2(g)(6)(ii) and (g)(7)(iv)

Any spinoff or spinoff-termination from a defined contribution MEP under the proposed regulations must be reported to the IRS (in accordance with forms, instructions, and other guidance). Because the IRS anticipates issuing a new form or revising an existing form for this purpose, the estimated reporting burden associated with proposed §§ 1.413–2(g)(6)(ii) and (g)(7)(iv) will be reflected in the reporting burden associated with those forms, and therefore is not included here.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP; Washington, DC 20224. Comments on the collection of information should be received by September 3, 2019. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

Estimated total average annual recordkeeping burden: 25,304 hours.

Estimated average annual burden per response: Between 7 and 27 hours.

Estimated number of recordkeepers: 926 to 3,704.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposal is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed rule. The Treasury Department and the IRS have not determined whether the proposed rule, when finalized, will likely have a significant economic impact on a substantial number of small entities. The determination of whether creating an exception to the unified plan rule for defined contribution MEPs will have a significant economic impact requires further study. However, because there is a possibility of significant economic impact on a substantial number of small entities, an IRFA is provided in these proposed regulations. The Treasury Department and the IRS invite comments on both the number of entities affected and the economic impact on small entities.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel of Advocacy of the Small Business Administration for comment on its impact on small business.

1. Need for and Objectives of the Rule

As discussed earlier in this preamble, under the unified plan rule, the failure of one employer participating in a MEP to satisfy a qualification requirement or to provide information needed to determine compliance with a qualification requirement puts the tax-favored status of the entire MEP at risk. By creating an exception to the unified plan rule, the proposed rule would ensure that, in certain circumstances, compliant participating employers will continue to maintain a qualified plan. Offering a workplace retirement plan is a valuable tool for small businesses in recruiting and retaining employees. By retaining tax-favored status in a defined contribution MEP, participating employers will continue to be able to offer a workplace retirement plan for their employees.

The proposed rule is expected to encourage the establishment of new defined contribution MEPs, as well as increase the participation of employers in existing defined contribution MEPs, in accordance with Executive Order 13847 and the policy of expanding workplace retirement plan coverage. MEPs are an efficient way to reduce costs and complexity associated with establishing and maintaining defined contribution plans, which could encourage more plan formation and broader availability of more affordable workplace retirement savings plans, especially among small employers and certain working owners. Thus, the Treasury Department and the IRS intend and expect that the proposed rule would deliver benefits primarily to the employees of many small businesses and their families, as well as, many small businesses themselves.

2. Affected Small Entities

The Small Business Administration estimates in its 2018 Small Business Profile that 99.9 percent of United States businesses meet its definition of a small business.[25] The applicability of these proposed regulations does not depend on the size of the business, as defined by the Small Business Administration. The Treasury Department and the IRS expect that the smallest businesses, those with less than 50 employees, are most likely to benefit from the savings derived from retaining tax-favored status in a defined contribution MEP, as well as increasing participation in defined contribution MEPs, which are expected to occur as a result of the proposed rule. In Section 7 of the Regulatory Impact Analysis, see Table 1, which provides statistics on retirement plan coverage by the size of the employer. These same types of employers, which are disproportionately small businesses, are

[25] The Small Business Administration, Office of Advocacy, 2018 Small Business Profile. *https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf.* Last accessed 03/28/2019. For purposes of the 2018 Small Business Profile, small businesses are defined as firms employing fewer than 500 employees.

more likely to participate in a workplace retirement plan after the proposed rule is finalized. The proposed rule will also affect small entities that participate in MEPs at the time the rule is finalized.

3. Impact of the Rule

Under the existing unified plan rule, a MEP may be disqualified due to the actions of one unresponsive participating employer. Upon disqualification, employers participating in a MEP and their employees would lose the tax benefits of participating in a qualified retirement plan (deduction for contributions, exclusion of investment returns, and deferred income recognition for employees). By creating an exception to the unified plan rule, the proposed regulation would allow a defined contribution MEP to remain qualified and thereby retain tax-favored benefits for participating employers and their employees. For example, if a defined contribution MEP that would have otherwise been disqualified satisfies the conditions for the exception to the unified plan rule, small entities that participate in the MEP will be able to continue to make contributions to the defined contribution MEP that are deductible under section 404(a)(3).

In addition, as previously stated in the Special Analysis section of this preamble, this proposed rule could potentially result in an expansion of defined contribution MEPs, which could create a more affordable option for retirement savings coverage for many small businesses, thereby potentially yielding economic benefits for participating employers and their employees. Some advantages of a workplace retirement plan (including 401(k) plans, SEP–IRAs, and SIMPLE IRAs) over IRA-based savings options outside the workplace include: (1) Higher contribution limits; (2) potentially lower investment management fees, especially in larger plans; (3) a well-established uniform regulatory structure with important consumer protections, including qualification requirements relating to protected benefits, vesting, disclosures, and spousal protections; (4) automatic enrollment; and (5) stronger protections from creditors. At the same time, workplace retirement plans provide employers with choice among plan features and the flexibility to tailor retirement plans that meet their business and employment needs.

The ERISA recordkeeping and reporting requirements could decrease for some small employers that would have maintained a single-employer defined contribution plan but instead join a defined contribution MEP. This includes costs associated with filing Form 5500 and fulfilling audit requirements to the extent a MEP is considered a single plan under ERISA. Thus, one Form 5500 and audit report would satisfy the reporting requirements, and each participating employer would not need to file its own, separate Form 5500 and, for large plans or those few small plans that do not meet the small plan audit waiver, an audit report.

The cost savings of an employer participating in a defined contribution MEP may be partially offset by the costs of complying with the conditions for the exception to the unified plan rule, including new recordkeeping and reporting requirements. Additional costs from these actions will be incurred by the section 413(c) plan administrator, who among other things is tasked with adopting plan language (§ 1.413–2(g)(3)(i)(B)), providing notice concerning a participating employer failure to unresponsive participating employers, participants, beneficiaries, and the Department of Labor (§ 1.413–2(g)(4)), notifying participants and beneficiaries of a spinoff-termination (§ 1.413–2(g)(7)(ii)), and implementing a spinoff of the MEP assets related to an unresponsive participating employer and creating a spun-off plan document (§ 1.413–2(g)(7)(i)). Although the Treasury Department and the IRS do not have sufficient data to determine precisely the likely extent of the increased costs of compliance, the estimated burden of complying with the recordkeeping and reporting requirements are described in the *Paperwork Reduction Act* section of the preamble. While the burdens associated with the recordkeeping and reporting requirements are imposed on the defined contribution MEP and not the participating employers, those additional costs may be directly passed on to participating employers.

Another partial offset to the cost savings is the potential for an unresponsive participating employer to have its participation in a MEP terminated as a result of the MEP's compliance with these proposed regulations. The proposed regulations state that if an unresponsive participating employer fails to take appropriate remedial action to correct a qualification failure, one of the following actions must occur in order for the MEP to meet the conditions for the exception to the unified plan rule: (a) A spinoff initiated by the unresponsive participating employer and implemented by the section 413(c) plan administrator or (b) a spinoff-termination pursuant to plan terms. The Treasury Department and the IRS anticipate that compared to the number of small entities that will benefit from these proposed rules, relatively few employers will have their plans spun-off or spun-off and terminated.

As previously stated in the Regulatory Impact Analysis of this preamble, the Treasury Department and the IRS considered alternatives to the proposed regulations. One of the conditions that a defined contribution MEP must satisfy in order to be eligible for the exception to the unified plan rule is that the section 413(c) plan administrator provides notice and an opportunity for the unresponsive participating employer to take action with respect to the participating employer failure. The proposed regulations would require that the section 413(c) plan administrator provide up to three notices to the unresponsive participating employer, informing the employer (and in some cases, participants and the Department of Labor) of the participating employer failure and the consequences for failing to take remedial action or initiate a spinoff from the defined contribution MEP. After each notice is provided, the unresponsive participating employer has 90 days to take appropriate remedial action or initiate a spinoff from the defined contribution MEP. For more information about the notice requirements, see Section II.B of the Explanation of Provisions in this preamble.

In addition to the alternatives discussed in the Regulatory Impact Analysis of this preamble, the Treasury Department and the IRS considered whether the proposed regulations should reduce the number of notices or the timing between providing notices in order for a section 413(c) plan administrator to satisfy this condition for the exception to the unified plan rule. The notice and accompanying timing requirements were provided for because the notice procedures are intended to ensure that an unresponsive participating employer and its employees are aware of the adverse consequences if the employer neither takes appropriate remedial action nor initiates a spinoff, and the timing requirements are intended to give the unresponsive participating employer sufficient time to take that remedial action or initiate a spinoff. The Treasury Department and the IRS believe that, given the adverse consequences of a spinoff-termination to plan participants, the notice and accompanying timing requirements strike a balance between providing protection for unresponsive participating employers and their

employees and not unduly burdening the section 413(c) plan administrators in defined contribution MEPs. In the Comments and Requests for Public Hearing section of the preamble, commenters are asked to address whether the regulations should add mechanisms to avoid the potential for repetitive notices, as well as whether additional procedures should be added to facilitate the resolution of disputes between a section 413(c) plan administrator and an unresponsive participating employer.

4. Duplicate, Overlapping, or Relevant Federal Rules

The proposed rule would not conflict with any relevant federal rules. As discussed above, the proposed rule would merely create an exception to the unified plan rule for defined contribution MEPs.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the Treasury Department and the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. Comments specifically are requested on the following topics:

- The circumstances, if any, in which the exception to the unified plan rule should be available to defined benefit plans (taking into account issues arising from the minimum funding requirements and spinoff rules for defined benefit plans, including the treatment in such a spinoff of any plan underfunding or overfunding).
- Whether the regulations should include additional requirements for MEPs to be eligible for the exception to the unified plan rule, including additional procedures to facilitate the resolution of disputes between a section 413(c) plan administrator and an unresponsive participating employer.
- Whether the regulations should add appropriate mechanisms to avoid the potential for repetitive notices or to shorten the notice period for a potential qualification failure that becomes a known qualification failure. Those mechanisms might include, for example, treating the first notice that the section 413(c) plan administrator provided in connection with the potential qualification failure as satisfying the requirement to provide the first notice in connection with the known qualification failure, with appropriate modification of the second and third notices.
- For purposes of a spinoff, how to treat participants who have a single account with assets attributable to service with the unresponsive participating employer and one or more other participating employers, or who have a separate rollover account that is not attributable to service with the unresponsive participating employer.
- What additional guidance should be provided on terminating a plan in the case of a spinoff-termination. This might include, for example, rules that are similar to the relief provided in section 4, Q&A–1, of Rev. Proc. 2003–86, 2003–2 C.B. 1211, that any other plan maintained by an unresponsive participating employer will not be treated as an alternative plan under § 1.401(k)–1(d)(4)(i) for purposes of the ability to make distributions upon termination of the spun-off plan. It might also address the § 1.411(a)–11(e)(1) rules for distributions upon plan termination
- Whether there are any studies that would help to quantify the impact of the proposed regulations.

Also, consistent with the Executive Order, comments are specifically requested on any steps that the Secretary of Labor should take to facilitate the implementation of these proposed regulations. The Department of Labor has informed the Treasury Department and the IRS that a section 413(c) plan administrator implementing a spinoff-termination may have concerns about its fiduciary responsibility both to the MEP and to the spun-off plan, as well as potential prohibited transaction issues. Commenters are encouraged to provide feedback on these issues and address the need for additional interpretive guidance or prohibited transaction exemptions from the Department of Labor to facilitate the implementation of these regulations.[26] Copies of comments on these topics will be forwarded to the Department of Labor.

All comments will be available for public inspection and copying at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Jamie Dvoretzky and Pamela Kinard, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.413–2 is amended by:

■ 1. Removing paragraph (a)(3)(iv).

■ 2. Adding and reserving paragraphs (e) and (f).

■ 3. Adding paragraph (g).

The additions read as follows:

§ 1.413–2 Special rules for plans maintained by more than one employer.

* * * * *

(e) [Reserved]

(f) [Reserved]

(g) *Qualification of a section 413(c) plan*—(1) *General rule.* Except as provided in paragraph (g)(2) of this section, the qualification of a section 413(c) plan under section 401(a) or 403(a), taking into account the rules of section 413(c) and this section, is determined with respect to all participating employers. Consequently, the failure by one participating employer (or by the plan itself) to satisfy an applicable qualification requirement will result in the disqualification of the section 413(c) plan for all participating employers.

(2) *Exception to general rule for participating employer failures*—(i) *In general.* A section 413(c) plan that is a defined contribution plan will not be disqualified on account of a participating employer failure, provided that the following conditions are satisfied—

(A) The section 413(c) plan satisfies the eligibility requirements of paragraph (g)(3) of this section;

(B) The section 413(c) plan administrator satisfies the notice

[26] For an example of this type of interpretative guidance and a related prohibited transaction exemption in the context of a terminating abandoned plan, *see* 29 CFR 2578.1 (establishing procedures for qualified termination administrators to terminate abandoned plans and distribute benefits with limited liability under title I of ERISA) and Prohibited Transaction Exemption 2006–06 (71 FR 20856, Apr. 21, 2006).

requirements described in paragraph (g)(4) of this section;

(C) If the unresponsive participating employer fails to take appropriate remedial action with respect to the participating employer failure, as described in paragraph (g)(5)(ii) of this section, the section 413(c) plan administrator implements a spinoff described in paragraph (g)(2)(ii) of this section; and

(D) The section 413(c) plan administrator complies with any information request that the IRS or a representative of the spun-off plan makes in connection with an IRS examination of the spun-off plan, including any information request related to the participation of the unresponsive participating employer in the section 413(c) plan for years prior to the spinoff.

(ii) *Spinoff.* A spinoff is described in this paragraph (g)(2)(ii) if it satisfies either of the following requirements—

(A) The spinoff is initiated by the unresponsive participating employer, as described in paragraph (g)(5)(iii) of this section, and implemented by the section 413(c) plan administrator, as described in paragraph (g)(6)(ii) of this section; or

(B) The spinoff is a spinoff-termination pursuant to plan terms, as described in paragraph (g)(7) of this section.

(iii) *Definitions.* The following definitions apply for purposes of this paragraph (g):

(A) *Employee.* An employee is a current or former employee of a participating employer.

(B) *Known qualification failure.* A known qualification failure is a failure to satisfy a qualification requirement with respect to a section 413(c) plan that is identified by the section 413(c) plan administrator and is attributable solely to an unresponsive participating employer. For purposes of this paragraph (g)(2)(iii)(B), an unresponsive participating employer includes any employer that is treated as a single employer with that unresponsive participating employer under section 414(b), (c), (m), or (o)).

(C) *Participating employer.* A participating employer is one of the employers maintaining a section 413(c) plan.

(D) *Participating employer failure.* A participating employer failure is a known qualification failure or a potential qualification failure.

(E) *Potential qualification failure.* A potential qualification failure is a failure to satisfy a qualification requirement with respect to a section 413(c) plan that the section 413(c) plan administrator reasonably believes might exist, but the section 413(c) plan administrator is unable to determine whether the qualification requirement is satisfied solely due to an unresponsive participating employer's failure to provide data, documents, or any other information necessary to determine whether the section 413(c) plan is in compliance with the qualification requirement as it relates to the participating employer. For purposes of this paragraph (g)(2)(iii)(E), an unresponsive participating employer includes any employer that is treated as a single employer with that unresponsive participating employer under section 414(b), (c), (m), or (o)).

(F) *Section 413(c) plan administrator.* A section 413(c) plan administrator is the plan administrator of a section 413(c) plan, determined under the rules of section 414(g).

(G) *Unresponsive participating employer.* An unresponsive participating employer is a participating employer in a section 413(c) plan that fails to comply with reasonable and timely requests from the section 413(c) plan administrator for information needed to determine compliance with a qualification requirement or fails to comply with reasonable and timely requests from the section 413(c) plan administrator to take actions that are needed to correct a failure to satisfy a qualification requirement as it relates to the participating employer.

(3) *Eligibility for exception to general rule*—(i) *In general.* To be eligible for the exception described in paragraph (g)(2) of this section, a section 413(c) plan must satisfy the following requirements—

(A) *Practices and procedures.* The section 413(c) plan administrator has established practices and procedures (formal or informal) that are reasonably designed to promote and facilitate overall compliance with applicable Code requirements, including procedures for obtaining information from participating employers.

(B) *Plan language.* The section 413(c) plan document describes the procedures that would be followed to address participating employer failures, including the procedures that the section 413(c) plan administrator would follow if the unresponsive participating employer does not take appropriate remedial action or initiate a spinoff pursuant to paragraph (g)(5) of this section.

(C) *Not under examination.* At the time the first notice described in paragraph (g)(4)(i) of this section is provided to the unresponsive participating employer, the section 413(c) plan is not under examination under the rules of paragraph (g)(3)(ii) of this section.

(ii) *Under examination.* For purposes of this section, a plan is under examination if—

(A) The plan is under an Employee Plans examination (that is, an examination of a Form 5500 series or other examination by the Employee Plans Office of the Tax Exempt and Government Entities Division of the IRS (Employee Plans) (or any successor IRS office that has jurisdiction over qualified retirement plans));

(B) The plan is under investigation by the Criminal Investigation Division of the IRS (or its successor); or

(C) The plan is treated as under an Employee Plans examination under the rules of paragraph (g)(3)(iii) of this section.

(iii) *Certain plans treated as under an Employee Plans examination*—(A) *Notification of pending examination.* For purposes of this section, a plan is treated as under an Employee Plans examination if the section 413(c) plan administrator, or an authorized representative, has received verbal or written notification from Employee Plans of an impending Employee Plans examination, or of an impending referral for an Employee Plans examination. A plan is also treated as under an Employee Plans examination if it has been under an Employee Plans examination and the plan has an appeal pending with the IRS Office of Appeals (or its successor), or is in litigation with the IRS, regarding issues raised in an Employee Plans examination.

(B) *Pending determination letter application*—(*1*) *Possible failures identified by IRS.* For purposes of this section, a section 413(c) plan is treated as under an Employee Plans examination if a Form 5300, ''Application for Determination for Employee Benefit Plan,'' Form 5307, ''Application for Determination for Adopters of Modified Volume Submitter Plans,'' or Form 5310, ''Application for Determination for Terminating Plan'' (or any successor form for one or more of these forms) has been submitted with respect to the plan and the IRS agent notifies the applicant of possible qualification failures, whether or not the applicant is officially notified of an examination. This includes a case in which, for example, a determination letter on plan termination had been submitted with respect to the plan, and an IRS agent notifies the applicant that there are partial termination concerns. In addition, if, during the review process, the IRS agent requests additional information that indicates the existence of a failure not previously

identified by the applicant, then the plan is treated as under an Employee Plans examination (even if the determination letter application is subsequently withdrawn).

(*2*) *Failures identified by determination letter applicant.* For purposes of paragraph (g)(3)(iii)(B)(*1*) of this section, an IRS agent is not treated as notifying a determination letter applicant of a possible qualification failure if the applicant (or the authorized representative) has identified the failure, in writing, to the reviewing IRS agent before the agent recognizes the existence of the failure or addresses the failure in communications with the applicant. For purposes of this paragraph (g)(3)(iii)(B)(*2*), submission of a determination letter application does not constitute an identification of a failure to the IRS.

(C) *Aggregated plans.* For purposes of this section, a plan is treated as under an Employee Plans examination if it is aggregated for purposes of satisfying the nondiscrimination requirements of section 401(a)(4), the minimum participation requirements of section 401(a)(26), the minimum coverage requirements of section 410(b), or the requirements of section 403(b)(12)(A)(i), with any plan that is under an Employee Plans examination. In addition, a plan is treated as under an Employee Plans examination with respect to a failure of a qualification requirement (other than those described in the preceding sentence) if the plan is aggregated with another plan for purposes of satisfying that qualification requirement (for example, section 401(a)(30), 415, or 416) and that other plan is under an Employee Plans examination. For purposes of this paragraph (g)(3)(iii)(C), the term aggregation does not include consideration of benefits provided by various plans for purposes of the average benefits test set forth in section 410(b)(2).

(4) *Notice requirements.* The section 413(c) plan administrator satisfies the notice requirements with respect to a participating employer failure if it satisfies the requirements of this paragraph (g)(4).

(i) *First notice.* The section 413(c) plan administrator must provide notice to the unresponsive participating employer describing the participating employer failure, the remedial actions the employer would need to take to remedy the failure, and the employer's option to initiate a spinoff of plan assets and account balances attributable to participants who are employees of that employer. In addition, the notice must explain the consequences under plan terms if the unresponsive participating employer neither takes appropriate remedial action with respect to the participating employer failure nor initiates a spinoff, including the possibility that a spinoff of assets and account balances attributable to participants who are employees of that employer would occur, followed by a termination of that plan.

(ii) *Second notice.* If, by the end of the 90-day period following the date the first notice described in paragraph (g)(4)(i) of this section is provided, the unresponsive participating employer neither takes appropriate remedial action with respect to the participating employer failure nor initiates a spinoff, then the section 413(c) plan administrator must provide a second notice to the employer. The second notice must be provided no later than 30 days after the expiration of the 90-day period described in the preceding sentence. The second notice must include the information required to be included in the first notice and must also specify that if, within 90 days following the date the second notice is provided, the employer neither takes appropriate remedial action with respect to the participating employer failure nor initiates a spinoff, a notice describing the participating employer failure and the consequences of not correcting that failure will be provided to participants who are employees of the unresponsive participating employer (and their beneficiaries) and to the Department of Labor.

(iii) *Third notice.* If, by the end of the 90-day period following the date the second notice described in paragraph (g)(4)(ii) of this section is provided, the unresponsive participating employer neither takes appropriate remedial action with respect to the participating employer failure nor initiates a spinoff, then the section 413(c) plan administrator must provide a third notice to that employer. The third notice must be provided no later than 30 days after the expiration of the 90-day period described in the preceding sentence. Within this time period, the third notice must also be provided to participants who are employees of that employer (and their beneficiaries) and to the Office of Enforcement of the Employee Benefits Security Administration in the Department of Labor (or its successor office). The third notice must include the information required to be included in the first notice, the deadline for employer action, and an explanation of any adverse consequences to participants in the event that a spinoff-termination occurs, and state that the notice is being provided to participants who are employees of the unresponsive participating employer (and their beneficiaries) and to the Department of Labor.

(5) *Actions by unresponsive participating employer*—(i) *In general.* An unresponsive participating employer takes appropriate remedial action with respect to a participating employer failure for purposes of paragraph (g)(2)(i)(C) of this section if it satisfies the requirements of paragraph (g)(5)(ii) of this section. Alternatively, an unresponsive participating employer initiates a spinoff with respect to a participating employer failure for purposes of paragraph (g)(2)(ii)(A) of this section if the employer satisfies the requirements of paragraph (g)(5)(iii) of this section. The final deadline for an unresponsive participating employer to take one of these actions is 90 days after the third notice is provided. See paragraph (g)(7) of this section for the consequences of the employer's failure to meet this deadline.

(ii) *Appropriate remedial action*—(A) *Appropriate remedial action with respect to potential qualification failure.* An unresponsive participating employer takes appropriate remedial action with respect to a potential qualification failure if the employer provides data, documents, or any other information necessary for the section 413(c) plan administrator to determine whether a qualification failure exists. If the unresponsive participating employer provides this information, the section 413(c) plan administrator determines that, based on this information, a qualification failure exists that is attributable solely to that employer, and the participating employer fails to comply with reasonable and timely requests from the section 413(c) plan administrator to take actions that are needed to correct that qualification failure, then the qualification failure becomes a known qualification failure. In that case, the section 413(c) plan will be eligible for the exception in paragraph (g)(2) of this section with respect to the known qualification failure by satisfying the conditions set forth in paragraph (g)(2) of this section with respect to that known qualification failure, taking into account the rules of paragraph (g)(6)(i) of this section.

(B) *Appropriate remedial action with respect to known qualification failure.* An unresponsive participating employer takes appropriate remedial action with respect to a known qualification failure if the employer takes action, such as making corrective contributions, that corrects, or enables the section 413(c) plan administrator to correct, the known qualification failure.

(iii) *Employer-initiated spinoff.* An unresponsive participating employer initiates a spinoff pursuant to this paragraph (g)(5)(iii) if, after receiving a notice described in paragraph (g)(4) of this section, the employer directs the section 413(c) plan administrator to spin off plan assets and account balances held on behalf of its employees to a separate single-employer plan established and maintained by that employer in a manner consistent with plan terms.

(6) *Actions by section 413(c) plan administrator*—(i) *Rules for a potential qualification failure that becomes a known qualification failure.* For purposes of applying paragraph (g)(2) of this section to a potential qualification failure that becomes a known qualification failure, actions taken (including notices provided) when the failure was a potential qualification failure are not taken into account. For example, a notice that the section 413(c) plan administrator provided in connection with the potential qualification failure would not satisfy the notice requirements for the known qualification failure. However, in determining whether the section 413(c) plan is under examination, as described in paragraph (g)(3)(iii) of this section, as of the date of the first notice describing the known qualification failure, the section 413(c) plan administrator will be treated as providing that notice on the date the first notice was provided with respect to the related potential qualification failure, but only if the following conditions are satisfied—

(A) After determining that a qualification failure exists, the section 413(c) plan administrator makes a reasonable and timely request to the participating employer to take actions that are needed to correct the failure, and

(B) As soon as reasonably practicable after the participating employer fails to respond to that request, the section 413(c) plan administrator provides the first notice described in paragraph (g)(4)(i) of this section with respect to the known qualification failure.

(ii) *Implementing employer-initiated spinoff.* If an unresponsive participating employer initiates a spinoff pursuant to paragraph (g)(5)(iii) of this section by directing the section 413(c) plan administrator to spin off the assets and account balances held on behalf of its employees to a separate single-employer plan established and maintained by the employer, the section 413(c) plan administrator must implement and complete a spinoff of the assets and account balances held on behalf of the employees of the employer that are attributable to their employment by the employer within 180 days of the date on which the unresponsive participating employer initiates the spinoff. The section 413(c) plan administrator must report the spinoff to the IRS (in the manner prescribed by the IRS in forms, instructions, and other guidance).

(7) *Spinoff-termination*—(i) *Spinoff.* If the unresponsive participating employer neither takes appropriate remedial action described in paragraph (g)(5)(ii) of this section nor initiates a spinoff pursuant to paragraph (g)(5)(iii) of this section, then, in accordance with plan language, the section 413(c) plan administrator must take the following steps as soon as reasonably practicable after the deadline described in paragraph (g)(5)(i) of this section—

(A) Send notification of spinoff-termination to participants who are employees of the unresponsive participating employer (and their beneficiaries) as described in paragraph (g)(7)(iii) of this section.

(B) Stop accepting contributions from the unresponsive participating employer;

(C) Implement a spinoff, in accordance with the transfer requirements of section 414(l) and the anti-cutback requirements of section 411(d)(6), of the plan assets and account balances held on behalf of employees of the unresponsive participating employer that are attributable to their employment by that employer to a separate single-employer plan and trust that has the same plan administrator, trustee, and substantive plan terms as the section 413(c) plan; and

(D) Terminate the spun-off plan and distribute assets of the spun-off plan to plan participants (and their beneficiaries) as soon as reasonably practicable after the plan termination date.

(ii) *Termination of spun-off plan.* In terminating the spun-off plan, the section 413(c) plan administrator must—

(A) Reasonably determine whether, and to what extent, the survivor annuity requirements of sections 401(a)(11) and 417 apply to any benefit payable under the plan and take reasonable steps to comply with those requirements (if applicable);

(B) Provide each participant and beneficiary with a nonforfeitable right to his or her accrued benefits as of the date of plan termination, subject to income, expenses, gains, and losses between that date and the date of distribution; and

(C) Notify the participants and beneficiaries of their rights under section 402(f).

(iii) *Contents of the notification of spinoff-termination.* For the notice required to be provided in paragraph (g)(7)(i)(A), the section 413(c) plan administrator must provide information relating to the spinoff-termination to participants who are employees of the unresponsive participating employer (and their beneficiaries), including the following—

(A) Identification of the section 413(c) plan and contact information for the section 413(c) plan administrator;

(B) The effective date of the spinoff-termination;

(C) A statement that no more contributions will be made to the section 413(c) plan;

(D) A statement that as soon as practicable after the spinoff-termination, participants and beneficiaries will receive a distribution from the spun-off plan; and

(E) A statement that before the distribution occurs, participants and beneficiaries will receive additional information about their options with respect to that distribution.

(iv) *Reporting spinoff-termination.* The section 413(c) plan administrator must report a spinoff-termination pursuant to this paragraph (g)(7) to the IRS (in the manner prescribed by the IRS in forms, instructions, and other guidance).

(8) *Other rules*—(i) *Form of notices.* Any notice provided pursuant to paragraph (g)(4) or (g)(7)(i)(A) of this section may be provided in writing or in electronic form. For notices provided to participants and beneficiaries, see generally § 1.401(a)–21 for rules permitting the use of electronic media to provide applicable notices to recipients with respect to retirement plans.

(ii) *Qualification of spun-off plan*—(A) *In general.* In the case of any plan that is spun off in accordance with paragraph (g)(6)(ii) or (g)(7) of this section, any participating employer failure that would have affected the qualification of the section 413(c) plan, but for the application of the exception set forth in paragraph (g)(2) of this section, will be a qualification failure with respect to the spun-off plan.

(B) *Favorable tax treatment upon termination.* Notwithstanding paragraph (g)(8)(ii)(A) of this section, distributions made from a spun-off plan that is terminated in accordance with paragraph (g)(7) of this section will not, solely because of the participating employer failure, fail to be eligible for favorable tax treatment accorded to distributions from qualified plans (including that the distributions will be treated as eligible rollover distributions under section 402(c)(4)), except as

provided in paragraph (g)(8)(ii)(C) of this section.

(C) *Exception for responsible parties.* The IRS reserves the right to pursue appropriate remedies under the Code against any party (such as the owner of the participating employer) who is responsible for the participating employer failure. The IRS may pursue appropriate remedies against a responsible party even in the party's capacity as a participant or beneficiary under the spun-off plan that is terminated in accordance with paragraph (g)(7) of this section (such as by not treating a plan distribution made to the responsible party as an eligible rollover distribution).

(iii) *Additional guidance.* The Commissioner may provide additional guidance in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin, or in forms and instructions, that the Commissioner determines to be necessary or appropriate with respect to the requirements of this paragraph (g).

(9) *Applicability date.* This paragraph (g) applies on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–14123 Filed 7–2–19; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[REG–106877–18]

RIN 1545–BO75

Guidance on the Determination of the Section 4968 Excise Tax Applicable to Certain Private Colleges and Universities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations for determining the excise tax applicable to the net investment income of certain private colleges and universities, as provided by the Tax Cuts and Jobs Act. These regulations affect applicable educational institutions and their related organizations.

DATES: Written or electronic comments and requests for a public hearing must be received by October 1, 2019.

ADDRESSES: Submit electronic submissions via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–106877–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment received to its public docket, whether submitted electronically or in hard copy. Send hard copy submissions to: CC:PA:LPD:PR (REG–106877–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–106877–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Melinda Williams at (202) 317–6172 or Amber L. MacKenzie at (202) 317–4086; concerning submission of comments and request for hearing, Regina L. Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations under section 4968 of the Internal Revenue Code (Code) to amend part 53 of the Excise Tax Regulations (26 CFR part 53). Section 4968 of the Code, added by section 13701 of the Tax Cuts and Jobs Act, Public Law 115–97, 131 Stat. 2054, 2167–68, (2017) (TCJA), imposes on each applicable educational institution, as defined in section 4968(b)(1), an excise tax equal to 1.4 percent of the institution's net investment income, and, as described in section 4968(d), a portion of certain net investment income of certain related organizations, for the taxable year.

Section 4968(b)(1) defines the term ''applicable educational institution'' as an eligible educational institution (as defined in section 25A(f)(2)) which during the preceding taxable year had at least 500 tuition-paying students, more than 50 percent of whom were located in the United States, is not a state college or university as described in the first sentence of section 511(a)(2)(B), and had assets (other than those assets used directly in carrying out the institution's exempt purpose) the aggregate fair market value of which was at least $500,000 per student of the institution.

Section 4968(b)(2) provides that, for purposes of section 4968(b)(1), the number of students of an institution (including for purposes of determining the number of students at a particular location) shall be based on the daily average number of full-time students attending such institution (with part-time students taken into account on a full-time student equivalent basis).

Section 4968(c) provides that, for purposes of section 4968, ''net investment income'' shall be determined under rules similar to the rules of section 4940(c).

Section 4968(d)(1) provides that, for purposes of determining aggregate fair market value of an educational institution's assets not used directly in carrying out its exempt purpose [1] and for purposes of determining an institution's net investment income, the assets and net investment income of any related organization with respect to the institution shall be treated as assets and net investment income, respectively, of the educational institution, with two exceptions. First, no such amount shall be taken into account with respect to more than one educational institution. Second, unless such organization is controlled by such institution or is described in section 509(a)(3) (relating to supporting organizations) with respect to such institution for the taxable year, assets and net investment income which are not intended or available for the use or benefit of the educational institution shall not be taken into account.

Section 4968(d)(2) provides that the term ''related organization,'' with respect to an educational institution, means (1) any organization which controls, or is controlled by, such institution; (2) is controlled by one or more persons that also control such institution; or (3) is a supported organization (as defined in section 509(f)(3)), or a supporting organization (as described in section 509(a)(3)), during the taxable year with respect to the educational institution.

The Conference Report for the TCJA, H. Rept. 115–466, 115th Cong., 1st sess., December 15, 2017 (Conference Report), at 555, states that Congress intended that the Secretary of the Treasury promulgate regulations to carry out the intent of section 4968, including regulations that describe: (1) Assets that are used directly in carrying out an educational institution's exempt

[1] Section 4968(d)(1) erroneously cross references section 4968(b)(1)(C). The correct cross reference should be to section 4968(b)(1)(D). See Joint Committee on Taxation, ''General Explanation of Public Law 115–97'' (JCS–1–18), December 2018, at 290, n. 1357.

purpose; (2) the computation of net investment income; and (3) assets that are intended or available for the use or benefit of an educational institution.

In June 2018, the Treasury Department and the IRS issued Notice 2018–55 (2018–26 I.R.B. 773) (Notice) to provide interim guidance on certain issues related to the application of the tax imposed by section 4968. Specifically, Notice 2018–55 states that, in the case of property held on December 31, 2017, and continuously thereafter to the date of its disposition, the Treasury Department and the IRS intend to propose regulations stating that basis for purposes of determining gain (but not loss) shall be deemed to be not less than the fair market value of such property on December 31, 2017, plus or minus all adjustments after December 31, 2017, and before the date of disposition consistent with the regulations under section 4940(c). The Notice provides that, if the disposition of an asset would result in a capital loss, basis rules that are consistent with the regulations under section 4940(c) will apply. Accordingly, if the value of the asset declines after December 31, 2017, the taxpayer will recognize no gain; however, the taxpayer will recognize a loss only if the proceeds from the sale of the asset are less than the basis of the property as calculated without the special rule in the Notice to increase the basis to fair market value on December 31, 2017. The Notice additionally states that the Treasury Department and the IRS expect the proposed regulations to provide that losses from sales or other dispositions of property generally shall be allowed only to the extent of gains, with no capital loss carryovers or carrybacks, and that losses from sales or other dispositions of property by related organizations will be allowed to offset overall net gains from other related organizations or the applicable educational institution. The Notice provides that applicable educational institutions may rely on the Notice before the issuance of the proposed regulations. Finally, the Notice requests comments on any of the issues addressed in the Notice and on any additional guidance that is needed and whether, and what type of, transitional relief may be necessary.

The Treasury Department and the IRS received two comments in response to Notice 2018–55, which were considered in drafting these proposed regulations. The comments are available at *http://www.regulations.gov* or upon request.

Explanation of Provisions

1. Institutions Subject to the Tax

Section 4968(a) imposes a 1.4 percent excise tax on the net investment income of each applicable educational institution. Section 4968(b) provides that an applicable educational institution is an ''eligible educational institution'' (as defined in section 25A(f)(2)) if: (i) It had at least 500 tuition-paying students during the preceding taxable year; (ii) more than 50 percent of its tuition-paying students are located in the United States; (iii) it is not a state college or university as described in the first sentence of section 511(a)(2)(B); and (iv) the aggregate fair market value of its assets (other than those assets used directly in carrying out the institution's exempt purpose) was at least $500,000 per student of the institution at the end of the preceding taxable year. Section 53.4968–1(a) of these proposed regulations sets forth definitions to determine whether an entity is an applicable educational institution that is subject to the tax.

Although, pursuant to section 4968(a), the tax on net investment income for each taxable year is based on the net investment income of an applicable educational institution for such taxable year, for purposes of determining whether an institution is an ''applicable educational institution'' subject to the tax, section 4968(b) provides that the number of an institution's tuition-paying students and the aggregate fair market value of the institution's assets (and the assets of any related organization) are based on the preceding taxable year's number and value.

A. Eligible Educational Institution Defined in Section 25A(f)(2)

Section 4968(b)(1) defines ''applicable educational institution,'' in part, as an eligible educational institution defined in section 25A(f)(2). In accordance with section 4968(b), the proposed regulations provide that an applicable educational institution must be described in section 25A(f)(2) and the regulations thereunder. Section 25A(f)(2) provides that, for purposes of the allowance of American Opportunity and Lifetime Learning credits, the term ''eligible educational institution'' means an institution (1) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as in effect on the enactment of section 25A (1997), and (2) which is eligible to participate in a program under title IV of the HEA (relating to the United States federal student financial aid programs). The Treasury Department and the IRS anticipate that colleges and universities already know whether they are described in section 25A, but request comments on whether further guidance is needed for purposes of applying section 4968.

B. Student

i. In General

Section 4968(b)(1) defines ''applicable educational institution,'' in part, by reference to the number of its students and the amount of its assets per student. Section 4968 does not define the term ''student.'' However, section 4968(b)(2) does provide that the number of students of an institution shall be based on the daily average number of full-time students attending an institution, with part-time students taken into account on a full-time student equivalent basis. As described in part 1(A) of this Explanation of Provisions section, the definition of the term ''applicable educational institution'' in section 4968(b), which references students in some of its definitional criteria, relies on the definition of ''eligible educational institution'' as defined in section 25A(f)(2).

For purposes of section 25A, the term ''eligible student'' is defined in section 25A(b)(3) to mean a student who (1) meets the requirements of section 484(a)(1) of the HEA (20 U.S.C. 1091(a)(1)), and (2) is carrying at least half the normal full-time work load for the course of study the student is pursuing. Section 484(a)(1) of the HEA (20 U.S.C. 1091(a)(1)) provides that, in order to receive any grant, loan, or work assistance under the general provisions relating to student assistance programs under the HEA, a student must be enrolled or accepted for enrollment in a degree, certification, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of title 20 of the U.S. Code, except as provided in section 1091(b)(3) and (4) of the HEA,[2]

[2] Subsections (b)(3) and (4) of 20 U.S.C. 1091 provide exceptions to section 484(a)(1) of the HEA that allows students to be eligible for certain grant programs even if the student does not qualify under section 484(a)(1). Under the exceptions, the student must be carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and be enrolled in a course of study necessary for enrollment in a program leading to a degree, certificate, professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State.

and not enrolled in an elementary or secondary school.

The Treasury Department and the IRS consider the definition of eligible student under section 25A to be an appropriate basis for the definition of student for purposes of section 4968; however, the requirement found in section 25A(b)(3)(B) that a student must carry at least half the normal full-time work load for the course of study the student is pursuing is not relevant for purposes of section 4968. Section 4968(b)(2) does not contain a requirement that a student must carry at least half the normal full-time work load to be considered a student for purposes of the asset measurement requirement; instead, it states that part-time students are taken into account on a full-time student equivalent basis.

Furthermore, section 4968(b)(2) contains a requirement that the number of students of an institution be based on the daily average number of students attending the institution. Therefore, the Treasury Department and the IRS do not view the portion of the rule found in Section 484(a)(1) of the HEA that is incorporated into the definition of ''student'' in section 25A(b)(3)(B) and includes an individual merely ''accepted for enrollment'' as appropriate to the application of section 4968 since such an individual may not yet be attending the institution.

Accordingly, the proposed regulations generally follow the standard in section 484(a)(1) of the HEA referenced by section 25A(b)(3)(A) to provide that the term ''student'' for section 4968 purposes means a person enrolled in a degree, certification, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an eligible educational institution, and not enrolled in an elementary or secondary school. See proposed § 53.4968–1(a)(3)(i). However, the proposed definition of student does not include individuals merely accepted for enrollment, nor does it contain a requirement that the student have at least half the normal full-time work load. Furthermore, the time limitations in section 25A(b)(2) (such as that the American Opportunity Tax Credit is allowed only for 4 taxable years) are not part of the definition of ''eligible student'' and thus are not incorporated into the definition of student for section 4968 purposes.

Putting together the section 4968(b)(2) requirement that a student be ''attending'' an institution and the proposed definition that a student is an individual enrolled in a degree, certification, or other program leading to a recognized educational credential at an eligible educational institution, in applying the requirements under section 4968(b)(1), the proposed regulations require that a student be both enrolled at and attending the institution. The Treasury Department and the IRS request comments on whether further guidance is needed on the definitions of ''student,'' ''enrolled,'' or ''attending.''

Consistent with section 4968(b)(1)(D), the proposed regulations provide that an educational institution determines the fair market value of assets per student based upon the total number of all students, as defined in proposed § 53.4968–1(a)(3)(i), attending an eligible educational institution, not just the number of tuition-paying students.

ii. Tuition-Paying

Section 4968(b)(1) defines ''applicable educational institution,'' in part, with respect to how many tuition-paying students attend the institution. Specifically, under section 4968(b)(1)(A) an institution must have had at least 500 tuition-paying students during the preceding taxable year, and under 4968(b)(1)(B), more than 50 percent of its tuition-paying students must have been located in the United States. Section 4968 does not define the term ''tuition-paying.''

As described in part 1(A) of this Explanation of Provisions section, section 25A provides certain education credits relating to qualified tuition and related expenses paid by certain eligible students. Section 25A(f)(1) and § 1.25A–2(d) provide, in relevant part, that the term ''qualified tuition and related expenses'' means tuition and fees required for the enrollment or attendance at an eligible educational institution for courses of instruction at such institution. Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

The Treasury Department and the IRS propose to base the definition of ''tuition-paying'' for purposes of section 4968 on the definition of qualified tuition and related expenses that is provided in section 25A(f)(1) and the regulations thereunder, without regard to section 25A(f)(1)(D). Thus, the proposed regulations provide that tuition-paying means the payment of tuition and fees required for the enrollment or attendance of a student for courses of instruction at an eligible educational institution but does not include any separate payment for supplies or equipment required during a specific course once a student is enrolled in and attending the course (for example, art supplies). Tuition-paying also does not include payment of room and board or other personal living expenses, and if a student is required to pay a fee (such as a comprehensive fee or a bundled fee) to an eligible educational institution that combines charges for tuition with charges for personal expenses such as room and board, then the student is a tuition-paying student. The Treasury Department and the IRS note that, notwithstanding the reference to ''enrollment'' for purposes of identifying tuition and fees, the tuition-paying student must also be attending the educational institution for purposes of determining if there are at least 500 tuition-paying students.

For purposes of section 4968, the proposed regulations also provide that whether a student is ''tuition-paying'' is determined after taking into account any scholarships provided directly by the educational institution and any work study programs operated directly by the educational institution. However, scholarship payments provided by third parties, even if administered by the institution, are considered payments of tuition on behalf of the student. Accordingly, a student will be considered a tuition-paying student for purposes of section 4968 if payment of any tuition or a fee is required for the enrollment or attendance of the student for courses of instruction after the application of any scholarships offered directly by the institution or work study program operated directly by the institution.

iii. Located in the United States

Section 4968(b)(1)(B) provides, in part, that at least 50 percent of an applicable educational institution's tuition-paying students attending the institution must have been located in the United States. The statute clearly refers to the location of the students, not the location of the educational institution or an instructor. Accordingly, the proposed regulations provide that a student is considered to have been located in the United States if the student resided in the United States for at least a portion of the time the student attended the educational institution. Like the other requirements of section 4968(b), this measurement is based on the applicable educational institution's preceding taxable year.

For example, a student that attended an educational institution in the preceding taxable year who is citizen of a foreign country is considered to have been a student located in the United

States if the student resided in the United States for at least a portion of the time the student attended the educational institution. Furthermore, a student attending the educational institution in the preceding taxable year who was studying abroad in a foreign country is considered to have been a student located in the United States if the student resided in the United States for at least a portion of the time the student attended the educational institution. However, if a student did not reside in the United States for any portion of the time the student attended the education institution during the preceding taxable year, then that student would not be considered to have been located in the United States for purposes of section 4968(b)(1)(B) (although he or she may still be considered a student for purposes of section 4968(b)(1)(D)). The Treasury Department and the IRS request comments on whether further guidance is needed relating to whether a student is considered to have been located in the United States in a preceding taxable year.

iv. Full-Time Students and Part-Time Equivalents

Section 4968(b)(2) provides, in part, that the number of students of an applicable educational institution (including for purposes of determining the number of students at a particular location) is based on the daily average number of full-time students attending such institution, with part-time students taken into account on a full-time student equivalent basis. Section 4968 does not define the terms ''full-time'' and ''part-time'' for purposes of the full-time equivalent rule in section 4968(b)(2), nor does it provide how to determine a full-time student equivalent or a daily average. Section 1.25A–3(d)(1)(ii) of the Income Tax Regulations provides for section 25A purposes that the standard for what is half the normal full-time work load is determined by each eligible educational institution; however, the standard for half-time may not be lower than the applicable standard for half-time established by the HEA.

Unlike section 25A, section 4968 does not require that a student be carrying at least half the normal full-time work load for the course of study the student is pursuing in order to be considered a student. However, the Treasury Department and the IRS otherwise view the standard provided in § 1.25A–3(d)(1)(ii) as a helpful model in applying the full-time equivalent requirement in section 4968(b)(2) and propose to follow a similar approach.

Accordingly, these proposed regulations provide that, for purposes of section 4968(b)(2), the determinations of full-time students, part-time students, full-time student equivalents, and daily average of students attending the institution are made by each applicable educational institution as long as the determinations are consistent with the institution's practices in determining full-time and part-time status for other purposes. For example, it may be reasonable for an institution to determine that two students, each carrying half a full-time load, are equivalent to one full-time student. However, the standards an institution uses may not be lower than the applicable standards established by the Department of Education under the HEA.

The Treasury Department and the IRS seek comments on whether more specific guidance is required concerning the determination of full-time student, part-time student, full-time equivalent, or daily average number of full-time students attending the institution.

C. Assets Used Directly in Carrying Out an Institution's Exempt Purpose

i. In General

To be included within the definition of applicable educational institution under section 4968(b)(1), an institution must have assets (other than those assets which are used directly in carrying out the institution's exempt purpose) the aggregate fair market value of which is at least $500,000 per student. The phrase ''assets which are used directly in carrying out the institution's exempt purpose'' is not defined in section 4968, but a similar phrase is used in section 4942.

For purposes of section 4942, a private foundation must determine its minimum investment return as part of its calculation of its distributable amount for any taxable year. Minimum investment return is defined in section 4942(e) as 5 percent of the excess of the aggregate fair market value of all assets of the foundation ''other than those which are used (or held for use) directly in carrying out the foundation's exempt purpose,'' over the acquisition indebtedness with respect to such assets.

Since section 4968 contains a phrase similar to the language used in section 4942 (other than the omission of the parenthetical ''or held for use''), the Treasury Department and the IRS propose generally to follow § 53.4942(a)–2(c) for purposes of determining whether an educational institution's assets are used directly in carrying out the institution's exempt purpose, without regard to provisions relating to private foundation assets ''held for use.'' The Treasury Department and the IRS seek comments on whether the use of the principles of the section 4942 regulations for this purpose creates any concerns.

Consistent with section 4942, the proposed regulations provide in § 53.4968–1(a)(4)(i) that an asset is used directly in carrying out an institution's exempt purpose only if the asset is actually used by the institution in carrying out its exempt purpose. Administrative assets, real estate, and physical property used by the institution directly in its exempt activities are all examples of such exempt purpose assets. In addition, a reasonable cash balance necessary to cover current administrative expenses and other normal and current disbursements directly connected with the educational institution's exempt activities is considered to be used directly in carrying out the institution's exempt purpose. For section 4942 purposes, a reasonable cash balance is defined as 1.5 percent of the fair market value of the private foundation's non-charitable use assets (*i.e.,* assets not actually used by an institution in carrying out its exempt purpose), determined without regard to the reduction for the reasonable cash balance. For consistency with the 4942 rules, the Treasury Department and the IRS propose that a cash balance of 1.5 percent of the fair market value of the educational institution's non-charitable use assets, determined without regard to the deduction for the reasonable cash balance, will be deemed to be a reasonable cash balance for purposes of section 4968. However, the Treasury Department and the IRS note that the 1.5 percent standard in the section 4942 context is an average monthly amount over the entire taxable year and thus has to take into account fluctuations in cash needs. Thus, in light of the differences in the exempt activities of an educational institution and the section 4968 requirement to measure the assets only at the end of the taxable year, the Treasury Department and the IRS request comments on whether another percentage or other measurement should be deemed to be a reasonable cash balance at the end of the taxable year. The Treasury Department and the IRS specifically request comments supporting why any such other amount would be reasonable, and how utilizing a different amount would be administrable.

The proposed regulations do not address whether a functionally-related

business would be considered an exempt use asset for the purposes of this test. Although functionally-related businesses are included as an illustration of an exempt use asset in the section 4942 regulations, it is not clear how the concept of a functionally-related business would apply to an educational institution. The Treasury Department and the IRS request comments on whether and how educational institutions use functionally related businesses in conducting their operations and whether functionally-related businesses should be explicitly included or excluded as examples of exempt use assets in the final regulations.

Whether an asset is used directly by an educational institution to carry out its exempt purpose is determined based on the facts and circumstances. In addition, where property is used both for charitable, educational, or other similar exempt purposes and for other purposes, if the exempt use represents 95 percent or more of the total use, the property is considered to be used exclusively for a charitable, educational, or other similar exempt purpose. If the exempt use represents less than 95 percent of the total use, the institution must make a reasonable allocation between the exempt and nonexempt use.

ii. Exceptions

Similar to the rules under section 4942, the proposed regulations deem certain assets to not be used directly in carrying out an institution's exempt purpose, including assets that are held for the production of income or for investment (for example, stocks, bonds, interest-bearing notes, endowment funds, or, generally, leased real estate), even if the income from such assets is used to carry out the exempt purpose. Similarly, non-exempt use assets include property used for managing endowment funds of the institution.

iii. Valuation of Assets Not Used Directly in Carrying Out an Institution's Exempt Purpose

For purposes of section 4968(b)(1)(D), the value of an institution's non-exempt use assets must be determined as of the last day of each taxable year for which a valuation must be made. In contrast, section 4942(e)(2)(A) provides generally that a foundation's securities for which market quotations are readily available shall be determined on a monthly basis, and that the values of other assets shall be determined at such times and in such manner as the Secretary shall by regulations prescribe.

Section 53.4942(a)–2(c)(4) provides that a private foundation may use any reasonable method to determine the fair market value on a monthly basis of securities for which market quotations are readily available, as long as such method is consistently used, and provides additional valuation guidelines for assets that are not market securities.

Consistent with the proposed rules for determining whether an asset is used directly in carrying out an institution's exempt purpose, the Treasury Department and the IRS propose that, for purposes of valuing the institution's non-exempt use assets, institutions use rules similar to the rules of section 4942(e) and § 53.4942(a)–2(c)(4), with two modifications. First, the phrase ''applicable educational institution'' is substituted for ''private foundation'' or ''foundation'' every place they appear. Second, an institution will have to make such adjustments as are reasonable and necessary to obtain the fair market value of non-exempt use assets as of the last day of the valuation taxable year, rather than any other frequency provided by the section 4942 regulations.

The Treasury Department and the IRS request comments on valuing exempt use assets using the principles of section 4942, as modified by this special timing rule.

2. Determination of Net Investment Income and Basis of Property

A. In General

Section 4968(a) imposes on each applicable educational institution a tax equal to 1.4 percent of its net investment income for the taxable year. Section 4968(c) provides that net investment income is determined under rules similar to the rules of section 4940(c). Accordingly, the proposed regulations provide in § 53.4968–1(b) that an institution must calculate its net investment income under the rules of section 4940(c) and § 53.4940–1(c) through (f), with certain modifications explained in part 2(B) of this Explanation of Provisions section.

Section 4940(c)(1) defines net investment income as the amount by which the sum of the gross investment income and the capital gain net income exceeds certain specified allowable deductions. Section 4940(c)(1) also states that, except to the extent inconsistent with the provisions of section 4940, net investment income is determined under the principles of subtitle A of the Code.

Section 4940(c)(2) provides that, for purposes of section 4940(c)(1), gross investment income means the gross amount of income from interest, dividends, rents, payments with respect to securities loans (as defined in section 512(a)(5)), and royalties, but not including any such income to the extent included in computing the unrelated business income tax imposed by section 511. The term gross investment income also includes income from sources similar to those specifically listed in the preceding sentence.

Section 4940(c)(3) provides that, for purposes of section 4940(c)(1), there is allowed as a deduction all the ordinary and necessary expenses paid or incurred for the production or collection of gross investment income or for the management, conservation, or maintenance of property held for the production of such income, determined with the following modifications: (1) The deduction provided by section 167 is allowed, but only on the basis of the straight line method of depreciation; and (2) the deduction for depletion provided by section 611 is allowed, but is determined without regard to section 613 (relating to percentage depletion).

Section 4940(c)(4) provides that, for purposes of determining capital gain net income under section 4940(c)(1), (1) no gain or loss from the sale or other disposition of property is taken into account to the extent that any such gain or loss is taken into account for purposes of computing the tax imposed by section 511 on unrelated business taxable income; (2) in the case of property held by a private foundation on December 31, 1969, and continuously thereafter to the date of its disposition, the basis for determining gain is deemed to be not less than the fair market value of such property on December 31, 1969; (3) losses from sales or other dispositions of property are allowed only to the extent of gains from such sales or other dispositions, without capital loss carryovers or carrybacks; and (4) except to the extent provided by regulation, under rules similar to the rules of section 1031 (including the exception under subsection (a)(2) thereof relating to exchanges of real property held primarily for sale), no gain or loss is taken into account with respect to any portion of property used for a period of not less than 1 year for a purpose or function constituting the basis of the private foundation's exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for a purpose or function constituting the basis for such foundation's exemption.

Section 4940(c)(5) provides that, for purposes of section 4940, net investment income is determined by applying section 103 (relating to State

and local bonds) and section 265 (relating to expenses and interest relating to tax-exempt income).

Section 4968 does not expressly provide that the tax on net investment income is limited to net investment income derived from assets that are not used directly in carrying out an applicable educational institution's exempt purpose. This lack of a limitation is in contrast to the specific language in section 4968(b)(1)(D) that excludes assets used directly in carrying out an institution's exempt purpose in determining whether the educational institution is an applicable educational institution. Instead, section 4968(c) provides that net investment income shall be determined under rules similar to the rules of section 4940(c). Accordingly, these proposed regulations adopt the rules provided in section 4940(c) and the regulations thereunder, including § 53.4940–1(d)(1), which specifies that ''gross investment income'' means the gross amounts of income from interest, dividends, rents, royalties (including overriding royalties), and capital gain net income received by a private foundation from all sources, but does not include such income to the extent included in computing the tax imposed by section 511. Under this definition, consistent with specific language in § 53.4940–1(d), interest, dividends, rents, and royalties derived from assets devoted to charitable activities are includible in gross investment income. Therefore, for example, interest received on a student loan would be includible.

The Treasury Department and the IRS request comments on whether specific types of income should be excluded from gross investment income under section 4968 because taxing those types of income would not achieve the congressional intent in enacting section 4968. In explaining why each such type of income should be excluded, please state specifically how the proposed exclusion is still ''similar to'' the rules of section 4940(c) and the specific characteristics of each type of such income that would warrant deviating from the rules provided in section 4940 and the regulations thereunder.

For example, the rules of section 4940(c) specifically include student loan interest as net investment income. However, the Treasury Department and the IRS recognize that student loans provided directly by an applicable educational institution to its students can be seen as helping the applicable educational institution fulfill its mission of educating its students. Unlike private foundations, colleges and universities educate students and charge tuition as part of their primary exempt activities. Student loans provided by an applicable educational institution to its students arguably can be viewed as a form of deferred tuition which will be paid when the student enters the workforce. Under this rationale, the interest on the student loan may arguably be distinguished from investment income, depending on the interest rate. If the interest is at a market (or higher) rate, it would be difficult to distinguish the interest on the student loan and interest on assets acquired for investment purposes. However, if the interest rate is set at a substantially below-market rate, the difference between the market interest rate and the interest rate on the student loan might be viewed as similar to a scholarship from the school to the student. Under these circumstances, the remaining, below-market rate interest income might be considered distinguishable from income derived from assets acquired primarily for investment purposes.

Any exception for student loan interest that is premised on the utilization of an interest rate that is substantially lower than a market rate would potentially present tax administrative challenges for both the IRS and taxpayers in determining the relevant market-rate and an acceptable lower rate, and in adjusting to rate changes during the course of the loan. Comments advocating an exception for the interest received on student loans should explain how these concerns could be addressed. It would be helpful if such comments also provide information regarding the number of student loans applicable educational institutions make each year, how they set the interest rates on those loans, and whether the rates are set below market, or at market rates.

Allowing an exception from net investment income for certain categories of student loan interest would raise the question of why only those categories of exempt function income are excluded from net investment income. Many other categories of income derived from exempt functions also help an applicable educational institution fulfill its exempt purposes. Private foundations might also argue that many of their types of income help them fulfill their exempt purposes. The Treasury Department and the IRS request comments on why interest income on student loans provided by an applicable educational institution to its students is a logical place to draw the line at the type of income that should be excluded from the net investment income tax, especially given the reference to student loan income in § 1.4940–1(d).

Similarly, under section 4940(c), net investment income includes rents. The Treasury Department and the IRS recognize that colleges and universities offer various types of housing (such as dormitories or apartments) for use by students, non-students (for example, during the summer), and faculty. The Treasury Department and the IRS request comments on the differences, if any, among the housing arrangements, whether any of the arrangements include the signing of leases, the various amounts charged by a college or university related to provision of housing and meals, and particular factors that distinguish room and board payments from students living in a dormitory from rental income that institutions receive.

Consistent with the requirement in section 4968(c) to calculate net investment income under rules similar to the rules under section 4940(c), these proposed regulations generally follow the rules for determining gain upon the sale or other disposition of property that have been used for section 4940(c) purposes since 1969. Section 4940(c)(1) provides that, except to the extent inconsistent with the provisions of section 4940, net investment income is determined under the principles of subtitle A. Subtitle A encompasses all of the income tax provisions (sections 1 through 1564) of the Code, including the basis rules in section 1015 (basis of property acquired by gift is generally the same as the donor's basis). Accordingly, under the proposed regulations, an applicable education institution computes gain on the sale or disposition of donated property using the donor's basis. The Treasury Department and the IRS request comments on whether a special rule excluding any appreciation in a gift of donated property that occurred before the date of receipt by the applicable educational institution should be included in the final regulations and how such a special rule would be consistent with the statutory language of section 4968.

B. Special Rules

The proposed regulations provide in § 53.4968–1(b)(3) that an institution should substitute ''applicable educational institution'' for ''private foundation'' or ''foundation'' every place it appears in § 53.4940–1(c) through (f). In addition, the proposed regulations provide that the rule in § 53.4940–1(d)(3) does not apply because it is narrowly focused on section 302 stock redemptions by corporations that are disqualified

persons when the redemptions are part of a transaction designed to reduce section 4943 excess business holdings. Colleges and universities are not subject to section 4943, so they cannot have excess business holdings that could be the subject of a section 302 stock redemption by a disqualified person corporation.

As provided by section 3 of Notice 2018–55 (2018–26 I.R.B. 773), in following the rule in section 4940(c)(4), the proposed regulations substitute ''December 31, 2017'' for ''December 31, 1969'' every place it occurs. In addition, in response to a comment requesting clarification of the basis rules for assets held in a partnership on December 31, 2017, these proposed regulations also provide that if an applicable educational institution held an interest in a partnership (including through one or more tiers of partnerships) on December 31, 2017, and continuously thereafter, and the partnership held assets on December 31, 2017, and continuously thereafter to the date of disposition, the partnership's basis in its assets with respect to the applicable educational institution for purposes of determining the applicable educational institution's share of gain upon sale or disposition of the assets shall be not less than the fair market value of such asset on December 31, 2017, plus or minus all adjustments after December 31, 2017, and before the date of disposition. For purposes of applying this special partnership basis rule, an institution must obtain documentation from the partnership to substantiate the claim.

Finally, consistent with section 4 of Notice 2018–55 and section 4940(c)(4)(C), the proposed regulations provide that in applying § 53.4940–1(f), overall net losses from sales or other dispositions of property by one related organization (or by the applicable educational institution) shall reduce (but not below zero) overall net gains from such sales or other dispositions by other related organizations (or by the applicable educational institution).

3. Related Organizations

Section 4968(d)(1) provides, in part, that for purposes of determining the aggregate fair market value of the assets and net investment income of an educational institution, the assets and net investment income of any related organization with respect to the educational institution shall be treated as assets and net investment income, respectively, of the educational institution.

For this purpose, the statute provides two special rules: (1) No such amount shall be taken into account with respect to more than 1 educational institution, and (2) unless such organization is controlled by such institution or is described in section 509(a)(3) (relating to supporting organizations) with respect to such institution for the taxable year, assets and net investment income which are not intended or available for the use or benefit of the educational institution shall not be taken into account. Section 53.4968–1(c) of these proposed regulations provides definitions and special rules relating to related organizations.

A. Definition of Related Organization

Section 4968(d)(2) provides that the term ''related organization'' means, with respect to an applicable educational institution, any organization which (1) controls, or is controlled by, such institution; (2) is controlled by 1 or more persons which also control such institution; or (3) is a supported organization (as defined in section 509(f)(3)) or a supporting organization (as described in section 509(a)(3)) during the taxable year with respect to such institution.

Section 4968(d)(2) does not define the term ''control.'' The concept of controlled entities is found in numerous other areas of the Code, including section 4960, which was enacted at the same time as section 4968. Consistent with the position taken in Notice 2019–09, ''Interim Guidance Under Section 4960'' (2019–04 I.R.B. 403), for purposes of defining ''control'' within the meaning of section 4968(d), these proposed regulations provide rules based on the definition of control under section 512(b)(13)(D) and the regulations thereunder, which includes the constructive ownership rules of section 318, and that generally align with the definition of related organization for purposes of the annual reporting requirements on Form 990. The Treasury Department and the IRS request comments on whether there are any circumstances in which this definition of control should be modified in the context of section 4968.

Thus, the proposed regulations provide in § 53.4968–1(c)(1) that the term ''control'' means (1) in the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock of the corporation; (2) in the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership; (3) in the case of a trust with beneficial interests, ownership of more than 50 percent of the beneficial interests in the trust; or (4) in the case of a nonprofit organization or other organization without owners or persons having beneficial interests (nonstock organization), including a governmental entity, that more than 50 percent of the directors or trustees of the applicable educational institution or nonstock organization are either representatives of, or are directly or indirectly controlled by, the other entity or that more than 50 percent of the directors or trustees of the nonstock organization are either representatives of, or are directly or indirectly controlled by, one or more persons that control the applicable educational institution. For purposes of this paragraph, a ''representative'' means a trustee, director, agent, or employee, and control includes the power to remove a trustee or director and designate a new trustee or director. Finally, section 318, which contains rules for determining constructive ownership of stock, applies for purposes of determining ownership of stock in a corporation, and similar principles apply for purposes of determining ownership of an interest in any other entity. The Treasury Department and the IRS do not propose to adopt the test for control under section 414(b) and (c), which generally uses the same test for control of a nonprofit organization as section 512(b)(13)(D) except that it replaces the 50-percent threshold with an 80-percent threshold. Instead, the proposed regulations adopt the control test under section 512(b)(13)(D) to align more closely with other exempt organization control tests and to ensure consideration of available assets consistent with congressional intent that would not occur under the higher 80 percent control threshold that was established for qualified plans.

Since the net investment that a taxable entity provides to an applicable educational institution has already been taxed under section 1, the Treasury Department and the IRS do not consider it consistent with congressional intent to tax the income again under section 4968. Furthermore, with regard to the assets of a taxable entity that is a related organization defined in section 4968(d)(2)(A) or (B), the institution likely already has included the value of the stock in its non-exempt use assets; however, the stock value may differ from the value of the taxable entity's underlying assets. The Treasury Department and the IRS request comments on how to account for this difference without double-counting the assets, as well as comments on the treatment of taxable entities that are related organizations for purposes of section 4968.

B. Assets and Net Income Treated as Assets and Net Income of Only One Educational Institution

As noted above, section 4968(d)(1)(A) provides, in part, that for purposes of determining the aggregate fair market value of an institution's assets and its net investment income, the assets and net investment income of any related organization with respect to the educational institution shall be treated as assets and net investment income, respectively, of the educational institution. However section 4968(d)(1)(A) provides an exception under which no such amount shall be taken into account with respect to more than 1 educational institution.

In order to effectuate section 4968(d)(1)(A), the proposed regulations provide in § 53.4968–1(c)(2)(ii)(A) that, in any case in which an organization is a related organization with respect to more than 1 educational institution, the assets and net investment income of the related organization must be allocated between the educational institutions being supported by the related organization. The proposed regulations provide that such allocation must be made in a reasonable manner, taking into account all facts and circumstances, and must be consistently applied across all related organizations. The Treasury Department and the IRS request comments on whether more specific guidance is required concerning the allocation of a related organization's assets and net investment income between multiple educational institutions being supported by the same related organization, and if so, what such additional guidance should provide.

C. Assets and Net Investment Income ''Not Intended or Available for the Use or Benefit of'' an Educational Institution

For purposes of attributing assets and net investment income of related organizations to applicable educational institutions, section 4968(d)(1)(B) provides that, unless a related organization is controlled by the educational institution or is described in section 509(a)(3) with respect to such institution for the taxable year, assets and net investment income of the related organization that are not intended or available for the use or benefit of the educational institution shall not be taken into account. Put another way, if a related organization controls the educational institution or is controlled by 1 or more persons which also control such institution but is not described in section 509(a)(3) with respect to the educational institution for the taxable year, then the assets and net investment income of the related organization are taken into account as assets and net investment income of the educational institution only if the assets and net investment income are intended or available for the use and benefit of the educational institution. However, if a related organization is either controlled by the educational institution or is described in section 509(a)(3) with respect to such institution for the taxable year, then all the assets and net investment income of the related organization are considered assets and net investment income of the educational institution, except as provided below.

The Conference Report description of section 4968 repeats section 4968(d)(1)(B) and adds, ''[f]or example, assets of a related organization that are earmarked or restricted for (or fairly attributable to) the educational institution would be treated as assets of the educational institution, whereas assets of a related organization that are held for unrelated purposes (and are not fairly attributable to the educational institution) would be disregarded.'' H. Rept. 115–466, 115th Cong., 1st sess., at 555 (December 15, 2017).

Thus, the proposed regulations provide in § 53.4968–1(c)(2)(ii)(B) that when a related organization controls an educational institution or is controlled by 1 or more persons which also control such institution and is not described in section 509(a)(3) with respect to the educational institution, the assets and net investment income of a related organization must be allocated between those intended or available for the use and benefit of an educational institution and those not intended or not available for the use and benefit of that educational institution. Such allocation must be made in a reasonable manner, taking into account all facts and circumstances, and must be consistently applied across all related organizations.

The proposed regulations further explain that assets and net investment income of such a related organization are intended or available for the use and benefit of an educational institution if such assets and net investment income are specifically earmarked or restricted for the benefit of, or are otherwise fairly attributable to, the educational institution. Conversely, assets and net investment income of a related organization are not intended or available for the use and benefit of an educational institution if such assets and net investment income are specifically earmarked or restricted for another entity or for unrelated purposes or are otherwise not fairly attributable to the educational institution. For purposes of this required allocation, the Treasury Department and the IRS request comments on situations in which an organization's assets or net investment income is not specifically earmarked or restricted for the benefit of any particular organization but is otherwise fairly attributable to the educational institution or to another organization. For example, absent any earmarking or restriction, should total distributions from a related organization to an applicable educational institution in one taxable year establish a presumption for section 4968 purposes that at least an equal amount is fairly attributable to the applicable educational institution for the following taxable year, absent demonstrated facts and circumstances supporting attribution of a lesser amount?

Because section 4968(d)(1)(B) carves out organizations that are controlled by an institution or are described in section 509(a)(3) with respect to such institution for the taxable year from this special rule, the proposed regulations provide that if the related organization is controlled by the educational institution or is described in section 509(a)(3) with respect to the educational institution, the assets and net investment income of the related organization must be taken into account as assets and net investment income of the educational institution, regardless of whether the assets and net investment income are earmarked or restricted for the benefit of, or otherwise fairly attributable to, the educational institution and even if they are specifically earmarked or restricted for another entity or for unrelated purposes or are otherwise not fairly attributable to the educational institution. However, the special rule in section 4968(d)(1)(A) continues to apply, such that the assets and net investment income of the related organization are not taken into account by more than one educational institution. See part 3(B) of the Explanation of Provisions section.

In recognition that section 509(a)(3) Type III supporting organizations, unlike section 509(a)(3) Type I and Type II supporting organizations, are not controlled by their supported organizations,[3] and because applicable

[3] Organizations described in section 509(a)(3) are known as ''supporting organizations.'' Supporting organizations achieve their public charity status by providing support to one or more organizations described in section 509(a)(1) or (2), which, in this context, are referred to as ''supported organizations.'' To be described in section 509(a)(3), an organization must satisfy several tests, including having one of three ''relationships'' with one or more supported organizations. A supporting organization that is operated, supervised or

educational institutions may not be able to get information from their Type III supporting organizations, the proposed regulations provide a special rule in § 53.4968–1(c)(2)(ii)(B)(*3*)(*ii*) for related organizations of an educational institution that were Type III supporting organizations with respect to the applicable educational institution on December 31, 2017. The proposed regulations provide that an applicable educational institution with a related organization that was a Type III supporting organization with respect to the applicable educational institution on December 31, 2017, may take into account only the assets and net investment income of the related Type III supporting organization that are intended or available for the use and benefit of the applicable educational institution, as described in this part 3(C) of the Explanation of Provisions section. An applicable educational institution can determine whether the assets and net investment income of such a Type III supporting organization are intended or available for the use and benefit of the applicable educational institution using any reasonable method. A method using all the distributions received from the Type III supporting organization subject to this special rule as net investment income of the applicable educational institution each year will be deemed to be reasonable. Similarly, a method using the distributions received from the Type III supporting organization to calculate the percentage of the Type III supporting organization's total net income that was distributed to the applicable educational institution, and using the same percentage to calculate the value of the underlying assets of the Type III supporting organization that are intended or available for the use and benefit of the applicable educational institution each year, will be deemed to be reasonable. The Treasury Department and the IRS request comments on whether additional guidance pertaining to Type III supporting organizations is needed.

Special Analyses

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

The proposed regulations have been designated by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and OMB regarding review of tax regulations. OIRA has determined that the proposed rulemaking is significant and subject to review under Executive Order 12866 and section 1(b) of the Memorandum of Agreement. Accordingly, the proposed regulations have been reviewed by OMB.

I. Need for Regulation

The Conference Report, at 555, states that Congress intended that the Secretary promulgate regulations to carry out the intent of section 4968. These proposed regulations are in response to this congressional intent. The proposed regulations provide guidance for determining the excise tax applicable to the net investment income of certain private colleges and universities, as provided by the TCJA. The regulations are intended to clarify which educational institutions are subject to the excise tax under section 4968 (excise tax) and how net investment income is calculated for purposes of this excise tax.

Prior to these proposed regulations, the Treasury Department and the IRS have not issued formal guidance on the definitions of these terms or on the rules under which net investment income for purposes of the excise tax in section 4968 were determined.[4] As a result, there was a degree of taxpayer uncertainty as to the definitions of the various terms and whether net investment income would be determined under rules identical to or similar to the rules of section 4940(c), and if the latter, what the deviations from the rules of section 4940(c) would be.

Pursuant to section 6(a)(3)(B) of Executive Order 12866, the following qualitative analysis provides further details regarding the anticipated impacts of the proposed regulations. After describing briefly the statute and the proposed regulations in Part II, the baseline used for the analysis is described in Part III of this Special Analyses section. Part IV of this Special Analyses section describes the types of entities affected by the proposed regulations. Part V of this Special Analyses section provides a qualitative assessment of the potential economic effects, including the benefits and costs, of the proposed regulations compared to the baseline.

II. The Statute and the Proposed Regulations

Section 4968 imposes a 1.4 percent excise tax on the net investment income of applicable educational institutions. Under the statute, an ''applicable educational institution'' is an eligible educational institution (which is described in section 481 of the Higher Education Act of 1968) that has at least 500 tuition-paying students during the preceding taxable year, more than 50 percent of the tuition-paying students of which are located in the United States, is not a state college or university, and the fair market value of the assets of which (other than those assets which are used directly in carrying out the institution's exempt purpose) is at least $500,000 per student at the end of the preceding taxable year. Under section 4968, net investment income is determined under rules ''similar to'' the rules of section 4940(c) (the rules for calculation of the net investment income of private foundations). In addition, the assets and net investment income of related organizations are generally treated as the assets and net investment income of the educational institution.

Section 4968 does not define the terms ''student,'' ''tuition-paying student,'' or ''assets used directly in carrying out the institution's exempt purpose.'' Section 4968(c) states that, for the purposes of the excise tax in section 4968, net investment income shall be determined under rules ''similar to'' the rules of section 4940(c), but does not define what is meant by ''similar to.'' Section 4968 does not define the term ''control'' as it relates to a ''related organization with respect to an educational institution.'' The proposed regulations provide general definitional guidance with respect to these and other terms and rules relevant to the statute.

controlled by one or more supported organizations is known as a ''Type I'' supporting organization. A supporting organization that is supervised or controlled in connection with one or more supported organizations is known as a ''Type II'' supporting organization. A supporting organization that is operated in connection with one or more supported organizations is known as a ''Type III'' supporting organization. The relationship of a Type III supporting organization with its supported organization(s) is much more attenuated than the other two types.

[4] In June 2018, the Treasury Department and the IRS issued Notice 2018–55 (2018–26 I.R.B. 773) to provide clarification regarding the calculation of net investment income for purposes of section 4968(c). The Notice stated that the Treasury Department and the IRS intended to issue proposed regulations relating to those and other issues.

A brief discussion of this guidance follows.

The proposed regulations define ''student'' to mean, in general, ''a person enrolled in a degree, certification, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution, and who is not enrolled in an elementary or secondary school.'' The proposed regulations define ''tuition-paying'' to mean, in general, ''the payment of any tuition or fees required for the enrollment or attendance of a student for a course of instruction at an educational institution.'' These definitions follow similar definitions in section 25A of the Code. The proposed regulations also provide guidance for determining whether a student is located in the U.S. and for counting full-time and full-time equivalent students.

The proposed regulations define ''assets used directly in carrying out an institution's exempt purpose'' to mean, in general, assets ''actually used by the institution in carrying out its exempt purpose.'' Whether an asset qualifies ''must be determined based on all the facts and circumstances.'' If the property's ''exempt use represents 95 percent or more of the total use, the property is considered to be used exclusively for an exempt purpose. If the exempt use of such property represents less than 95 percent of the total use, the institution must make a reasonable allocation between such exempt and nonexempt uses.''

The proposed regulations state that the valuation of assets not used directly in carrying out an institution's exempt purpose is determined under the rules of section 4942 and its regulations, with two modifications. First, ''educational institution'' is substituted for ''private foundation'' or ''foundation'' each place they appear. Second, the educational institution must obtain the fair market value of assets on the last day of the preceding taxable year rather than at other times provided by the regulations under section 4942.

Consistent with 4968(c), the proposed regulations state that net investment income will be determined under the rules of section 4940(c) and its regulations, with five modifications. First, ''applicable educational institution'' is substituted for ''private foundation'' or ''foundation'' each place they appear. Second, the regulations relating to the treatment of certain distributions in redemption of stock do not apply to applicable educational institutions. Third, December 31, 2017, replaces December 31, 1969 (the date used for the excise tax on net investment income of private foundations under section 4940(c)), to determine the basis of assets held on December 31, 2017, for purposes of calculating the excise tax. Fourth, if an applicable educational institution held an interest in a partnership on December 31, 2017, and continuously thereafter, and the partnership held assets on December 31, 2017, and continuously thereafter to the date of disposition, generally the basis of those assets for determining the applicable educational institution's share of gain upon sale or disposition of the assets is not less than the fair market value of such assets on December 31, 2017, plus or minus adjustments provided under the regulations for section 4940 after December 31, 2017, and before the date of disposition. Fifth, overall net losses from sales or other dispositions of property by one related organization or by the applicable educational institution may reduce (but not below zero) overall net gains from such sales or other dispositions by other related organizations or by the applicable educational institution.

Following the rules for section 4960, the proposed regulations define the term ''control,'' as it relates to a ''related organization with respect to an educational institution,'' generally to mean ownership of more than 50 percent of (a) the stock of a corporation, (b) the profits interests or capital interests in a partnership, or (c) the beneficial interests of a trust. For a nonstock corporation, control means (a) more than 50 percent of the directors or trustees of the applicable educational institution or nonstock organization are either representatives of, or are directly or indirectly controlled by, the other entity, or (b) more than 50 percent of the directors or trustees are representatives of, or are directly or indirectly controlled by, one or more persons that control the applicable educational institution. The proposed regulations apply the principles of section 318 for purposes of determining ownership of stock in a corporation and apply similar principles for purposes of determining ownership of an interest in any other entity.

The proposed regulations also provide an allocation rule to effectuate section 4968(d)(1)(A) (providing that income be taken into account by no more than one institution) and 4968(d)(1)(B) (providing that only assets available for use by the institution be taken into account in determining the aggregate amount of assets), in the case of related organizations.

III. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

IV. Affected Entities

One researcher used data from the Integrated Post-Secondary Education Data System (IPEDS) on endowment values at the end of the 2015–2016 academic year and enrollment data to estimate the number of institutions at risk of having liability under this excise tax.[5] Under the assumption that none of the assets in the endowment are for exempt purposes, he estimates that 23 institutions are likely to be currently subject to tax. Using the same IPEDS data, another researcher estimated that in 2016, among four-year public and not-for-profit private institutions located in the United States with at least 500 full-time equivalent students, and excluding endowments held at the university system level, there were 27 endowments worth at least $500,000 per student.[6] These estimates do not take into account all of the provisions of the statute and regulations. For example, limiting this set of institutions to the not-for-profit private institutions subject to tax and excluding assets that are used for the institutions' exempt purpose would reduce the number of affected institutions. On the other hand, as both authors note, because the $500,000 per student threshold for the aggregate fair market value of assets (other than those assets which are used directly in carrying out the institution's exempt purpose) that in part determines whether the excise tax in section 4968 applies to an educational institution is not indexed for inflation, the number of institutions to which the excise tax in section 4968 applies is expected to increase over time. In addition, these studies did not consider assets held by related organizations; including such assets could increase the number of affected schools.

V. Economic Effects of the Proposed Regulations

The proposed regulations clarify a number of definitions related to the

[5] Levine, Phillip. ''The University Endowment Income Tax: Who Will Pay it and Why Was it Implemented?'', Econofact, January 25, 2018, available at *https://econofact.org/the-university-endowment-tax-who-will-pay-it-and-why-was-it-implemented,* accessed April 29, 2019.

[6] Hinrichs, Peter. ''College Endowments.'' Economic Commentary 2018–04 (May 17, 2018), Federal Reserve Bank of Cleveland, Table 1.

excise tax in section 4968. In the absence of guidance, affected taxpayers would have to calculate their tax liability without the definitions and clarifications provided by the proposed regulations, a situation that is generally considered more burdensome and could lead to greater conflicts with tax administrators. The proposed regulations make use of a number of existing statutory and regulatory provisions in defining students, tuition, exempt purpose, fair market value, net investment income and related organizations. Many taxpayers will already be familiar with these definitions. Thus, although the Treasury Department and the IRS project that the proposed regulations will reduce taxpayer compliance burden, including determining whether the excise tax applies to the institution and the time needed to file the return, and the costs of tax administration, including monitoring the compliance of taxpayers with the excise tax, relative to the no-action baseline, it is possible that the proposed regulations will have other economic effects.

The guidance provided in the proposed regulations also ensures that the excise tax liability is calculated similarly across taxpayers, avoiding situations where one taxpayer receives preferential treatment over another taxpayer for fundamentally similar economic activity. For example, in the absence of these proposed regulations, an applicable educational institution may have uncertainty over whether it is subject to the excise tax under section 4968 and what assets are used in determining the net investment income for purposes of the excise tax under section 4968. As a result, in the absence of guidance, similar institutions might take different positions and pay different amounts of tax, introducing economic inefficiency and inequity.

Based on this analysis, the Treasury Department and the IRS anticipate the net economic contribution of the proposed regulations will be modest, and will be positive relative to not issuing any such guidance and conditional on the relevant statutes. However, as stated earlier in the preamble, the Treasury Department and the IRS request comments on a number of aspects of the proposed regulations, which could include comments on the economic effects, any behavioral changes caused, or the unintended costs and benefits of the proposed regulations.

These proposed regulations provide further clarity on the Treasury Department and IRS policy choices regarding the treatment of investment income under section 4968, including the relationship to section 4940(c). Treasury Department and IRS requests comment on the proposed definitions and treatment of investment income in these regulations.

Paperwork Reduction Act

The collection of information in these proposed regulations is in §§ 53.4968–1(a)(2), (3), and (4), and 53.4968–1(b) and (c)(1) and (2). This information is required to determine whether an educational institution is an applicable educational institution, as defined in section 4968(b); to calculate net investment income as defined in section 4968(c); and to determine the assets and net investment income of related organizations that are treated as assets and net investment income of applicable educational institutions, as defined in section 4968(d). In 2016, the IRS released and invited comments on drafts of an earlier version of Form 4720 in order to give members of the public the opportunity to benefit from certain specific amendments made to the Code. The IRS received no comments on Form 4720 during the comment period. Consequently, the IRS made Form 4720 available on December 9, 2016 for use by the public. The IRS is contemplating making additional changes to Form 4720 based on these regulations. The IRS intends that the burden of the collections of information will be reflected in the burden associated with Form 4720, OMB approval number 1545–0052.

The burden associated with Form 4720 is included in the aggregated burden estimates for OMB control number 1545–0052 (listing a total estimated burden time for all Form 4720 filers of 88,839 hours and total estimated monetized costs of $8.441 million ($2017)). The burden estimates provided for Form 4720 are aggregate amounts that relate to all filers associated with the form, and will in the future include, but not isolate, the estimated burden of only those information collections associated with these proposed regulations. These numbers are therefore unrelated to the future calculations needed to assess the burden imposed by these regulations, specific burden estimates for which are not currently available. The Treasury Department and the IRS have not estimated the burden, including that of any new information collections, related to the requirements under the proposed regulations.

The expected burden for private colleges and universities that are applicable to this rule as described in section 4968(b) is listed below:

Estimated number of respondents: 40.

Estimated average annual burden hours per response: 32 hours, 27 minutes.

Estimated total annual burden: $123,336 (2017).

Estimated frequency of collection: Annual.

The Treasury Department and the IRS request comments on all aspects of information collection burdens related to the proposed regulations, including estimates for how much time it would take to comply with the paperwork burdens described above for each relevant form and ways for the IRS to minimize the paperwork burden. Proposed revisions (if any) to these forms that reflect the information collections contained in these final regulations will be made available for public comment at *https://apps.irs.gov/app/picklist/list/draftTaxForms.html* and will not be finalized until after these forms have been approved by OMB under the PRA. Comments on these forms can be submitted at *https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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 return information are confidential, as required by 26 U.S.C. 6103.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations would not have a significant economic impact on a substantial number of small entities. As discussed elsewhere in this preamble, this rule merely provides definitions regarding the applicability of the section 4968 excise tax to certain private colleges and universities. The requirements in this regulation fall only on educational institutions the aggregate fair market values of the non-charitable use assets of which are at least $500,000 per student of the institution and that have at least 500 tuition-paying students (for a minimum investment asset value of $250,000,000).

This proposed rule would not affect a substantial number of small entities. Only about 1 percent of four-year colleges and universities (less than 30 out of over 2,400 institutions in the National Center for Education Statistics'

Integrated Post-Secondary Education System Data for 2016) are expected to be affected by the tax. In addition, they are likely to have income from all sources exceeding $27.5 million, the threshold established by the Small Business Administration for an educational institution to be considered a small entity. This is because at a modest 4 percent rate of return, the minimum endowment alone would generate income of $10 million. To generate another $17.5 million in income would require receipts of $35,000 per student if the school had only the minimum number of students, compared to average tuition and fees at a four-year private school, which was $39,529[7] in 2015–16. Therefore, this rule is not likely to affect a substantial number of small entities.

Notwithstanding this certification, the Treasury Department and the IRS invite comments on the impact this rule may have on small entities.

Pursuant to section 7805(f) of the Code, this proposed rule has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS as prescribed in the preamble under the **ADDRESSES** section. All comments submitted will be made available at *https://www.regulations.gov* or upon request.

A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Melinda Williams and Amber L. MacKenzie, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 53 is proposed to be amended as follows:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 53 continues to read, in part, as follows:

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

■ **Par. 2.** Section 53.4968–1 is added to read as follows:

§ 53.4968–1 Excise tax based on investment income of certain private colleges and universities.

(a) *Excise tax on the investment income of certain private colleges and universities*—(1) *In general.* For taxable years beginning after December 31, 2017, section 4968 imposes a tax equal to 1.4 percent of the net investment income (as defined in section 4968(c) and paragraph (b) of this section) of an applicable educational institution (as defined in section 4968(b)(1) and paragraph (a)(2) of this section).

(2) *Applicable educational institution.* Under section 4968(b)(1) and for purposes of this section, the term *applicable educational institution* means any eligible educational institution as defined in section 25A(f)(2) and § 1.25A–2(b) of this chapter—

(i) Which had at least 500 tuition-paying students attending the institution during the preceding taxable year;

(ii) More than 50 percent of the tuition-paying students attending the institution are located in the United States;

(iii) Which is not described in the first sentence of section 511(a)(2)(B) (relating to state colleges and universities); and

(iv) The aggregate fair market value of the assets of which at the end of such preceding taxable year (other than those assets that are used directly in carrying out the institution's exempt purpose) is at least $500,000 per student attending the institution.

(3) *Student*—(i) *In general.* For purposes of section 4968 and paragraph (a) of this section, the term *student* means a person enrolled in a degree, certification, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution, and who is not enrolled in an elementary or secondary school.

(ii) *Tuition-paying*—(A) *In general.* For purposes of section 4968 and paragraph (a) of this section, the term *tuition-paying* means the payment of any tuition or fees required for the enrollment or attendance of a student for a course of instruction at an educational institution. The term *tuition-paying* does not include payment for supplies or equipment required during a specific course once a student is enrolled in and attending the course or the payment of room and board or other personal living expenses.

(B) *Treatment of a comprehensive or bundled fee.* If a student is required to pay a fee (such as a comprehensive fee or a bundled fee) to an educational institution that combines charges for tuition with charges for personal expenses such as room and board, the student is a tuition-paying student.

(C) *Scholarships and work study programs operated directly by the applicable educational institution.* Whether a student is tuition-paying is determined after taking into account any scholarships provided directly by the educational institution and any work study programs operated directly by the institution. Scholarship payments provided by third parties, even if administered by the institution, are considered payments of tuition on behalf of the student. Accordingly, a student will be considered a tuition-paying student if payment of tuition or a fee is required for the enrollment or attendance of the student for courses of instruction after the application of any scholarships offered directly by the institution or work study program operated directly by the institution.

(iii) *Located in the United States.* For purposes of section 4968 and paragraph (a) of this section, the term *located in the United States* refers to the location of a student. A student is considered to have been located in the United States if the student resided in the United States for at least a portion of the time the student attended the institution during the applicable educational institution's preceding taxable year.

(iv) *Full-time/part-time students.* For purposes of section 4968 and paragraph (a) of this section, the number of

[7] U.S. Department of Education, National Center for Education Statistics (2018). Digest of Education Statistics, 2016 (NCES 2017–094).

students of an educational institution (including for purposes of determining the number of students at a particular location) is based on the daily average number of full-time students attending such institution (with part-time students taken into account on a full-time student equivalent basis). The standards for determining part-time students, full-time students, full-time equivalents, and daily average are determined by each educational institution. However, the standards may not be lower than the applicable standards established by the Department of Education under the Higher Education Act of 1965 (20 U.S.C. 1088).

(4) *Assets used directly in carrying out an institution's exempt purpose*—(i) *In general.* For purposes of section 4968 and this paragraph (a)(4), an asset is used directly in carrying out an educational institution's exempt purpose only if the asset is actually used by the institution in carrying out its exempt purpose. Whether an asset is used directly by the institution to carry out its exempt purpose must be determined based on all the facts and circumstances. If property is used for an exempt purpose and for other purposes, and the exempt use represents 95 percent or more of the total use, the property is considered to be used exclusively for an exempt purpose. If the exempt use of such property represents less than 95 percent of the total use, the institution must make a reasonable allocation between such exempt and nonexempt uses.

(ii) *Illustrations.* Examples of assets that are used directly in carrying out an institution's exempt purpose include, but are not limited to, the following—

(A) Administrative assets, such as office equipment and supplies used by the institution directly in the administration of its exempt activities;

(B) Real estate or the portion of any building used by the institution directly in its exempt activities;

(C) Physical property such as paintings or other works of art owned by the institution which are on public display, fixtures and equipment in classrooms, research facilities and related equipment which under the facts and circumstances serve a useful purpose in the conduct of the institution's exempt activities;

(D) The reasonable cash balances necessary to cover current administrative expenses and other normal and current disbursements directly connected with the educational institution's exempt activities. For purposes of this paragraph (a)(4)(ii)(D), the portion of an educational institution's actual cash balances at the end of a year that does not exceed 1.5 percent of the fair market value of the institution's non-charitable use assets, determined without regard to any reduction for reasonable cash balances, will be deemed to be a reasonable cash balance; and

(E) Any property the educational institution leases to other persons at no cost (or at a nominal rent) to the lessee in furtherance of the institution's exempt purposes.

(iii) *Exceptions.* The following assets are examples of assets not used directly in carrying out an institution's exempt purpose—

(A) Assets that are held for the production of income or for investment (for example, stocks, bonds, interest-bearing notes, endowment funds, or leased real estate), even if the income from such assets is used to carry out such exempt purpose; and

(B) Property (such as offices) used for the purpose of managing the institution's endowment funds.

(iv) *Valuation of assets not used directly in carrying out an institution's exempt purpose*—(A) *In general.* The valuation of assets not used directly in carrying out an institution's exempt purpose is determined under the rules of section 4942(e) and § 53.4942(a)–2(c)(4), as modified by paragraph (a)(4)(iv)(B) of this section.

(B) *Special rules.* In applying the rules of § 53.4942(a)–2(c)(4), an educational institution must—

(*1*) Substitute ''educational institution'' for ''private foundation'' or ''foundation'' every place they appear; and

(*2*) Make such adjustments as are reasonable and necessary to obtain the fair market value of any and all assets as of the last day of the preceding taxable year, rather than any other times permitted or required by § 53.4942(a)–2(c)(4).

(b) *Net investment income*—(1) *In general.* An applicable educational institution described in paragraph (a)(2) of this section is subject to the 1.4 percent tax on its net investment income, and, as described in paragraph (c) of this section, also on certain amounts of net investment income of certain related organizations, for the taxable year.

(2) *Calculation of net investment income.* For purposes of paragraph (b)(1) of this section, net investment income will be determined under the rules of section 4940(c) and § 53.4940–1(c) through (f), as modified by paragraph (b)(3) of this section.

(3) *Special rules.* In applying § 53.4940–1(c) through (f):

(i) Substitute ''Applicable educational institution'' for ''private foundation'' and ''foundation'' each place they appear.

(ii) Section 53.4940–1(d)(3), relating to certain distributions in redemption of stock, does not apply.

(iii) Substitute ''December 31, 2017'' for ''December 31, 1969'' each place it appears.

(iv) If an applicable educational institution held an interest in a partnership (including through one or more tiers of partnerships) on December 31, 2017, and continuously thereafter, and the partnership held assets on December 31, 2017 and continuously thereafter to the date of disposition, the partnership's basis in its assets with respect to the applicable educational institution for purposes of determining the applicable educational institution's share of gain upon sale or disposition of the assets is not less than the fair market value of such asset on December 31, 2017, plus or minus all adjustments as provided under § 53.4940–1(f)(2)(i) after December 31, 2017, and before the date of disposition. To avail itself of this special partnership basis rule, an institution must obtain documentation from the partnership to substantiate the basis used.

(v) For purposes of § 53.4940–1(f), overall net losses from sales or other dispositions of property by one related organization (or by the applicable educational institution) reduce (but not below zero) overall net gains from such sales or other dispositions by other related organizations (or by the applicable educational institution).

(c) *Related organizations*—(1) *Definition of related organization*—(i) *In general.* The term ''related organization'' means, with respect to an applicable educational institution, any organization which—

(A) Controls, or is controlled by, such institution;

(B) Is controlled by one or more persons which also control such institution; or

(C) Is a supported organization (as defined in section 509(f)(3)) or a supporting organization (as described in section 509(a)(3)) during the taxable year with respect to such institution.

(ii) *Control.* The term control generally means—

(A) *Stock corporation.* In the case of a corporation, ownership (by vote or value) of more than 50 percent of the stock of the corporation;

(B) *Partnership.* In the case of a partnership, ownership of more than 50 percent of the profits interests or capital interests in such partnership; or

(C) *Trust.* In the case of a trust with beneficial interests, ownership of more than 50 percent of the beneficial interests in the trust.

(D) *Nonstock organization.* In the case of a nonprofit organization or other organization without owners or persons having beneficial interests (nonstock organization), including a governmental entity, control means that—

(*1*) More than 50 percent of the directors or trustees of the applicable educational institution or nonstock organization are either representatives of, or are directly or indirectly controlled by, the other entity; or

(*2*) More than 50 percent of the directors or trustees of the nonstock organization are either representatives of, or are directly or indirectly controlled by, one or more persons that control the applicable educational institution. For purposes of this paragraph (c)(1)(ii)(D)(*2*), a ''representative'' means a trustee, director, agent, or employee, and control includes the power to remove a trustee or director and designate a new trustee or director.

(iii) *Constructive ownership.* The principles of section 318 apply for purposes of determining ownership of stock in a corporation, and similar principles apply for purposes of determining ownership of interest in any other entity.

(2) *Assets and net investment income of related organizations*—(i) *In general.* For purposes of determining the aggregate fair market value of the assets and net investment income of an educational institution, the assets and net investment income of any related organization are treated as the assets and net investment income, respectively, of the institution unless an exception provided in paragraph (c)(2)(ii) of this section applies.

(ii) *Exceptions.* For purposes of section 4968 and this paragraph (c)(2)—

(A) *No amount taken into account with respect to more than one educational institution.* In determining the aggregate fair market value of the assets and net investment income of an educational institution, assets and net investment income of a related organization are not taken into account with respect to more than one educational institution. Thus, in any case in which an organization is a related organization with respect to more than one educational institution, the assets and net investment income of the related organization must be allocated between the educational institutions being supported by the related organization. Such allocation must be made in a reasonable manner, taking into account all facts and circumstances, and must be used consistently across all related organizations.

(B) *Not intended or available for the use or benefit of the educational institution*—(*1*) *In general.* Except as provided by paragraph (c)(2)(ii)(B)(*3*) of this section, for purposes of determining the aggregate fair market value of the assets and net investment income of an educational institution, the assets and net investment income of a related organization are taken into account as assets and net investment income of the educational institution unless the assets and net investment are not intended or available for the use and benefit of the educational institution.

(*2*) *Determining whether assets and net investment income of a related organization are intended or available for the use and benefit of an educational institution.* Assets and net investment income of a related organization are intended or available for the use and benefit of an educational institution if such assets and net investment income are specifically earmarked or restricted for the benefit of, or are otherwise fairly attributable to, the educational institution. Conversely, assets and net investment income of a related organization are not intended or available for the use and benefit of an educational institution if such assets and net investment income are specifically earmarked or restricted for another entity or for unrelated purposes or are otherwise not fairly attributable to the educational institution. The assets and net investment income of a related organization must be allocated between those intended or available for the use and benefit of an educational institution and those not intended or not available for the use and benefit of an educational institution. Such allocation must be made in a reasonable manner, taking into account all facts and circumstances, and must be used consistently across all related organizations.

(*3*) *Organizations controlled by the institution or described in section 509(a)(3) with respect to the institution for the taxable year*—(*i*) *In general.* If a related organization is controlled, as defined in paragraph (c)(1) of this section, by an educational institution, or is a supporting organization described in section 509(a)(3) with respect to the educational institution, the assets and net investment income of the related organization are taken into account as assets and net investment income of the educational institution regardless of whether the assets and net investment income are earmarked or restricted for the benefit of, or otherwise fairly attributable to, the educational institution and even if they are specifically earmarked or restricted for another entity or for unrelated purposes or are otherwise not fairly attributable to the educational institution, subject to paragraph (c)(2)(ii)(A) of this section.

(*ii*) *Special rule for Type III supporting organizations with respect to such institution as of December 31, 2017.* An educational institution with a related organization that was a Type III supporting organization with respect to the educational institution on December 31, 2017, takes into account only the assets and net investment income of such Type III supporting organization that are intended or available for the use and benefit of, or otherwise fairly attributable to, the educational institution, as described in paragraph (c)(2)(ii)(B)(*2*) of this section. An educational institution may determine whether the assets and net investment income of such Type III supporting organization are intended or available for the use and benefit of, or otherwise fairly attributable to, the educational institution using any reasonable method. A method treating all the distributions received from such Type III supporting organization as net investment income of the school each year is deemed to be reasonable. Similarly, a method using the distributions received from the Type III supporting organization to calculate the percentage of the Type III supporting organization's total net income that was distributed to the educational institution, and then using the same percentage to calculate the value of the underlying assets of the Type III supporting organization that are intended or available for the use and benefit of the educational institution each year, will be deemed to be reasonable.

(d) *Applicability date.* The rules of this section apply to taxable years beginning after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**. A taxpayer may rely on these regulations for taxable years beginning before publication of final regulations.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–13935 Filed 6–28–19; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 70, 71, 72, 75, and 90

[Docket No. MSHA–2018–0014]

RIN 1219–AB90

Retrospective Study of Respirable Coal Mine Dust Rule

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for Information; extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the comment period on the Request for Information on a Retrospective Study of Respirable Coal Mine Dust Rule. The comment period is extended until July 9, 2022. Pursuant to MSHA's ongoing study, this extension gives stakeholders additional time to provide input on developing the framework to assess the impact of the final rule, Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors and to provide MSHA information and data on engineering controls and best practices that lower miners' exposure to respirable coal mine dust.

DATES: The comment period for the request for information, published on July 9, 2018 (83 FR 31710), which was scheduled to close on July 9, 2019, is extended until July 9, 2022. Comments must be received or postmarked by midnight Eastern Daylight Savings time on July 9, 2022.

ADDRESSES: Submit comments and informational materials, identified by RIN 1219–AB90 or Docket No. MSHA–2018–0014, by one of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: zzMSHA-comments@dol.gov.* Include RIN 1219–AB90 or Docket No. MSHA–2018–0014 in the subject line of the message.
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street S, Suite 4E401, Arlington, Virginia 22202–5452.
- *Fax:* 202–693–9441.
- *Hand Delivery or Courier:* MSHA, 201 12th Street S, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor.

Instructions: All submissions must include RIN 1219–AB90 or Docket No. MSHA–2018–0014. Do not include personal information that you do not want publicly disclosed; MSHA will post all comments without change to *http://www.regulations.gov* and *http://www.msha.gov/currentcomments.asp,* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* or *http://www.msha.gov/currentcomments.asp.* To read background documents, go to *http://www.regulations.gov.* Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays. Sign in at the receptionist's desk on the 4th floor.

Email Notification: To subscribe to receive an email notification when MSHA publishes rules in the **Federal Register**, and program information, instructions, and policy, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

FOR FURTHER INFORMATION CONTACT: Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (fax).

SUPPLEMENTARY INFORMATION: On May 1, 2014, MSHA published a final rule, ''Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors'' (79 FR 24814) (Dust rule). The purpose of the Dust rule is to reduce occupational lung diseases in coal miners. As MSHA noted in the preamble to the Dust rule, the health effects from occupational exposure to respirable coal mine dust consist of interstitial and obstructive pulmonary diseases (79 FR 24819) that can lead to permanent disability and death.

Interstitial lung diseases, like coal workers' pneumoconiosis (CWP) and silicosis, may have a significant latency period between exposure and disease. The health effects from exposure to respirable coal mine dust may not be realized for 10 or more years until the disease becomes clinically apparent. In addition, the chronic effects of interstitial lung diseases, such as CWP and silicosis, may progress or worsen even after miners are no longer exposed to respirable coal mine dust. Thus, miners' exposure to respirable coal mine dust before final implementation of the Dust rule on August 1, 2016, may continue to contribute to the development of lung diseases in coal miners. New miners hired after August 1, 2016, are the only cohort of coal miners who are unaffected by exposures that occurred before full implementation of the Dust rule.

In the preamble to the Dust rule, MSHA stated its intent to take the lead in conducting a retrospective study beginning February 1, 2017 (79 FR 24867), with an unspecified completion date. Since the Dust rule, went into effect, MSHA has studied more than 250,000 respirable dust samples taken by mine operators who use the CPDM and by MSHA inspectors who use the gravimetric sampler. MSHA's analysis shows that more than 99 percent of the samples were in compliance with MSHA's respirable coal mine dust standards. The sample data allows MSHA to evaluate the effectiveness of dust controls in mines and whether the rule results in reduced levels of respirable coal dust. This data is available on MSHA's website and is updated on a periodic basis.

MSHA continues to evaluate respirable dust controls and best practices for compliance with the rule's requirements. MSHA also meets with mine operators and miners to provide mine-specific compliance and technical assistance and continues to consult with the Department of Health and Human Services' National Institute for Occupational Safety and Health (NIOSH).

On July 9, 2018 (83 FR 31710), MSHA published a ''Request for Information on a Retrospective Study of Respirable Coal Mine Dust Rule'' (RFI). The comment period is scheduled to close on July 9, 2019. The Agency has determined that extending the comment period until July 9, 2022, will give interested parties more time to provide ongoing input on developing the framework for a study to assess the impact of the Dust rule. Furthermore, due to the significant latency period between exposure to respirable coal mine dust and when occupational lung disease becomes clinically apparent, MSHA anticipates a long-term, ongoing need for comments on this issue so that it always has the most current information.

The Agency will continue to make comments received public, including comments on engineering controls and best practices that lower miners' exposure to respirable coal mine dust by publishing the comments as they are received on the Agency's website and at *www.regulations.gov.*

David G. Zatezalo,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2019–14271 Filed 6–28–19; 4:15 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–1008]

RIN 1625–AA08

Special Local Regulations; Sector Upper Mississippi River Annual and Recurring Marine Events Update

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend and update its table of annual and recurring marine events that take place within the Sector Upper Mississippi River Captain of the Port Zone as well as to make a technical correction to the text of § 801 contained in Title 33 Code of Federal Regulations (CFR) part 100, hereafter referred to as 33 CFR 100.801. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before August 2, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2018–1008 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector Upper Mississippi River (COTP) proposes to amend regulations contained in § 100.801 of the Title 33 of the Code of Federal Regulations (CFR) (33 CFR 100.801) to accurately reflect annual and recurring marine events taking place in the Eighth Coast Guard District. Currently, the text of 33 CFR 100.801 only refers to Table 1, however, the section contains Tables 1 through 7. Additionally, the COTP proposes to amend and update 33 CFR 100.801 Table 2 titled *Sector Upper Mississippi River Annual and Recurring Marine Events* to accurately reflect marine events occurring on a regular basis in the Sector Upper Mississippi River. We propose to remove events that no longer occur or do not meet the criteria of a marine event, and to add new events that do meet the criteria of a marine event. In addition, the COTP proposes to amend Table 2 by updating the details of one marine event, and by rearranging the Table to display events first by the body of water on which they take place (alphabetically), second by the date(s) on which those events occur, and third by mile marker (descending).

This proposed rule will ensure that the public is accurately informed of annual and recurring events taking place within the Sector Upper Mississippi River Captain of the Port Zone, that the table of annual and recurring events is easy to read, and will considerably reduce administrative burden to both the Coast Guard and recurring marine event sponsors. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

The Coast Guard encourages the public to participate in this proposed rulemaking through the comment process so that any necessary changes that are not already contained in this proposed rule can be identified and implemented in a timely and efficient manner.

III. Discussion of Proposed Rule

33 CFR 100.801 contains regulations related to marine parades and regattas. From time to time, this section requires amendment to properly reflect marine events recurring within the Eighth Coast Guard District. This rulemaking proposes amending 33 CFR 100.801 to replace six references to ''Table 1'' with the words ''Tables 1 through 7.''

Additionally, this rulemaking proposes the removal of nine marine events that either no longer take place or do not meet the criteria of a marine event, the addition five marine events, updating details for one marine event, and reorganizing marine events first by the body of water on which they take place (alphabetically), second by the date(s) on which those events occur, and third by mile marker (descending), as follows:

This rulemaking proposes removing these nine marine events from Table 2 of 33 CFR 100.801:

Date	Event/sponsor	Upper Mississippi River location	Regulated area
1. 1 day—Third Saturday in May	Clear Lake Chapter of the ACBS/That was then, This is Now Boat Show & Exhibition.	Quad Cities, IL	Upper Mississippi River mile marker 454.0 to 456.0 (Iowa).
2. 1 day—Third Saturday in March	Lake West Chamber of Commerce/St. Patrick's Water Parade.	Lake of the Ozarks, MO.	Lake of the Ozarks mile marker 5.0 to 10.0 (Missouri).
4. 2 days—Third weekend in July	Champboat Series LLC/Aquatennial Power Boat Grand Prix.	Minneapolis, MN	Upper Mississippi River mile marker 854.8 to 855.8 (Minnesota).
5. 2 days—Third weekend in June	Lake City Chamber of Commerce/ Water Ski Days.	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8 (Minnesota).
6. 2 days—First week of August	River City Days Association/River City Days.	Red Wing, MN	Upper Mississippi River mile marker 791.4 to 791.8 (Minnesota).
7. 2 days—Second weekend of September.	St. Louis Drag Boat Association/New Athens Drag Boat Race.	New Athens, IL	Kaskaskia River mile marker 28.0 to 29.0 (Illinois).
8. 2 days—Third weekend in July	Havana Chamber of Commerce/Havana Boat Races.	Havana, IL	Illinois River mile marker 120.3 to 119.7 (Illinois).
9. 3 days—Third weekend in August	K.C. Aviation Expo & Air Show/K.C. Aviation Expo & Air Show.	Kansas City, MO	Missouri River mile marker 366.3 to 369.8 (Missouri).
10. 3 days a week from May 4th–September 30th.	Twin City River Rats Organization/ Twin City River Rats.	Twin Cities, MN	Upper Mississippi River mile marker 855.4 to 855.8 (Minnesota).

This rulemaking proposes adding the following five marine events, with the proposed reorganizational formatting of the table, into 33 CFR 100.801 Table 2:

Date	Event	City, State	Regulated area
Lake of the Ozarks			
1. 2 days—The weekend before Labor Day weekend.	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile marker 34.5–32.5.
3. 1 day—First Saturday of June	Lake Race	Lake Ozark, MO	Mile marker 4.0–0.0.
Upper Mississippi River			
4. 4 days—Either the first or second week of July.	Riverfest	La Crosse, WI	Mile marker 698.5–697.5.
5. 2 days—Second weekend of August	Great River Tug	LeClaire, IA/Port Byron, IL	Mile marker 497.6–497.2.
6. 1 day—Third weekend of August	Floatzilla	Bettendorf, IA/Davenport, IA/East Moline, IL/Rock Island, IL.	Mile marker 491.0–479.0.

This rulemaking proposes updating the details of a marine event in Table 2 of 33 CFR 100.801 and reorganize the table as follows:

2. 1 day—Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile marker 19.3–18.7.

The effect of this proposed rule, if adopted, would be to restrict general navigation in the regulated areas during the listed events in accordance with the current Special Local Regulations in 33 CFR 100.801. The proposed regulations are necessary to provide for the safety of life on navigable waters during these events

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited scope and duration of the Special Local Regulations that will be in place during the listed Marine Events. Additionally, this proposed rule seeks only to modify the existing table of marine events by removing nine events that no longer take place, add five events that have been occurring on a regular basis and have been previously subject to the rulemaking process in the past, updates the details of one marine event, and modifies the marine event table for easier reading.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the special local regulations zones 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.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and

Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the amendment of existing marine event table found in 33 CFR 100.801 to accurately reflect recurring marine events taking place within the Eighth Coast Guard District. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration will be made available where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *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 or a final rule is published.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 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. Amend § 100.801 by revising the introductory text, paragraphs (f), (i), and (j) and Table 2 to § 100.801 to read as follows:

§ 100.801 Annual Events in the Eighth Coast Guard District.

The regulations in this section apply to the marine events listed in Tables 1 through 7 of this section. The regulations in this section will be effective annually, for the duration of each event listed in Tables 1 through 7 to this section. Annual notice of the exact dates and times of the effective period of the regulation with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will also be published in local notices to mariners. Sponsors of events listed in Tables 1 through 7 of this section must submit an application each year in accordance with 33 CFR 100.15.

* * * * *

(f) Any spectator vessel may anchor outside the regulated area specified in Tables 1 through 7 of this section, but may not anchor in, block, or loiter in a navigable channel.

* * * * *

(i) In Tables 1 through 7 to this section, where a regulated area is described by reference to miles of a river, channel or lake, the regulated area includes all waters between the indicated miles as defined by lines drawn perpendicular to shore passing through the indicated points.

(j) In Tables 1 through 7 to this section, where alternative dates are described (''third or fourth Saturday''), the exact date and times will be advertised by the Coast Guard through Local Notices to Mariners and Broadcast Notices to Mariners.

* * * * *

TABLE 2 TO § 100.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING MARINE EVENTS

Date	Event	City, state	Regulated area
Lake of the Ozarks			
1. 2 days—The weekend before Labor Day weekend.	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile marker 34.5–32.5.
2. 1 day—Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile marker 19.3–18.7.

TABLE 2 TO § 100.801—SECTOR UPPER MISSISSIPPI RIVER ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event	City, state	Regulated area
3. 1 day—First Saturday of June	Lake Race	Lake Ozark, MO	Mile marker 4.0–0.0.
Upper Mississippi River			
4. 4 days—Either the first or second week of July.	Riverfest	La Crosse, WI	Mile marker 698.5–697.5.
5. 2 days—Second weekend of August	Great River Tug	LeClaire, IA/Port Byron, IL	Mile marker 497.6–497.2.
6. 1 day—Third weekend of August	Floatzilla	Bettendorf, IA/Davenport, IA/East Moline, IL/Rock Island, IL.	Mile marker 491.0–479.0.

* * * * *

Dated: April 16, 2019.

P.F. Thomas,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2019–14175 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R08–OAR–2019–0002; 9995–99–Region 8]

Federal Implementation Plan To Establish a Bank for Ozone Precursor Emission Reduction Credits From Existing Sources on Indian Country Lands Within the Uinta Basin Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On May 24, 2019, the Environmental Protection Agency (EPA) published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) to solicit broad feedback on different approaches to establish an emission reduction credit (ERC) bank for ozone precursors, specifically volatile organic compounds (VOCs) and nitrogen oxides (NO_X), as part of a Clean Air Act (CAA) Federal Implementation Plan (FIP) applicable to stationary sources on Indian country lands within the Uintah and Ouray Indian Reservation (U&O Reservation). The EPA is extending the comment period for the ANPRM until August 7, 2019.

DATES: Written comments must be received on or before August 7, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0002, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Dresser, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6385, *dresser.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

The purpose of the ANPRM (84 FR 24064) was to solicit broad feedback on different approaches to establish an ERC bank for ozone precursors. Such ERCs may be generated and used for several air quality planning purposes. Specifically, the credits could be used in assisting in achievement of the ozone National Ambient Air Quality Standard (NAAQS), general conformity demonstrations, and nonattainment new source review (NNSR) permitting related to development of new VOC and NO_X emissions sources in the Uinta Basin Ozone Nonattainment Area in Utah. The EPA designated portions of the ''Uinta Basin'' region nonattainment for the 2015 Ozone NAAQS, effective August 3, 2018.

We received requests from the Western Energy Alliance (WEA) and the Utah Petroleum Association (UPA) on June 24, 2019, and from the Ute Tribal Business Committee on June 25, 2019, to extend the comment period. In response, we are extending the comment period to August 7, 2019.[1]

List of Subjects in 40 CFR Part 49

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 28, 2019.

Greg Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2019–14247 Filed 7–2–19; 8:45 am]

BILLING CODE 6560–50–P

[1] Copies of the letters requesting the extension appear in the docket for this action.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2019–0239; FRL–9995–66–Region 5]

Air Plan Approval; Ohio; Redesignation of the Columbus, Ohio Area to Attainment of the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Columbus, Ohio area is attaining the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) and to act in accordance with a request from the Ohio Environmental Protection Agency (Ohio EPA) to redesignate the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Columbus area includes Delaware, Fairfield, Franklin, and Licking Counties. Ohio EPA submitted this request on April 23, 2019. EPA is also proposing to approve, as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2030 in the Columbus area. Finally, EPA finds adequate and is proposing to approve Ohio's 2023 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Columbus area.

DATES: Comments must be received on or before August 2, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0239 at *http://www.regulations.gov* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of Ohio's redesignation request?
A. Has the Columbus area attained the 2015 8-hour ozone NAAQS?
B. Has Ohio met all applicable requirements of section 110 and part D of the CAA for the Columbus area, and does Ohio have a fully approved SIP for the area under section 110(k) of the CAA?
C. Are the air quality improvements in the Columbus area due to permanent and enforceable emission reductions?
D. Does Ohio have a fully approvable ozone maintenance plan for the Columbus area?
V. Has the state adopted approvable motor vehicle emission budgets?
A. Motor Vehicle Emission Budgets
B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Columbus area?
C. What is a safety margin?
VI. Proposed Actions
VII. Statutory and Executive Order Reviews

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Columbus nonattainment area is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2016–2018 and that this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Columbus area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also proposing to approve, as a revision to the Ohio SIP, the state's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2015 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2023 and 2030 MVEBs for the Columbus area. The comment period for the adequacy of the MVEBs began on May 2, 2019, with EPA's posting of the availability of the submittal on EPA's Adequacy website (at *https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*). The comment period ended on June 1, 2019. EPA did not receive any requests for this submittal, or adverse comments on this adequacy submittal. In a letter dated June 5, 2019, EPA informed Ohio EPA that we found the 2023 and 2030 MVEBs to be adequate for use in transportation conformity analyses. Please see section V. B. of this rulemaking, ''What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Columbus area,'' for further explanation of this process. Based on the above, we find adequate, and are proposing to approve, the State's 2023 and 2030 MVEBs for transportation conformity purposes.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. *See* 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent 3 years of quality assured ozone monitoring data. The Columbus area was designated as a marginal nonattainment area for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018).

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to

attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Ohio's redesignation request?

A. Has the Columbus area attained the 2015 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix U of part 50, based on 3 complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.070 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,[1] on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. *See* section 4 of appendix U to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from monitoring sites in the Columbus area for the 2016–2018 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Columbus area is attaining the 2015 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE COLUMBUS AREA

County	Monitor	Year	% Observed	Fourth high (ppm)	2016–2018 average (ppm)
Delaware	39–041–0002	2016	98	0.067	0.064
		2017	99	0.060	
		2018	99	0.066	
Franklin	39–049–0029	2016	99	0.072	0.069
		2017	100	0.070	
		2018	100	0.066	

[1] The ozone season is defined by state in 40 CFR 58 appendix D. The ozone season for Ohio is March–October. See, 80 FR 65292, 65466–67 (October 26, 2015).

TABLE 1—ANNUAL FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE COLUMBUS AREA—Continued

County	Monitor	Year	% Observed	Fourth high (ppm)	2016–2018 average (ppm)
	39–049–0037	2016	97	0.067	N/A
		2017	99	0.066	
		2018	*	.....	
	39–049–0081	2016	100	0.071	0.066
		2017	99	0.064	
		2018	100	0.063	
Licking	39–089–0005	2016	99	0.067	0.064
		2017	100	0.065	
		2018	99	0.061	
	39–089–0008	2016	.....	.....	N/A
		2017	**	.....	
		2018	99	0.064	

* Site terminated effective 12/31/17. The 2014–2016 and 2015–2017 design values at the site were 0.066 and 0.065, respectively.
** Site began operation 3/1/18.

The Columbus area's 3-year ozone design value for 2016–2018 is 0.069 ppm,[2] which meets the 2015 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the Columbus area is attaining the 2015 ozone NAAQS.

EPA will not take final action to determine that the Columbus area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2019 data to date indicate that this area continues to attain the 2015 ozone NAAQS. As discussed in section IV.D.3. below, Ohio EPA has committed to continue monitoring ozone in this area to verify maintenance of the 2015 ozone NAAQS.

B. Has Ohio met all applicable requirements of section 110 and part D of the CAA for the Columbus area, and does Ohio have a fully approved SIP for the area under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). EPA finds that Ohio has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2015 ozone NAAQS). Additionally, EPA finds that all applicable requirements of the Ohio SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Columbus area and the Ohio SIP and, if applicable, whether the required Ohio SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum (see ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

1. Ohio has met all applicable requirements of section 110 and part D of the CAA applicable to the Columbus area for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain

[2] The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

air pollutants, *e.g.,* NO_X SIP call.[3] However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Ohio's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[4]

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Columbus area was classified as marginal under subpart 2 for the 2015 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a) (marginal nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than 3 years from the date of the nonattainment designation. For the Columbus nonattainment area, SIPs required under CAA section 172 are due August 3, 2021. No requirements applicable for purposes of redesignation under part D became due prior to Ohio EPA's submission of the complete redesignation request, and, therefore, none are applicable to the area for purposes of redesignation.

EPA has previously approved Ohio's NSR program on January 10, 2003 (68 FR 1366) and February 25, 2010 (75 FR 8496). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Ohio has demonstrated that the Columbus area will be able to maintain the 2015 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Ohio's PSD program will become effective in the Columbus area upon redesignation to attainment. EPA approved Ohio's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496).

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements[5] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been

[3] On October 27, 1992 (63 FR 57356), EPA issued a NO_X SIP call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP call, Ohio developed rules governing the control of NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers and turbines, and major cement kilns. EPA approved Ohio's rules as fulfilling Phase I of the NO_X SIP Call on August 5, 2003 (68 FR 46089) and June 27, 2005 (70 FR 36845), and as meeting Phase II of the NO_X SIP Call on February 4, 2008 (73 FR 6427).

[4] EPA has previously approved provisions of the Ohio SIP addressing section 110 elements under the 2008 ozone NAAQS (79 FR 62019, October 16, 2014 and 83 FR 21719 May 10, 2018). In addition, on September 28, 2018, Ohio EPA submitted a SIP to meet the requirements of section 110 for the 2015 ozone NAAQS. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the 2015 ozone NAAQS nonattainment status of the Columbus area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the state's 2015 ozone NAAQS redesignation request.

[5] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans.

approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Ohio has an approved conformity SIP for the Columbus area. *See* 80 FR 11133 (March 2, 2015).

iii. Section 182(a) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area within two years of designation. For the Columbus area, this submission is due August 3, 2020. Because it will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Columbus area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Ohio complied with this requirement for the Columbus area under the prior 1-hour ozone NAAQS. *See* 59 FR 23796 (May 9, 1994) and 60 FR 15235 (March 23, 1995).

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2015 ozone NAAQS and the consideration of Ohio's redesignation request for this standard, the Columbus area is not subject to the section 182(a)(2)(B) requirement because the Columbus area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments.

Section 182(a)(2)(C), under the heading ''Corrections to the State implementation plans—Permit programs'' contains a requirement for states to submit NSR SIP revisions to meet the requirements of CAA sections 172(c)(5) and 173 within 2 years after the date of enactment of the 1990 CAA Amendments. For the purposes of the 2015 ozone NAAQS and the consideration of Ohio's redesignation request for this standard, the Columbus area is not subject to the section 182(a)(2)(C) requirement because the Columbus area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments.

Section 182(a)(4) specifies the emission offset ratio for marginal areas but does not establish a SIP submission deadline. EPA's December 6, 2018 implementation rule for the 2015 ozone NAAQS clarifies that nonattainment NSR permit program requirements applicable to the 2015 NAAQS are due 3 years from the effective date of the nonattainment designation, *i.e.,* August 3, 2021. *See* 83 FR 62998, 63001. This approach is based on the provision in CAA section 172(b) requiring the submission of plans or plan revisions ''no later than 3 years from the date of the nonattainment designation.'' Because this requirement will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation.

While Ohio has not submitted a nonattainment NSR SIP revision to address the 2015 ozone NAAQS, Ohio currently has a fully-approved part D NSR program in place. In addition, EPA approved Ohio's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496). As discussed above, Ohio has demonstrated that the Columbus area will be able to maintain the 2015 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Columbus area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below in section IV.D.4. of this proposed rule, Ohio will continue to update its emissions inventory at least once every 3 years. With regard to stationary source emission statements, this submission is due August 3, 2020. Because it will become due after Ohio's submission of a complete redesignation request for the Columbus area, it is not an applicable requirement for purposes of redesignation.

Therefore, EPA finds that the Columbus area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Columbus area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Ohio has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, EPA has fully approved the Ohio SIP for the Columbus area under section 110(k) for all requirements applicable for purposes of redesignation under the 2015 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Columbus area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Ohio has demonstrated that that the observed ozone air quality improvement in the Columbus area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the state has calculated the change in emissions between 2014 and 2016. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Columbus area and upwind areas have implemented in recent years. In addition, Ohio EPA provided an analysis to demonstrate the

improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in 27 eastern states, including Ohio, that contributed to downwind nonattainment and maintenance of the 1997 ozone NAAQS and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved Ohio's CAIR regulations into the Ohio SIP on February 1, 2008 (73 FR 6034), and September 25, 2009 (74 FR 48857). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus addressed the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

The D.C. Circuit's initial vacatur of CSAPR [6] was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 NO_X ozone season emissions budgets for Ohio. On September 7, 2016, in response to the remand, EPA finalized an update to CSAPR requiring further reductions in NO_X emissions from EGUs beginning in May 2017. This final rule was projected to result in a 20% reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 800,000 tons in 2017 compared to 2015 levels.

There are no EGUs in the Columbus area. However, the reduction in NO_X emissions from the implementation of CSAPR results in lower concentration of transported ozone entering the Columbus area upon implementation of the phase 2 budgets in 2017 and throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28%, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, much of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduces both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule will be phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NO_X and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80% reduction from today's fleet average and a 70% reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from current standards and apply to all light-duty and onroad gasoline-powered heavy-duty vehicles. Finally, the rule lowers the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for onroad heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the onroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur

[6] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO_2 limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90%. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards are phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72% reduction in VOC emissions from these engines and an 80% reduction in NO_X emissions. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896) EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25% reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NO_X from these engines. As projected by these estimates and demonstrated in the nonroad emission modeling for the Columbus area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission reductions.

Ohio is using a 2014 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the area as nonattainment. Ohio is using 2016 as the attainment year, which is appropriate because it is one of the years in the 2016–2018 period used to demonstrate attainment.

Area and nonroad mobile emissions were collected from data available on EPA's Air Emissions Modeling website.[7] Using Emissions Modeling platform 2011v6.3, Ohio EPA collected data for the 2011 National Emissions Inventory (NEI) year, version 2011el, and the 2017 projected inventory, version 2017ek. Tons per summer day (TPSD) emissions were then derived by dividing July emissions by the number of days in July. 2014 emissions were derived by interpolating between 2011 and 2017 (2011el and 2017ek). 2016 emissions were assumed to be equivalent to the 2017 projected emissions (2017ek).

Ohio EPA compiled 2014 and 2016 actual point source emissions from state inventory databases. TPSD emissions were then derived by applying a conversion factor to the annual emissions. The conversion factor was derived from the emissions modeling platform 2011v6.3 as the ratio of the average July day to annual emissions for the non-EGU sector.

Onroad mobile source emissions were developed in conjunction with the Ohio EPA, the Ohio Department of Transportation, the Mid-Ohio Regional Planning Commission (MORPC), and the Licking County Area Transportation Study (LCATS) and were calculated from emission factors produced by EPA's Motor Vehicle Emission Simulator model, MOVES2014a, and data extracted from the region's travel-demand model.

Using the inventories described above, Ohio's submittal documents changes in VOC and NO_X emissions from 2014 to 2016 for the Columbus area. Emissions data are shown in Tables 2 through 6.

TABLE 2—COLUMBUS AREA NO_X EMISSIONS FOR NONATTAINMENT YEAR 2014 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.07	2.45	3.30	7.01	12.83
Fairfield	4.05	0.54	2.08	4.96	11.63
Franklin	1.48	9.04	11.53	45.89	67.94
Licking	0.95	0.69	2.00	7.34	10.98
Area Totals	6.55	12.72	18.91	65.20	103.38

TABLE 3—COLUMBUS AREA VOC EMISSIONS FOR NONATTAINMENT YEAR 2014 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.36	4.30	4.14	4.72	13.52
Fairfield	0.59	4.61	1.44	3.84	10.48
Franklin	2.27	28.24	13.29	31.26	75.06
Licking	0.70	6.46	2.59	4.80	14.55
Area Totals	3.92	43.61	21.46	44.62	113.61

TABLE 4—COLUMBUS AREA NO_X EMISSIONS FOR ATTAINMENT YEAR 2016 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.10	2.30	2.49	5.59	10.48

[7] *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

TABLE 4—COLUMBUS AREA NO_X EMISSIONS FOR ATTAINMENT YEAR 2016 (TPSD)—Continued

County	Point	Area	Nonroad	Onroad	Total
Fairfield	3.85	0.55	1.56	3.94	9.90
Franklin	1.34	8.90	8.37	36.51	55.12
Licking	0.89	0.71	1.53	5.86	8.99
Area Totals	6.18	12.46	13.95	51.90	84.49

TABLE 5—COLUMBUS AREA VOC EMISSIONS FOR ATTAINMENT YEAR 2016 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.27	4.16	3.40	4.02	11.85
Fairfield	0.55	4.53	1.19	2.84	9.11
Franklin	2.24	27.52	11.16	26.55	67.47
Licking	0.62	6.36	2.11	4.09	13.18
Area Totals	3.68	42.57	17.86	37.50	101.61

TABLE 6—CHANGE IN NO_X AND VOC EMISSIONS IN THE COLUMBUS AREA BETWEEN 2014 AND 2016 (TPSD)

	NO_X			VOC		
	2014	2016	Net change (2014–2016)	2014	2016	Net Change (2014–2016)
Point	6.55	6.18	−0.37	3.92	3.68	−0.24
Area	12.72	12.46	−0.26	43.61	42.57	−1.04
Nonroad	18.91	13.95	−4.96	21.46	17.86	−3.60
Onroad	65.20	51.90	−13.30	44.62	37.50	−7.12
Total	103.38	84.49	−18.89	113.61	101.61	−12.00

As shown in Table 6, NO_X and VOC emissions in the Columbus area declined by 18.89 TPSD and 12.00 TPSD, respectively, between 2014 and 2016.

3. Meteorology.

To further support Ohio's demonstration that the improvement in air quality between the year violations occurred and the year attainment was achieved, is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by Ohio EPA. Ohio analyzed the maximum fourth-high 8-hour ozone values for May, June, July, August, and September, for years 2000 to 2017.

First, the maximum 8-hour ozone concentration at each monitor in the Columbus area was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. While there is a clear trend in decreasing ozone concentrations at all monitors, there is no such trend in the temperature data.

Ohio EPA also examined the relationship between the average summer temperature for each year of the 2000–2017 period and the fourth-high 8-hour ozone concentration. Given the similarity of ozone concentrations observed at each monitor and the regional nature of ozone formation, Ohio EPA conducted this analysis using the average fourth-high 8-hour ozone concentration from all monitors in the Columbus, OH area. While there is some correlation between average summer temperatures and ozone concentrations, this correlation does not exist over the study period. The linear regression lines for each data set demonstrate that the average summer temperatures have increased over the 2000 to 2017 period, while average ozone concentrations have decreased. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the Columbus area, and not unusually favorable summer temperatures.

Finally, Ohio EPA analyzed the relationship between average summertime relative humidity and average fourth-high 8-hour ozone concentrations. The data did not show a correlation between relative humidity and ozone concentrations.

As discussed above, Ohio identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2014 to 2016. In addition, Ohio EPA's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the Columbus area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Ohio has shown that the air quality improvements in the Columbus area are due to permanent and enforceable emissions reductions.

D. Does Ohio have a fully approvable ozone maintenance plan for the Columbus area?

As one of the criteria for redesignation to attainment section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the

initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Columbus area to attainment for the 2015 ozone NAAQS, Ohio EPA submitted a SIP revision to provide for maintenance of the 2015 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Ohio's ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision of the Ohio SIP.

1. Attainment inventory.

EPA is proposing to determine that the Columbus area has attained the 2015 ozone NAAQS based on monitoring data for the period of 2016–2018. Ohio EPA selected 2016 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Columbus area that are sufficient to attain the 2015 ozone NAAQS. The derivation of the attainment year emissions was discussed above in section IV.C.2. of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 4 and 5 above.

2. Has the state documented maintenance of the ozone standard in the Columbus area?

Ohio has demonstrated maintenance of the 2015 ozone NAAQS through 2030 by assuring that current and future emissions of VOC and NO_X for the Columbus area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Ohio is using emissions inventories for the years 2023 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment and 2023 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

Point, area and nonroad mobile emissions were collected from data available on EPA's Air Emissions Modeling website.[3] Using Emissions Modeling platform 2011v6.3, Ohio EPA collected data for the 2023 and 2028 projected inventories. Tons per summer day (TPSD) emissions were then derived by dividing July emissions by the number of days in July. For interim year 2023, version 2023el was used without modification except for adjustments to emissions for ten point sources, based on more recent source specific information. 2030 emissions were derived by extrapolating from version 2028el. As with the 2023 inventory, adjustments were made to the emissions for ten point sources based on more recent source specific information.

Onroad mobile source emissions were developed through the combined effort of Ohio EPA, the Ohio Department of Transportation, MORPC, and LCAT and were calculated from emission factors produced by EPA's MOVES2014a model and data extracted from the region's travel-demand model. Emissions data are shown in Tables 7 through 11 below.

TABLE 7—COLUMBUS AREA NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2023 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.08	1.97	1.73	2.80	6.58
Fairfield	3.55	0.54	1.06	1.94	7.09
Franklin	1.08	8.88	5.96	17.84	33.76
Licking	0.75	0.73	1.07	2.88	5.43
Area Totals	5.46	12.12	9.82	25.46	52.86

TABLE 8—COLUMBUS AREA VOC EMISSIONS FOR INTERIM MAINTENANCE YEAR 2023 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.33	4.19	3.00	2.73	10.25
Fairfield	0.53	4.37	1.14	1.90	7.94
Franklin	1.52	27.61	11.26	17.60	57.99
Licking	0.41	5.94	1.84	2.70	10.89
Area Totals	2.79	42.11	17.24	24.93	87.07

TABLE 9—COLUMBUS AREA NO_X EMISSIONS FOR MAINTENANCE YEAR 2030 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.08	1.56	1.46	1.92	5.02
Fairfield	3.55	0.53	0.85	2.70	7.63
Franklin	1.08	8.34	5.42	11.70	26.54
Licking	0.75	0.73	0.87	1.92	4.27
Area Totals	5.46	11.16	8.60	18.24	43.46

TABLE 10—COLUMBUS AREA VOC EMISSIONS FOR MAINTENANCE YEAR 2030 (TPSD)

County	Point	Area	Nonroad	Onroad	Total
Delaware	0.33	4.18	3.00	2.14	9.65
Fairfield	0.53	4.37	1.20	1.78	7.88
Franklin	1.52	27.62	12.17	13.20	54.51
Licking	0.41	5.95	1.84	2.04	10.24
Area Totals	2.79	42.12	18.21	19.16	82.28

TABLE 11—CHANGE IN NO_X AND VOC EMISSIONS IN THE COLUMBUS AREA BETWEEN 2016 AND 2030 (TPSD)

	NO_X				VOC			
	2016	2023	2030	Net change (2016–2030)	2016	2023	2030	Net change (2016–2030)
Point	6.18	5.46	5.46	−0.72	3.68	2.79	2.79	−0.89
Area	12.46	12.12	11.16	−1.30	42.57	42.11	42.12	−0.45
Nonroad	13.95	9.82	8.60	−5.35	17.86	17.24	18.21	0.35
Onroad	51.90	25.46	18.24	−33.66	37.50	24.93	19.16	−18.34
Total	84.49	52.86	43.46	−41.03	101.61	87.07	82.28	−19.33

In summary, Ohio's maintenance demonstration for the Columbus area shows maintenance of the 2015 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2016 emission levels when taking into account both future source growth and implementation of future controls. Table 11 shows NO_X and VOC emissions in the Columbus area are projected to decrease by 41.03 TPSD and 19.33 TPSD, respectively, between 2016 and 2030.

3. Continued air quality monitoring.

Ohio EPA has committed to continue to operate the ozone monitors listed in Table 1 above. Ohio EPA has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Ohio remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of continued attainment.

The State of Ohio has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Columbus area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Ohio EPA will continue to operate the current ozone monitors located in the Columbus area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Ohio EPA will continue to develop and submit to EPA updated emission inventories for all source categories at least once every 3 years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Ohio was compiled for 2014. Point source facilities covered by Ohio's emission statement rule, Ohio Administrative Code Chapter 3745–24, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Columbus area?

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Ohio has adopted a contingency plan for the Columbus area to address possible future ozone air quality problems. The contingency plan adopted by Ohio has two levels of response, a warning level response and an action level response.

In Ohio's plan, a warning level response will be triggered when an annual fourth high monitored value of 0.074 ppm or higher is monitored within the maintenance area. A warning level response will consist of Ohio EPA conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the

conclusion of the most recent ozone season.

In Ohio's plan, an action level response is triggered when a two-year average fourth high value of 0.071 ppm or greater is monitored within the maintenance area. A violation of the 2015 ozone NAAQS within the maintenance area also triggers an action level response. When an action level response is triggered, Ohio EPA, in conjunction with the metropolitan planning organization or regional council of governments, will determine what additional control measures are needed to assure future attainment of the 2015 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Ohio EPA may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Ohio EPA included the following list of potential contingency measures in its maintenance plan:

1. Adopt VOC RACT on existing sources covered by EPA Control Technique Guidelines issued after the 1990 CAA.
2. Apply VOC RACT to smaller existing sources.
3. One or more transportation control measures sufficient to achieve at least half a percent reduction in actual area wide VOC emissions. Transportation measures will be selected from the following, based upon the factors listed above after consultation with affected local governments:
   a. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area wide rideshare programs, work schedule changes, and telecommuting;
   b. traffic flow and transit improvements; and
   c. other new or innovative transportation measures not yet in widespread use that affected local governments deem appropriate.
4. Alternative fuel and diesel retrofit programs for fleet vehicle operations.
5. Require VOC or NO_X emission offsets for new and modified major sources.
6. Increase the ratio of emission offsets required for new sources.
7. Require VOC or NO_X controls on new minor sources (less than 100 tons).
8. Adopt NO_X RACT for existing combustion sources.
9. High volume, low pressure coating application requirements for autobody facilities.
10. Requirements for cold cleaner degreaser operations (low vapor pressure solvents).

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Ohio EPA has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Columbus area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Ohio EPA for the Columbus area meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Ohio SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2015 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Columbus area?

When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule

Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Ohio's maintenance plan includes NO_X and VOC MVEBs for the Columbus area for 2030 and 2023, the last year of the maintenance period and an interim year. EPA reviewed the VOC and NO_X MVEBs through the adequacy process. Ohio's April 23, 2019 maintenance plan SIP submission, including the VOC and NO_X MVEBs for the Columbus area was open for public comment on EPA's adequacy website on May 2, 2019, found at: *https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa.* The EPA public comment period on adequacy of the 2020 and 2030 MVEBs for the Columbus area closed on June 1, 2019. No comments on the adequacy submittal were received during the comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor's designee and was subject to a state public hearing. The MVEBS were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBS were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2015 ozone NAAQS.

TABLE 12—MVEBS FOR THE COLUMBUS AREA (TPSD)

	Attainment year 2016 onroad emissions	2023 estimated onroad emissions	2023 mobile safety margin allocation	2023 MVEBs	2030 estimated onroad emissions	2030 mobile safety margin allocation	2030 MVEBs
VOC	37.50	24.93	3.74	28.67	19.16	2.87	22.03
NO_X	51.90	25.46	3.82	29.28	18.24	2.74	20.98

As shown in Table 12, the 2023 and 2030 MVEBs exceed the estimated 2023 and 2030 onroad sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, Ohio EPA allocated a portion of the safety margin (described further below) to the mobile sector. Ohio has demonstrated that the Columbus area can maintain the 2015 ozone NAAQS with mobile source emissions at or below 28.67 TPSD and 22.03 TPSD of VOC and 29.28 TPSD and 20.98 TPSD of NO_X in 2023 and 2030, respectively, since despite partial allocation of the safety margin, emissions will remain under attainment year emission levels. EPA finds adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the Columbus area, because EPA has determined that the area can maintain attainment of the 2015 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

C. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 11, the emissions in the Columbus area are projected to have safety margins of 41.03 TPSD for NO_X and 19.33 TPSD for VOC in 2030 (the difference between the attainment year, 2016, emissions and the projected 2030 emissions for all sources in the Columbus area). Similarly, there is a safety margin of 31.63 TPSD for NO_X and 14.54 TPSD for VOC in 2023. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

As shown in Table 12 above, Ohio is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2023, Ohio is allocating 3.74 TPSD and 3.82 TPSD of the VOC and NO_X safety margins, respectively. In 2030, Ohio is allocating 2.87 TPSD and 2.74 TPSD of the VOC and NO_X safety margins, respectively. Ohio EPA is not requesting allocation to the MVEBs of the entire available safety margins reflected in the demonstration of maintenance. In fact, the amount allocated to the MVEBs represents only a small portion of the 2023 and 2030 safety margins. Therefore, even though the State is requesting MVEBs that exceed the projected onroad mobile source emissions for 2023 and 2030 contained in the demonstration of maintenance, the permissible level of onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Proposed Actions

EPA is proposing to determine that the Columbus nonattainment is attaining the 2015 ozone NAAQS, based on quality-assured and certified monitoring data for 2016–2018 and the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Columbus area from nonattainment to attainment for the 2015 ozone NAAQS. EPA is also proposing to approve, as a revision to the Ohio SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2015 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2023 and 2030 MVEBs for the Columbus area.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 13, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2019–14154 Filed 7–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0008; FRL–9996–05–Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Strasburg Landfill Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 is issuing a Notice of Intent to Delete the Strasburg Landfill Superfund Site (Site) located in Newlin and West Bradford Townships, Chester County, Pennsylvania from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP, Southeast Region), have determined that all appropriate response actions under CERCLA, other than operation and maintenance (O&M), monitoring, and Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 2, 2019.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0008, by one of the following methods:

- *https://www.regulations.gov.* Follow on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*
- *Email: greaves.david@epa.gov.*
- *Mail:* USEPA Region III, 1650 Arch Street, Philadelphia, PA 19103.
- *Hand delivery:* USEPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1989–0008. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://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 information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means 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 EPA without going through *https://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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at: USEPA Region III Administrative Records Room: 1650 Arch Street—6th Floor, Philadelphia, PA 19103–2029, (215) 814–3157, Business Hours: Monday through Friday, 8:00 a.m.–4:30 p.m.; by appointment only.

Local Repository: Kennett Library, 216 East State Street, Kennett Square, PA 19348, (610) 444–2702, Business Hours: Monday through Friday, 9:00 a.m.–8:00 p.m.

SUPPLEMENTARY INFORMATION:

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II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region 3 announces its intent to delete the Strasburg Landfill Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the NCP, which EPA promulgated pursuant to section 105 of the CERCLA of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Strasburg Landfill Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the Commonwealth, whether any of the following criteria have been met:

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

(2) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

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

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts Five-Year Reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such Five-Year Reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the Commonwealth of Pennsylvania before developing this Notice of Intent to Delete;

(2) EPA has provided the Commonwealth of Pennsylvania 30 working days for review of this notice prior to publication of it today;

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate;

(4) The Commonwealth of Pennsylvania, through PADEP (Southeast Region), has concurred with deletion of the Site from the NPL;

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, the Daily Local News. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the site from the NPL;

(6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

EPA proposed the Site (EPA ID PAD000441337) to the NPL on June 24, 1988 (53 FR 23978) and added the Site to the NPL on March 31, 1989 (54 FR 13296). The Site is located south and slightly east of Strasburg Road in

Newlin Township, Chester County, Pennsylvania.

The Site includes a 24-acre inactive landfill located on two parcels totaling approximately 209 acres of undeveloped land. In addition to the 209 acres, the Site also includes an access road on a 14.5-acre parcel that provides access from Strasburg Road to the Site. The access road is located in Newlin and West Bradford Townships. The topography of the area is characterized by a combination of steep and gentle hills. In general, the land in the Site area slopes towards, and drains to the Brandywine Creek, or Briar Run, a tributary. These streams form the eastern and western boundaries of the Site area. A small wetlands area has been created on the eastern side of the landfill along Briar Run. The wetlands receive the discharge from the Site's leachate collection system prior to ultimately discharging into Briar Run. Groundwater flow at the Site is to the south, southwest, and southeast.

Land use in the area is primarily suburban residential, with some residual agricultural areas. There are more than 300 single family residences within a one-mile radius of the Site. The drinking water to these residences is primarily supplied from groundwater. Most of the homes are served by private home wells. A 57-acre parcel, adjacent to the two parcels on which the landfill is situated and abutting Strasburg Road, was acquired by West Bradford Township in August 2007 through a property sheriff sale. The West Bradford parcel is currently used for township lawn waste composting.

The Site began to accept municipal and industrial waste in 1978. The landfill operators were cited by PADEP for numerous operational violations, and the landfill was closed in 1984. During its period of operation, the landfill accepted approximately three million cubic yards of waste. Following closure, the landfill began discharging leachate into the surrounding area, including Briar Run.

Initial sampling on and around the landfill showed elevated levels of vinyl chloride (VC) and trichloroethene (TCE) both in leachate seeps emanating from the landfill and also in home wells adjacent to the Site. Subsequent inspections and sampling showed that the existing landfill cap had failed in numerous locations and that contaminants were flowing both into nearby surface water streams and into the groundwater.

PADEP required the landfill operators to collect the leachate and transport it offsite for treatment at a nearby municipal sewage treatment plant. The leachate was collected until July 1989 when the landfill operators gave notice that they would no longer operate the leachate collection system. PADEP operated the system on an interim basis until EPA took over operations of the temporary leachate collection system in September 1989.

Remedial Investigation (RI) and Feasibility Study (FS)

The RI for the Site was performed by Ecology and Environment, Inc. (E&E) for EPA beginning in March 1989 to assess the nature and extent of contamination and document the potential for contaminant migration from the Site.

E&E field activities conducted during the RI included:

- Installation of four shallow (MW–1S, MW–2S, MW–3S, and MW–4S) and five intermediate depth (MW1I, MW–2I, MW–3I, MW–4I, and MW–5I) downgradient monitoring wells;
- Sampling and analysis of soils extracted during well installation;
- Surface water, sediment, and bioassay sampling from onsite locations and locations in Briar Run and Brandywine Creek;
- Soil gas sampling at a grid area southeast of the landfill and around the landfill perimeter;
- Packer injection testing of the intermediate-depth monitoring wells;
- Packer production testing of both shallow (120 feet total depth) and deep (300 feet total depth) residential wells;
- Residential well sampling and analysis;
- Sampling and analysis of new monitoring wells installed in 1990 and well M5, installed in 1984; and
- Ambient air sampling.

Contaminants of concern (COCs) at the Site included volatile and base-neutral organics and selected inorganics. Volatile organic compounds (VOCs) were detected in ambient air, soil gas, soil, groundwater, surface water, sediment, and seep areas. The distribution of base-neutral and inorganic contamination was limited primarily to the sediment and water in the seep areas and in the sediment pond. The observed contaminant distribution reflected the differing mobilities of the different compounds, with the widest distribution observed in the most mobile class of compounds, VOCs. Tetrachloroethene (TCE), VC, and 1,2-dichloroethene (1,2-DCE) were the most widespread contaminants identified at this Site.

Mechanisms for transport of organic compounds from the landfill included landfill gas emissions that elevate contaminants in the ambient air and soil gas. Gas emissions escaping through the landfill cover were measured at selected locations on the landfill using a stainless steel flux box. Elevated concentrations of PCE (up to 567 parts per billion (ppb)) and VC (up to 129 ppb) were measured in the gas collected in the flux box samples. Soil gas concentrations measured at perimeter locations surrounding the landfill had generally high concentrations of VOCs, with concentrations up to 11,000 ppb VC and up to 3,000 ppb PCE. Although maximum VOC concentrations detected in ambient air samples (0.09 ppb PCE, 0.48 ppb VC, and 0.64 ppb 1,2-DCE) were much lower than concentrations detected in the soil gas, levels still exceeded background ambient air concentrations.

Precipitation entering the landfill through the cap generated leachate and provided an additional mechanism for contaminant migration. Leachate generated by the landfill was contaminated with organic and inorganic compounds. Once generated, leachate migrated from the landfill to the underdrain system, to the surface water as seeps via interflow, and to the groundwater. Surface water collected from the seeps and on the surrounding landfill indicated elevated concentrations of VC (19 micrograms per liter)(μg/L) and cis-1,2-DCE (54 μg/L) likely to have been derived from landfill leachate. Elevated concentrations of PCE (214 μg/L); 1,2-DCE (129 μg/L); and VC (19.5 μg/L) were detected in groundwater downgradient of the landfill.

Two homes located downgradient of the landfill had relatively low levels of VOCs in their water supply wells (up to 80.8 μg/L total VOCs.) These homes were equipped with whole-house point-of-use carbon filters to provide potable water by EPA in 1989, as described in additional detail in the following section.

A diversity of ecological resources exists in the area surrounding the landfill. These resources include river, wetland, forest, and open field ecosystems that harbor abundant wildlife populations. Exposure of plants and wildlife to landfill contaminants appeared to be limited to seep areas and soil on the landfill perimeter, with some limited evidence of potential exposure to aquatic biota in areas downstream from the Site. For aquatic and terrestrial life residing on the landfill perimeter and having frequent contact with contaminant source areas, there was a potential risk of toxic effects of contamination.

Response Actions

The remedial action objectives (RAOs) for the Site, as described in the Site decision documents, are to minimize migration of contaminants to ground and surface waters and to prevent direct contact with, or ingestion of, contaminants.

EPA divided the cleanup of the Site into four operable units (OUs). EPA issued a series of Records of Decision (RODs) for the OUs, which selected the remedies necessary to protect human health and the environment from contaminants at the Site. The first ROD for OU1, dated June 29, 1989, addressed leachate releases into surface water and groundwater near the landfill. The selected remedy was to collect leachate and treat and dispose of it offsite, as well as provide point-of-use carbon treatment for contaminated residential wells.

However, the potentially responsible parties (PRPs) ceased performing work at the Site in July 1989. Because the PRPs ceased the offsite disposal of collected leachate, the selected remedy outlined in the June 1989 ROD was no longer considered adequate. The first Explanation of Significant Differences (ESD) was issued on January 3, 1990 to change the method of leachate treatment to onsite treatment via air-stripping and discharge to Briar Run. The onsite treatment system was constructed from March 1990 through March 1991 and the Remedial Action for OU1 was approved on March 27, 1991.

In 1989, EPA installed whole-house carbon filtration systems in two private residences down gradient of the Site. EPA monitored and maintained the systems until PADEP took over responsibility for Operation and Maintenance (O&M) for the Site in 2001. No Site-related contaminants have been detected at levels exceeding the Maximum Contaminant Levels (MCLs) in any wells prior to treatment since 1995. PADEP maintained the carbon units and monitored the groundwater from the residential wells pre-filter and post-filter until 2010 when maintenance and monitoring of the residential systems was discontinued based on the many years of sampling results not exceeding MCLs and the stability of the plume.

The second ROD for OU2, dated June 28, 1991, addressed Site access and security. EPA installed a security fence with warning signs around the entire perimeter of the landfill from October through December 1992. The Remedial Action for OU2 was approved on December 23, 1992.

Pursuant to the ROD for OU3, dated March 31, 1992, EPA constructed a multi-layer cap over the landfill portion of the Site, a landfill subsurface leachate collection system, and a leachate treatment system, from August 1996 through September 1999. The Remedial Action for OU3 was approved on September 29, 2000. The landfill was re-graded, creating less steep slopes, which conformed to the current landfill grading practices. All of the weeds, brush, and small trees, which had grown up on the landfill, were removed and an impermeable liner was placed over the entire landfill area. Approximately 600,000 cubic yards of earthen material was placed over the landfill as part of this reconstruction.

The leachate treatment system actively treated all leachate from the landfill until 2010. Following the successful pilot test in 2009–2010, the onsite wetland now serves as a passive treatment system for the leachate. The leachate, after being distributed via underground level spreaders in the up-gradient portions of the wetland, eventually discharges to Briar Run. A gas-flare system which collected and safely burned gases developed in the landfill has been operated since 1999. However, due to a decrease in the volume of gas generated by the landfill, operation of the flare has become difficult. PADEP requested and EPA evaluated a change to passive gas venting for the Site. This request was approved by EPA in April 2016.

Finally, on September 27, 1999, EPA issued a ''No Action'' ROD for groundwater associated with the Site (OU4). This decision was based on groundwater data which demonstrated that Site-related contaminants were not migrating offsite from under the landfill cap.

The Preliminary Close Out Report (PCOR), documenting construction completion at the Site, was issued on September 27, 1999. Under the terms of the Superfund State Contract (SSC), PADEP has maintained and operated the Site remedies since 2001. EPA issued the Final Close Out Report (FCOR) on March 18, 2019 to document that all response actions at the Site had been successfully completed in accordance with *Close Out Procedures for National Priorities List Sites* (OSWER Directive 9320.2–22, May 2011).

Institutional Controls (ICs)

ICs for the Site were developed as a result of recommendations in the 2010 Five-Year Review. The required ICs were selected via a second ESD dated September 4, 2012. The ICs selected for the Site include the following:

- Prohibit activities on the Site within or near the existing security fencing that would in any manner disturb or interfere with the remedial systems, including the landfill cap, gas vents, monitoring wells, leachate collection and conveyance system, and security measures that prevent access to the landfill. Such prohibited activities include, but are not limited to, digging in the landfill cap or tampering with the hardware associated with the gas vents, monitoring wells, leachate collection and conveyance systems, or the security fencing.
- Prohibit any use of landfill leachate unless approved by the EPA, in consultation with PADEP, to avoid exposure to contaminants in the leachate via ingestion, vapor inhalation or dermal contact.
- Prohibit installation of groundwater wells on the Site within the existing security fencing without notice and approval of the EPA, in consultation with PADEP, to avoid exposure to contaminants in groundwater via ingestion, inhalation, or dermal contact.
- Prohibit installation and pumping of new groundwater wells within one-quarter of a mile of the identified plume of the Site which may influence the Site hydrology without notice and approval of EPA, in consultation with PADEP, to avoid the migration of contaminants from under the cap and exposure to contaminants in groundwater via ingestion, inhalation, or dermal contact.

The ICs have been implemented through an Environmental Covenant (EC) recorded by the landfill property owner with the Chester County Recorder of Deeds on December 27, 2013. The EC describes the following activity and use limitations the property owner shall abide by:

- Any and all activity on the Property that could in any manner disturb or interfere with the selected remedial systems, including the landfill cap, gas vents, monitoring wells, leachate collection and conveyance system, and security measures that prevent access to the landfill, is prohibited;
- Any and all contact, handling, or use of landfill leachate is prohibited without the prior written approval of the Agencies;
- The installation of groundwater wells on the property within the existing fencing is prohibited without the prior written approval of the Agencies; and
- The installation and pumping of new groundwater wells on the Property within one-quarter mile of the identified plume is prohibited without the prior written approval of the Agencies.

In addition, the Natural Lands Trust, Inc. (NLT), a non-profit conservancy, accepted a conservation easement from the property owner for portions of the property to permanently protect natural features of the property including: Deciduous woodlands, steep slopes, a cold-water stream and breeding bird habitat, etc. in October 2014.

Finally, via the 2012 ESD, EPA implemented ICs placing restrictions on installation and pumping of new groundwater wells within one-quarter of a mile of the identified plume through application of the Chester County Health Department (CCHD) regulations relating to installation of wells in the county. The CCHD regulations require a permit for any new supply wells prior to installation. The CCHD regulations also require sampling of any new well installed to demonstrate that it meets drinking water standards before permission from the CCHD is granted to use the new well for drinking purposes.

Cleanup Levels

In a letter dated December 12, 2013, PADEP requested that EPA consider removing groundwater monitoring from PADEP's O&M obligations at the Site. EPA evaluated the request as a part of the 2015 Five-Year Review and determined that the frequency of sampling could be reduced from the biannual sampling requirement to a frequency of one sampling event per Five-Year Review cycle, to occur no later than the fourth year of the Five-Year Review cycle. Groundwater monitoring will continue to be performed by PADEP once every Five-Year Review cycle.

The most recent sampling events occurred on April 2010 and March 2014 as a part of the 2015 Five-Year Review. Onsite and perimeter wells were sampled at this time. The 1999 OU4 ROD selected No Action for groundwater, therefore, no groundwater cleanup levels exist for the Site. However, for the purposes of evaluating the groundwater monitoring results, detected contaminant concentrations were compared to MCLs for contaminants with MCLs or to PADEP Land Recycling Program (Act 2) SHS MSCs for a residential used aquifer for contaminants without MCLs. In reviewing all the historic data, including the two most recent sampling events, it was determined that were no exceedances of the MCLs or MSCs. This remains consistent with EPA's No Action determination for groundwater in the 1999 ROD and supports the determination that the other remedial actions are operating as intended.

As indicated above, no Site-related contaminants have been detected in residential wells at concentrations exceeding the MCLs since 1995 and sampling and O&M of the systems was discontinued in 2010. Additionally, because no Site-related contaminants have been detected in the landfill monitoring wells exceeding MCLs or MSCs, there is no potential for future impacts to residential wells from the Site.

Operation and Maintenance

In accordance with the SSC, PADEP has been responsible for O&M of the remedy components at the Site since September 2011. The leachate collection and treatment system treated and discharged an approximate total of 6,153,000 gallons of leachate since PADEP assumed responsibility. As mentioned earlier, the mechanical leachate treatment system was deactivated in 2010, and the onsite wetland now serves as a passive treatment system for removal of the low concentrations of contaminants from the leachate.

The leachate, after being distributed via underground level spreaders in the up-gradient portions of the wetland, eventually discharges to Briar Run. The National Pollutant Discharge Elimination System (NPDES) equivalent discharge criteria was modified by PADEP's water program on August 2, 2013 for leachate discharge to Briar Run through passive wetlands treatment system modifications. All NPDES equivalent discharge criteria have been attained since 2013 and no problems or issues have been identified with the passive treatment system to date.

Groundwater monitoring as a component of O&M will continue to be performed by PADEP no later than the fourth year of every Five-Year Review cycle.

During the most recent Five-Year Review period, in the spring, summer and fall months, the landfill cap was routinely mowed approximately 6–8 times per year. The landfill vegetative cover has maintained its integrity, with no major erosion issues. EPA has recommended that PADEP evaluate low maintenance caps planted with native vegetation to reduce or eliminate mowing and increase habitat for wildlife.

Five-Year Review

Pursuant to CERCLA section 121(c) and as provided in the current guidance on Five-Year Reviews, *Comprehensive Five-Year Review Guidance* (OSWER Directive 9355.7–03B–P, June 2001), EPA must conduct a statutory Five-Year Review if hazardous substances remain on-site above levels that would not allow for unlimited use and unrestricted exposure. Statutory Five-Year Reviews have been conducted at the Site in 1994, 1999, 2005, 2010 and 2015. The Protectiveness Statement in the 2015 Fifth Five-Year Review was as follows: ''The remedies have been implemented at this Site and are protective of human health and the environment. Institutional controls were identified and selected in the September 4, 2012 Second ESD for the Site and are being implemented through an Environmental Covenant recorded December 27, 2013, and additionally, through Chester County Health Department regulations relating to well installation. These ICs will be used to prevent exposure to waste and contaminated groundwater and to preserve the integrity of the components of the remedies (cap, fence, leachate collection and treatment system, etc.). The Site operation and maintenance and sampling plans should be updated to reflect changes in site operations, maintenance and sampling plan that are not consistent with current Site conditions.''

The only issue and recommendation from the 2015 Five-Year Review was to ''Update the O&M and Sampling Plan.'' This issue and recommendation were addressed in October 2016 when an updated O&M and Sampling Plan was submitted to and approved by EPA. Data collected since the 2015 Five-Year Review does not call into question any of the findings presented in that report.

The next Five-Year Review for this Site is scheduled to be completed in April 2020 and every five years thereafter.

Community Involvement

EPA community relations staff conducted an active campaign to ensure that the residents were well informed about activities at the Site. Community relations activities included the following:

- Interviews of Township officials for Five-Year Reviews
- Fact Sheets

In accordance with the requirements of 40 CFR 300.425(e)(4), EPA's community involvement activities associated with this deletion will consist of placing the deletion docket in the local Site information repository and placing a public notice of EPA's intent to delete the Site from the NPL in the Daily Local News, a major local newspaper of general circulation. EPA is also providing a 30-day comment period and will respond to significant comments and significant data in

accordance with 40 CFR 300.425(e)(4)(iii)(iv).

Determination That the Site Meets the Criteria for Deletion in the NCP

Construction completion for the Site was documented in the Preliminary Closeout Report (PCOR), dated September 27, 1999. Site completion was documented in the Final Closeout Report (FCOR), dated March 18, 2019. All RAOs, performance standards, and cleanup levels established in the 1989 OU1 ROD, 1990 ESD, 1991 OU2 ROD, 1992 OU3 ROD, 1999 OU4 ROD, and the 2012 ESD have been achieved at the Site, and the Selected Remedy is protective of human health and the environment. ICs are in place and effective. No further Superfund response actions, other than O&M, monitoring, and Five-Year Reviews, are necessary to protect human health and the environment.

The procedures specified in 40 CFR 300.425(e) have been followed for the deletion of the Site. EPA, with concurrence of the Commonwealth of Pennsylvania through the PADEP, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is issuing this Notice of Intent to Delete the Site from the NPL.

List of Subjects in 40 CFR Part 300

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

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

Dated: June 20, 2019.

Cosmo Servidio,

Regional Administrator, EPA Region III.

[FR Doc. 2019–14251 Filed 7–2–19; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 84, No. 128
Wednesday, July 3, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of the Maine Advisory Committee to the Commission will convene at 10:00 a.m. (EDT) on Friday, July 12, 2019, at 46 University Drive, The Holocaust and Human Rights Center, Augusta, ME 04330. The purpose of the briefing is to hear from advocates and officials about hate crimes in Maine.

DATES: Friday, July 12, 2019 at 10:00 a.m. (EDT).

ADDRESSES: Holocaust and Human Rights Center, 46 University Drive, Augusta, ME 04330.

Public Call Information: Dial: 1–800–353–6461, Conference ID: 7589262.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov,* or 202–376–7533.

SUPPLEMENTARY INFORMATION: Members of the public may also listen to the discussion through the above listed toll free number. As well as attending in person, any interested member of the public may call the above listed 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.

Persons who plan to attend the meeting and who require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, August 12, 2019. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

The activities of this advisory committee, including records and documents discussed during the meeting, will be available for public viewing, as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl8AAA.* Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Friday, July 12, 2019; 10:00 a.m. (EDT)

Welcome and Introductions
Briefing on Hate Crimes
Open Comment
Adjourn

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: June 27, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–14193 Filed 7–2–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska 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 (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a meeting on Monday July 15, 2019 at 12:00 p.m. Central time. The Committee will discuss next steps for their study of civil rights and prison conditions for incarcerated individuals with mental illness.

DATES: The meeting will take place on Monday July 15, 2019 at 12 p.m. Central.

Public Call Information: Dial: 866–556–2429, Conference ID: 4506369.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number. 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 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, U.S. Commission on Civil Rights, 230 S. Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit 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, Nebraska 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 Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Nebraska: Prisons and Mental Health
Future Plans and Actions
Public Comment
Adjournment

Dated: June 27, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–14183 Filed 7–2–19; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–12–2019]

Foreign-Trade Zone (FTZ) 123—Denver, Colorado; Authorization of Production Activity; Lexmark International, Inc. (Organic Photoconductor Drums); Longmont, Colorado

On February 27, 2019, Lexmark International, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 123, in Longmont, Colorado.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (84 FR 8301, March 7, 2019). On June 27, 2019, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 27, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–14237 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2019]

Foreign-Trade Zone (FTZ) 176—Rockford, Illinois; Notification of Proposed Production Activity; Staal & Plast USA, Inc.; (Irrigation Trays) Sycamore, Illinois

Staal & Plast USA, Inc. (Staal & Plast) submitted a notification of proposed production activity to the FTZ Board for its facility in Sycamore, Illinois. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 24, 2019.

Staal & Plast facility is located within FTZ 176. The facility is used for the production of irrigation trays for horticultural purposes. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Staal & Plast from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Staal & Plast would be able to choose the duty rates during customs entry procedures that apply to high impact polystyrene plastic irrigation trays (duty rate ranges from duty-free to 5.3%). Staal & Plast would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include high impact polystyrene plastic sheets, water release valves and miscellaneous small parts of ebb-flow irrigation systems (including filters, plastic-based sealing (adhesive) components, rubber plugs and plastic repair corners) (duty rate ranges from duty-free to 5.8%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 12, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: June 27, 2019

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–14233 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–112, A–580–901, A–583–866]

Certain Collated Steel Staples From the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 26, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas Martin at (202) 482–4406 (Republic of Korea (Korea)); Maisha Cryor (202) 482–5831 (Taiwan); Sergio Balbontin at (202) 482–6478 (the People's Republic of China (China)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 6, 2019, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain collated steel staples (collated staples) from

China, Korea, and Taiwan.[1] The AD Petitions were filed in proper form by Kyocera Senco Industrial Tools, Inc. (the petitioner). The AD Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of collated staples from China.[2]

On June 11 and June 17, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petitions.[3] The petitioner filed responses to these requests between June 13 and June 19, 2019.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of collated staples from China, Taiwan, and Korea are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing collated staples in the United States. Consistent with section 732(b)(1) of the Act, the AD Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed these Petitions on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigations.[5]

Periods of Investigation

Because the AD Petitions were filed on June 6, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the Taiwan and Korea investigations is April 1, 2018 through March 31, 2019. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is October 1, 2018 through March 31, 2019.

Scope of the Investigations

The product covered by these investigations consists of collated staples from China, Korea, and Taiwan. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[6] As a result of these exchanges, the scope of the Petitions was modified to clarify the description of the merchandise covered by the Petitions. The description of the merchandise covered by these initiations, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on July 16, 2019, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 26, 2019, which is 10 calendar days from the initial comment deadline.[9]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[10] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped

[1] *See* the Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan,'' dated June 6, 2019 (Petitions).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions;'' ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan and Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions (General Issues Supplemental Questionnaire);'' ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Korea: Supplemental Questions;'' and ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Taiwan: Supplemental Questions;'' all dated June 11, 2019; *see also* Memoranda, ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Phone Call with the Petitioner;'' ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Phone Call with Counsel to the Petitioner (General Issues Second Supplemental Questionnaire);'' ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Korea: Phone Call with Counsel to the Petitioner;'' and ''Petition for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from Taiwan: Phone Call with Counsel to the Petitioner;'' all dated June 17, 2019.

[4] *See* the Petitioner's Letters, ''Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement—General and Injury'' (General Issues Supplement); and ''Certain Collated Steel Staples from Taiwan: Petition Supplement,'' both dated June 13, 2019; *see also* the Petitioner's Letters, ''Certain Collated Steel Staples from China: Petition Supplement,'' and ''Certain Collated Steel Staples from Korea: Petition Supplement,'' both dated June 14, 2019; and ''Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement—General Issues'' (Second General Issues Supplement); ''Certain Collated Steel Staples from Korea: Petition Supplement;'' ''Certain Collated Steel Staples from Taiwan: Petition Supplement;'' and ''Certain Collated Steel Staples from China: Petition Supplement,'' all dated June 19, 2019.

[5] *See* Volume I of the AD Petitions, at 2–3.

[6] *See* General Issues Supplement, at 4–7 and exhibit 3; *see also* Second General Issues Supplement, at 2.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[9] *See* 19 CFR 351.303(b).

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of collated staples to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe collated staples, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 16, 2019, which is 20 calendar days from the signature date of this notice.[11] Any rebuttal comments must be filed by 5:00 p.m. ET on July 26, 2019.[12] All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petitions.[15] Based on our analysis of the information submitted on the record, we have determined that collated staples, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own 2018 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.[17] We relied on data provided by the petitioner for purposes of measuring industry support.[18]

Our review of the data provided in the Petitions, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[19] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order

[11] *See* 19 CFR 351.303(b).

[12] *Id.*

[13] *See* section 771(10) of the Act.

[14] *See, e.g., USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[15] *See* Volume I of the Petitions, at 9–13 and Exhibit IN–4; *see also* General Issues Supplement, at 4 and Exhibit 1.

[16] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the People's Republic of China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment II); Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Certain Collated Steel Staples from Taiwan (Taiwan AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and are on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Commerce building.

[17] *See* Volume I of the AD Petitions, at 3 and Exhibit GEN–1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1.

[18] *See* Volume I of the AD Petitions, at 3 and Exhibit GEN–1; *see also* China AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

[19] *See* China AD Initiation Checklist, at Attachment II; *see also* Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[22] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports from China exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

With respect to Korea and Taiwan, while the allegedly dumped imports from Korea and Taiwan do not exceed the statutory requirements for negligibility,[24] the petitioner alleges and provides supporting evidence that: (1) There is a reasonable indication that data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold,[25] and (2) there is the potential that imports from Korea and Taiwan will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat determination.[26] The petitioner's arguments regarding the limitations of publicly available import data and the collection of scope-specific import data in the ITC's investigations are consistent with the SAA. Furthermore, the petitioner's arguments regarding the potential for imports from Korea and Taiwan to imminently exceed the negligibility threshold are consistent with the statutory criteria for ''negligibility in threat analysis'' under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; lost sales and revenue; underselling and price depression or suppression; and low capacity utilization rates and declining shipments, production, and profitability.[27] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[28]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of collated staples from China, Korea, and Taiwan. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist for each country.

Export Price (EP)

For China and Korea, the petitioner based the U.S. price on quoted offer prices for sales of collated staples produced in and exported from China and Korea and sold, or offered for sale, to customers in the United States through a U.S. distributor.[29] Where applicable, the petitioner made deductions from U.S. price for distributor markup, movement and other expenses, consistent with the terms of sale.[30]

Constructed Export Price (CEP)

For Taiwan, because the petitioner had reason to believe the sale reflected a transaction from a Taiwanese producer/exporter to an unrelated customer in the United States after importation, the petitioner based CEP on a sale of collated staples produced in, and exported from, Taiwan and sold to an unaffiliated U.S. distributor for sale in the United States.[31] The petitioner made deductions from U.S. price for movement and other expenses, consistent with the terms of sale.[32]

Normal Value

For Korea, the petitioner based NV on home market prices obtained through market research for collated staples produced in and sold, or offered for sale, in Korea within the POI.[33]

For Taiwan, the petitioner was unable to obtain information relating to the prices charged for collated staples produced and sold in the home market or in third countries; accordingly, the petitioner based NV on constructed value (CV).[34] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value.'' [35]

With respect to China, Commerce considers China to be an NME country.[36] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by Commerce. Therefore, we continue to treat China as an NME for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs

[20] *See* section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II; Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

[21] *See* China AD Initiation Checklist, at Attachment II; *see also* Korea AD Initiation Checklist, at Attachment II; and Taiwan AD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *See* Volume I of the AD Petitions, at 23 and Exhibits GEN–4 and IN–15.

[24] *Id.*

[25] *See Statement of Administrative Action* (SAA), H.R. Doc. No. 103–316, Vol. 1, (1994) (SAA), at 857; *see also* Volume I of the AD Petitions, at 23–24.

[26] *See SAA* at 856; *see also* Volume I of the AD Petitions, at 23–26 and Exhibits GEN–4, IN–15 and IN–18.

[27] *See* Volume I of the AD Petitions, at 9, 16–35 and Exhibits GEN–4, IN–1 through IN–7, IN–9 through IN–18, and IN–19; *see also* General Issues Supplement, at 4, 8–11 and Exhibit 1.

[28] *See* China AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment III); *see also* Korea AD Initiation Checklist, at Attachment III; and Taiwan AD Initiation Checklist, at Attachment III.

[29] *See* China AD Initiation Checklist; *see also* Korean AD Initiation Checklist.

[30] *See* China AD Initiation Checklist; *see also* Korea AD Initiation Checklist

[31] *See* Taiwan AD Initiation Checklist.

[32] *Id.*

[33] *See* Korea AD Initiation Checklist.

[34] *See* Taiwan AD Initiation Checklist.

[35] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

[36] *See, e.g., Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy;* unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[37]

The petitioner claims that Mexico is an appropriate surrogate country for China, because it is a market economy country that is at a level of economic development comparable to that of China, it is a significant producer of comparable merchandise, and public information from Mexico is available to value all material input factors.[38] Based on the information provided by the petitioner, we determine that it is appropriate to use Mexico as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by the Chinese producers/exporters is not available, the petitioner relied on its own production experience as an estimate of Chinese manufacturers' FOPs.[39] The petitioner valued the estimated FOPs using surrogate values from Mexico and used the average POI exchange rate to convert the data to U.S. dollars.[40]

Normal Value Based on Constructed Value

The petitioner was unable to obtain information relating to the prices charged for collated staples produced in Taiwan, or third country prices; accordingly, the petitioner based NV on CV.[41] Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, packing expenses, and profit. For Taiwan, the petitioner calculated the COM by first identifying and calculating the amount (*i.e.,* consumption rate) of each production input based on staples production at its own manufacturing facilities.[42] The petitioner based the input FOPs on the quantity of inputs needed to produce one net short ton of the same merchandise. The input FOPs were valued using publicly available data on costs specific to Taiwan, during the proposed POI.[43] Specifically, the prices for raw materials, scrap offsets, and packing inputs were valued using publicly available import data for Taiwan.[44] Labor and energy (*i.e.,* electricity, natural gas) costs were valued using publicly available sources for Taiwan.[45] The petitioner calculated factory overhead, SG&A expenses, financial expenses, and profit for Taiwan based on the ratios found in the experience of a Taiwanese producer of identical or comparable merchandise.[46]

Fair Value Comparisons

Based on the data provided by the AD Petitions, there is reason to believe that imports of collated staples from China, Korea and Taiwan are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP, or CEP, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for collated staples for each of the countries covered by this initiation are as follows: (1) China—119.37 and 122.55 percent;[47] (2) Taiwan—47.60 percent;[48] and (3) Korea—10.23 to 14.25 percent.[49]

Initiation of LTFV Investigations

Based upon the examination of the AD Petitions and supplements to the AD Petitions, we find that the AD Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of collated staples from China, Korea and Taiwan are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

The petitioner named 29 companies in Taiwan[50] and 15 companies in Korea[51] as producers/exporters of collated staples. Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in Taiwan and Korea based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) number listed in the Appendix.[52]

The petitioner named 99 producers/exporters of collated staples in China.[53] In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation. For this investigation, Commerce will request Q&V information from known exporters and producers identified in the Petition with complete contact information. In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at *http://www.trade.gov/enforcement/news.asp.* In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to base respondent selection on the responses to the Q&V questionnaire that we receive.

Producers/exporters of collated staples from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on July 11, 2019. All Q&V responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[54] The specific requirements for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation

[37] *See* China AD Initiation Checklist.

[38] *See* Volume II of the AD Petitions at 2–6.

[39] *See* China AD Initiation Checklist.

[40] *Id.*

[41] *See* Taiwan AD Initiation Checklist.

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *See* China AD Initiation Checklist.

[48] *See* Taiwan AD Initiation Checklist.

[49] *See* Korea AD Initiation Checklist.

[50] *See* Volume I of the AD Petitions, at Exhibit GEN–2.

[51] *Id.*

[52] *See, e.g., Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 58223, 58227 (November 19, 2018).

[53] *See* Volume I of the AD Petitions, at Exhibit Gen-2.

[54] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05–1.pdf* (Policy Bulletin 05.1).

notice.[55] Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{W}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.[56]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of China, Korea, and Taiwan via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of collated staples from China, Korea, and/or Taiwan are materially injuring, or threatening material injury to, a U.S. industry.[57] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[58] Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [59] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[60] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.[61] Section 773(e) of the Act states that ''{I}f a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial section D questionnaire responses.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy

[55] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[56] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[57] *See* section 733(a) of the Act.

[58] *Id.*

[59] *See* 19 CFR 351.301(b).

[60] *See* 19 CFR 351.301(b)(2).

[61] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

and completeness of that information.[62] Parties must use the certification formats provided in 19 CFR 351.303(g).[63] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 26, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by the scope of these investigations is certain collated steel staples. Certain collated steel staples subject to these investigations are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive.

Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the investigations regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667–18a, but can also be made to other specifications.

Excluded from the scope of these investigations are any carton-closing staples covered by the scope of the existing antidumping duty order on Carton-Closing Staples from the People's Republic of China. *See Carton-Closing Staples From the People's Republic of China: Antidumping Duty Order,* 83 FR 20792 (May 8, 2018).

Certain collated steel staples subject to these investigations are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

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[62] *See* section 782(b) of the Act.

[63] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–838, C–533–890]

Certain Quartz Surface Products From India and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson at (202) 482–4793 (India), or Stephanie Berger at (202) 482–2483 (Republic of Turkey (Turkey)), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2019, the Department of Commerce (Commerce) initiated countervailing duty (CVD) investigations of imports of certain quartz surface products from India and Turkey.[1] Currently, the preliminary determinations are due no later than August 1, 2019.

Postponement of Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1)(A) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if the petitioner makes a timely request for a postponement. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On June 20, 2019, the petitioner[2] submitted timely requests, pursuant to section 703(c)(1)(A) of the Act and 19 CFR 351.205(e), to fully postpone the preliminary determinations.[3] The petitioner stated that it requests postponement to provide Commerce with time to fully analyze the respondents' questionnaire responses and allow it to identify and allege any additional subsidy benefits not addressed in the petitions.[4]

In accordance with 19 CFR 351.205(e), the petitioner stated the reasons for requesting a postponement of the preliminary determinations, and Commerce finds no compelling reason to deny the requests. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determinations to no later than 130 days after the date on which this investigation was initiated, *i.e.,* October 7, 2019.[5] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

Notification to Interested Parties

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 27, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–14235 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Quartz Surface Products from India and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 84 FR 25524 (June 3, 2019).

[2] The petitioner is Cambria Company LLC.

[3] *See* Letters from the petitioner, ''Certain Quartz Surface Products from India: Request to Postpone Preliminary Determination,'' dated June 20, 2019; and ''Certain Quartz Surface Products from the Republic of Turkey: Request to Postpone Preliminary Determination,'' dated June 20, 2019.

[4] *Id.*

[5] The actual deadline is October 5, 2019. Because October 5, 2019 is a Saturday, the deadline for the preliminary determinations is Monday, October 7, 2019. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–836]

Dried Tart Cherries From the Republic of Turkey: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Maria Tatarska, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1993 or (202) 482–1562, respectively

SUPPLEMENTARY INFORMATION:

Background

On May 13, 2019, the Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of dried tart cherries from the Republic of Turkey.[1] Currently, the preliminary determination is due no later than July 17, 2019.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner[2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On June 6, 2019, the petitioner submitted a timely request that Commerce postpone the preliminary CVD determination.[3] The petitioner stated that it requests postponement to provide Commerce with time to fully analyze the respondents' questionnaire responses and to allow Commerce and interested parties sufficient time to review the questionnaire responses for deficiencies and request clarification and additional information, as necessary.[4] In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* September 20, 2019. Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

Notification to Interested Parties

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: June 26, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–14236 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Dried Tart Cherries from the Republic of Turkey: Initiation of Countervailing Duty Investigation,* 84 FR 22813 (May 20, 2019).

[2] The petitioner is the Dried Tart Cherry Trade Committee.

[3] *See* the Petitioner's Letter titled, ''Dried Tart Cherries from Turkey: Request to Extend the Preliminary Determination Deadline,'' dated June 6, 2019.

[4] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–113]

Certain Collated Steel Staples From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 26, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Palmer or Joshua Simonidis, 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) 482–9068 or (202) 482–0608, respectively,

SUPPLEMENTARY INFORMATION:

The Petition

On June 6, 2019, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain collated steel staples (collated staples) from the People's Republic of China (China).[1] The Petition was filed in proper form by Kyocera Senco Industrial Tools, Inc. (the petitioner). The CVD Petition was accompanied by antidumping duty (AD) petitions concerning imports of collated staples from China, the Republic of Korea, and Taiwan.[2]

On June 11, 2019 and June 17, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petition.[3] The petitioner filed responses to these requests between June 13 and June 19, 2019.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of collated staples in China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing collated staples in the United

[1] *See* the Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan,'' dated June 6, 2019 (Petition).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan and Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions,'' dated June 11, 2019 (General Issues Supplemental Questionnaire); ''Petition for the Imposition of Countervailing Duties on Imports of Certain Collated Steel Staples from the People's Republic of China: Supplemental Questions,'' all dated June 11, 2019 (CVD Supplemental Questionnaire); and Memorandum, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Phone Call with Counsel to the Petitioner,'' dated June 17, 2019.

[4] *See* the Petitioner's Letters, ''Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement—General and Injury,'' dated June 13, 2019 (General Issues Supplement); ''Certain Collated Steel Staples from the People's Republic of China: Petition Supplement,'' dated June 14, 2019 (CVD Supplement); ''Certain Collated Steel Staples from Korea, the People's Republic of China, and Taiwan: Petition Supplement—General Issues,'' June 19, 2019 (Second General Issues Supplement).

States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed this Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[5]

Period of Investigation

Because the Petition was filed on June 6, 2019, the period of investigation (POI) is January 1, 2018 through December 31, 2018.[6]

Scope of the Investigation

The merchandise covered by this investigation consists of collated staples from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the Petition, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[7] As a result of these exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on July 16, 2019, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 26, 2019, which is 10 calendar days from the initial comment deadline.[10]

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[11] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the Government of China (GOC) of the receipt of the Petition and provided it the opportunity for consultations with respect to the Petition.[12] The GOC did not request consultations.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like,

[5] *See* ''Countervailing Duty Investigation Initiation Checklist: Certain Collated Steel Staples from the People's Republic of China'' (CVD Initiation Checklist). This checklist is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[6] *See* 19 CFR 351.204(b)(1).

[7] *See* General Issues Supplement; *see also* Second General Issues Supplement.

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See* 19 CFR 351.303(b).

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[12] *See* Commerce Letter, ''Countervailing Duty Petition on Collated Steel Staples from the People's Republic of China: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated June 6, 2019.

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Federal Circuit 1989)).

most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[15] Based on our analysis of the information submitted on the record, we have determined that collated staples, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own 2018 production of the domestic like product and compared this to the estimated total production of the domestic like product for the entire domestic industry.[17] We relied on data provided by the petitioner for purposes of measuring industry support.[18]

Our review of the data provided in the Petition, the General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[19] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[22] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports from China exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[23]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; lost sales and lost revenue; underselling and price depression or suppression; and low capacity utilization rates and declining shipments, production, and profitability.[24] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, cumulation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[25]

Initiation of CVD Investigation

Based on the examination of the Petition, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of collated staples from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation, in whole or part, on 26 of the 27 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named 99 companies as producers/exporters of collated staples in China.[26] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of collated staples from China during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the Appendix.

On June 21, 2019, Commerce released CBP data on imports of collated staples from China under Administrative

[15] *See* Volume I of the Petition at 9–13 and Exhibit IN–4; *see also* General Issues Supplement at 4 and Exhibit 1.

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* CVD Initiation Checklist, at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petition Covering Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[17] *See* Volume I of the Petition, at 3 and Exhibit GEN–1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1.

[18] *See* Volume I of the Petition, at 3 and Exhibit GEN–1; *see also* General Issues Supplement, at 7 and Exhibit 5; and Second General Issues Supplement, at Exhibit 1. For further discussion, *see* CVD Initiation Checklist, at Attachment II.

[19] *See* CVD Initiation Checklist, at Attachment II.

[20] *Id.; see also* section 702(c)(4)(D) of the Act.

[21] *See* CVD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *See* Volume I of the Petition, at 23 and Exhibits GEN–4 and IN–15.

[24] *See* Volume I of the Petition, at 9, 16–35 and Exhibits GEN–4, IN–1 through IN–7, IN–9 through IN–18 and IN–19; *see also* General Issues Supplement, at 4, 8–11 and Exhibit 1.

[25] *See* CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Collated Steel Staples from the People's Republic of China, the Republic of Korea, and Taiwan (Attachment III).

[26] *See* Volume I of the Petition at 8 and Exhibit GEN–2.

Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.[27] We further stated that we will not accept rebuttal comments.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of collated staples from China are materially injuring, or threatening material injury to, a U.S. industry.[28] A negative ITC determination will result in the investigation being terminated.[29] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [30] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[31] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[32] Parties must use the certification formats provided in 19 CFR 351.303(g).[33] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: June 26, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by the scope of this investigation is certain collated steel staples. Certain collated steel staples subject to this investigation are made from steel wire having a nominal diameter from 0.0355 inch to 0.0830 inch, inclusive, and have a nominal leg length from 0.25 inch to 3.0 inches, inclusive, and a nominal crown width from 0.187 inch to 1.125 inch, inclusive.

Certain collated steel staples may be manufactured from any type of steel, and are included in the scope of the investigation regardless of whether they are uncoated or coated, and regardless of the type or number of coatings, including but not limited to coatings to inhibit corrosion.

Certain collated steel staples may be collated using any material or combination of materials, including but not limited to adhesive, glue, and adhesive film or adhesive or paper tape.

Certain collated steel staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM F1667–18a, but can also be made to other specifications.

Excluded from the scope of this investigation are any carton-closing staples covered by the scope of the existing

[27] *See* Memorandum, ''Certain Collated Steel Staples from the People's Republic of China—Release of Customs Data,'' dated June 20, 2019.

[28] *See* section 703(a)(2) of the Act.

[29] *See* section 703(a)(1) of the Act.

[30] *See* 19 CFR 351.301(b).

[31] *See* 19 CFR 351.301(b)(2).

[32] *See* section 782(b) of the Act.

[33] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

antidumping duty order on *Carton-Closing Staples from the People's Republic of China. See Carton-Closing Staples From the People's Republic of China: Antidumping Duty Order,* 83 FR 20792 (May 8, 2018).

Certain collated steel staples subject to this investigation are currently classifiable under subheading 8305.20.0000 of the Harmonized Tariff Schedule of the United States (HTSUS).

While the HTSUS subheading and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2019–14232 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR006

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Service Pier Extension Project on Naval Base Kitsap Bangor, Washington

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the United States Navy for the re-issuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates that are one year later (July 16, 2020—July 15 2021). The initial IHA authorized take of five species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Service Pier Extension project (SPE) at Naval Base Kitsap Bangor, Washington. The project has been delayed and none of the work covered in the initial IHA issued in 2018 will be initiated under the effective dates of that IHA (July 16, 2019 through July 15, 2020). The scope of the activities and anticipated effects remain the same, authorized take numbers would not change, and the required mitigation, monitoring, and reporting would remain the same as authorized in the 2018 IHA referenced above. NMFS is, therefore, issuing a second IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This authorization is effective from July 16, 2020 to July 15, 2021.

ADDRESSES: An electronic copy of the final 2018 IHA previously issued to the Navy, the Navy's application, and the **Federal Register** notices proposing and issuing the 2018 IHA may be obtained by visiting *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On June 28, 2018, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the SPE project at Naval Base Kitsap Bangor (83 FR 30406). The effective dates of that IHA were July 16, 2019 through July 15, 2020. On February 4, 2019, the Navy informed NMFS that the project was being delayed by one year. None of the work identified in the IHA (*i.e.,* pile driving and removal) has occurred and no take of any marine mammals has occurred since the effective date of the initial IHA is July 16, 2019. The Navy submitted a formal request for a new identical IHA that would be effective from July 16, 2020 through July 15, 2021, in order to conduct the construction and demolition work that was analyzed and authorized through the previously issued IHA. Therefore, an IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

Planned activities include extending the service pier to provide additional berthing capacity and improving associated facilities for existing homeported and visiting submarines at Naval Base Kitsap Bangor. Specifically, the location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the original IHA. The mitigation and monitoring are also identical to the original IHA and will include limiting construction to an in-water work window (July 16–January 15), limiting construction to daylight hours only, using bubble curtains during impact driving of steel piles, using soft-start during impact pile driving, and monitoring and reporting of qualified protected species observes (PSOs).

Species that are expected to be taken by the planned activity include killer whale (*Orcinus orca*), harbor porpoise (*Phocoena phocoena vomerina*), harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and Steller sea lion (*Eumetopias jubatus monteriensis*). The 2018 IHA authorized, by Level B harassment, 48 killer whale takes, 2,728 harbor porpoise takes, 503 Steller sea lion takes, 7,816 California sea lion takes and 5,600 harbor seal takes. NMFS also

authorized 125 takes of harbor seal by Level A harassment. A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The methods of estimating take are identical to those used in the previous IHA, as is the density of marine mammals. NMFS has reviewed recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the original IHA and, in fact, the abundance estimates reported in the draft SARs did not change for any of the species for which take is authorized in this authorization.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the 2018 IHA for the Navy's construction work (83 FR 30406), the Navy's application, the **Federal Register** notice of the proposed IHA (83 FR 10689), and all associated references and documents.

Determinations

The Navy will conduct activities identical to those analyzed in the previous 2018 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the 2018 IHA and no new information has emerged that would change those findings. The re-issued 2019 IHA includes identical required mitigation, monitoring, and reporting measures as the 2018 IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

However, no incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the Navy for in-water construction activities associated with the SPE project from July 16, 2020 through July 15, 2021. All previously described mitigation, monitoring, and reporting requirements from the 2018 IHA are incorporated.

Dated: June 26, 2019.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–14213 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF222

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Management Strategy Evaluation Debrief; Request for Comments

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

ACTION: Notice; request for comments.

SUMMARY: The New England Fishery Management Council (Council) seeks public comment on the Management Strategy Evaluation (MSE) process used to develop and analyze Acceptable Biological Catch (ABC) control rule alternatives in Amendment 8 to the Atlantic Herring Fishery Management Plan (FMP). The purpose of this notice is to announce the Council's intent to gather public comments on this topic.

DATES: Written and electronic scoping comments must be received on or before 8:00 a.m. EST on Friday, August 9, 2019.

ADDRESSES: Written comments may be sent by any of the following methods:

- Email to the following address: *comments@nefmc.org;*
- Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; or
- Fax to (978) 465–3116.

The invitation for public comment document is accessible electronically online at: *https://www.nefmc.org/library/management-strategy-evaluation-debrief-comment-now.*

Requests for copies of the invitation for public comment document and other information should be directed to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone: (978) 465–0492.

FOR FURTHER INFORMATION: Thomas A. Nies, Executive Director, New England Fishery Management Council, (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Background

The Management Strategy Evaluation used to develop Amendment 8 to the Atlantic Herring FMP was the first time this Council used MSE in decision-making. The Council is now taking a step back to debrief and identify the benefits and/or drawbacks of the MSE

process, as well as lessons learned. This debrief is intended to evaluate the process used to integrate MSE into Amendment 8 and will help inform future decisions on using MSE to manage Atlantic herring or for other purposes. The goals of the debrief are to: identify perceptions of the MSE process, identify pros and cons of the specific process used, identify lessons learned from the process, and inform future Council decisions on use of MSE for Atlantic herring management.

The Council conducted a Management Strategy Evaluation to help develop alternatives for an ABC control rule, or formula for setting catch limits. This MSE was intended to be a collaborative decision-making process, involving more public input and technical analysis earlier in the amendment development process than normal. An MSE involves modelling to determine potential outcomes of different management approaches, ABC control rules in this case. MSE can help evaluate tradeoffs among objectives and which control rules would most likely meet management goals.

The Council began working on Amendment 8 in 2015, conducting public scoping and setting the goals of this action. In January 2016, the Council decided to use MSE to help develop ABC control rule alternatives. MSEs typically take several years to finish and use invitation-only, small groups (15–25) of stakeholders to give input. The Council diverged from this norm for two reasons. First, the Council aimed to finish Amendment 8 in time to develop herring fishery catch limits for 2019–2021. Thus, this MSE had unusually constrained time limits. Second, the Council decided to have all points of stakeholder input (*e.g.,* workshops) completely open to the public, so the MSE process could mirror the open Council process as much as possible. Relative to other MSEs, the degree of stakeholder participation was rare, if not unique, at least for U.S. fisheries.

Public Comment

You may comment by submitting written comments to the Council (see **ADDRESSES**). While anyone may respond to this invitation for comment, the Council is particularly interested in understanding the viewpoints of those involved in the MSE (*e.g.,* attended an MSE workshop) and are invested in the future of herring management. You may address any aspect of the MSE but are encouraged to focus on the MSE as a decision-making process, rather than the technical aspects of the MSE or the outcomes of Amendment 8 (*e.g.,* the Council's preferred alternatives, regulatory changes). Specifically, the Council is seeking input on:

- *Clarity of purpose and need* for using MSE in Amendment 8.
- *Sufficiency of general education* about MSE, how well MSE was understood (*e.g.,* models, role of stakeholder input) and any ideas for improving the education process (*e.g.,* more literature, online instructional webinars, in-person seminars)?
- *Utility of the six distinct phases of this MSE* (described above), whether some phases (or aspects of phases) more useful or successful than others and whether the time provided for each phase was enough.
- *Appropriateness of using open-invitation, public workshops* for this MSE and/or recommendations for other formats.
- *Utility of how MSE results were presented* in helping characterize the tradeoffs associated with various alternatives.
- *How well the Council integrated the MSE results and workshop input* in developing Amendment 8 alternatives.
- *Utility of the MSE in balancing tradeoffs* between objectives.
- *The benefits, if any, in using an MSE* for Amendment 8, and if the benefits outweigh the costs.
- *How this MSE process compared* to how else the Council could have developed and selected alternatives.

After the public comment period ends, the comments will be summarized, along with any Herring Plan Development Team (PDT) input and recommendations and discussed by the Herring Advisory Panel (AP) and Committee. The Council will be updated in September 2019. The PDT will draft a final report for discussion at the AP and Committee meetings in the fall, and the Council will likely receive a final report in December 2019. Public comment is important to the Council process. This is a key opportunity for you to give feedback on the Atlantic herring MSE. Your comments will help the Council evaluate this MSE and consider future MSEs.

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

Dated: June 28, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–14221 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[0648–XR003]

Marine Mammals; File No. 22835

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Scripps Institute of Oceanography [Responsible Party: John Hildebrand, Ph.D.], University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093, has applied in due form for a permit to conduct research on 42 cetacean species, including endangered bowhead (*Balaena mysticetus*), blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), sei (*Balaenoptera borealis*), Southern Resident killer (*Orcinus orca*), Hawaiian Islands Insular false killer (*Pseudorca crassidens*), humpback (*Megaptera novaeangliae*), North Pacific right (*Eubalaena japonica*), North Atlantic right (*Eubalaena glacialis*), sperm (*Physeter macrocephalus*), and Gulf of Mexico Bryde's (*Balaenoptera edeni*) whales.

DATES: Written, telefaxed, or email comments must be received on or before August 2, 2019.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 22835 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific

reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*); the regulations governing the taking and importing of marine mammals (50 CFR part 216); the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*); and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to study 42 cetacean species or stocks in the Pacific, Arctic and Atlantic Oceans, and Gulf of Mexico for five years. The primary objectives are to (1) develop improved methods for determining baseline data on cetaceans, and in particular how sound may be used to study cetacean behavior, and (2) assess the potential effects of human impacts on cetacean behavior including anthropogenic noise and the Deepwater Horizon oil spill. Cetaceans would be approached during surveys from vessel and aerial platforms for the following procedures: Passive acoustic recordings, counts, observation, photo-identification, photogrammetry, biopsy or skin swabbing, sloughed skin collection, fecal sampling, and/or suction-cup tagging and subsequent tracking.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 28, 2019.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–14209 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH081

New England Fishery Management Council; Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The New England Fishery Management Council (Council) has contracted with the Gulf of Maine Research Institute (GMRI) to conduct a series of port meetings; nine public meetings are scheduled to solicit public comments on the sector catch share program in the Northeast Multispecies (groundfish) Fishery Management Plan.

DATES: Written public comments must be received on or before 5 p.m. EST, Monday, August 19, 2019. These meetings will be held between July 18, 2019 and August 16, 2019. For specific dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The port meetings will be held in Ellsworth, ME; Portland, ME; Hyannis, MA; Plymouth, MA; Gloucester, MA; Portsmouth, NH; Riverhead, NY; Narragansett, RI; and New Bedford, MA. For specific locations, see **SUPPLEMENTARY INFORMATION**.

Public comments: Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950. Mark the outside of the envelope ''Groundfish Catch Share Program Review''. Comments may also be sent via fax to (978) 465–3116 or submitted via email to *comments@nefmc.org* with ''Groundfish Catch Share Program Review'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Thomas Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council is seeking public input on the sector catch share program review. The New England Fishery Management Council is conducting a review of the groundfish sector system, which is a catch share program under the Northeast Multispecies (groundfish) Fishery Management Plan (FMP). The evaluation period for this review is focused strictly on fishing years 2010 to 2015, spanning from May 1, 2010 through April 30, 2016. This period covers the first six years of the catch share program under Amendment 16 to the FMP. Information prior to program implementation also will be included for fishing years 2007 to 2009, covering May 1, 2007 through April 30, 2010. The Council has contracted with the Gulf of Maine Research Institute (GMRI) to conduct a series of port meetings to solicit public comments about the review. The schedule is as follows:

1. *Thursday, July 18, 2019, from 4:30 p.m.–7 p.m.;* Moore Community Center, 5 General Moore Way, Ellsworth, ME; phone: (207) 307–0324.

2. *Friday, July 19, 2019, from 4:30–7 p.m.;* Gulf of Maine Research Institute, 350 Commercial St., Portland, ME; phone: (207) 228–1625.

3. *Tuesday, July 23, 2019, from 4:30–7 p.m.;* Hyannis Youth & Community Center, 141 Bassett Lane, Hyannis, MA; phone: (508) 790–6345.

4. *Wednesday, July 24, 2019, from 4:30–7 p.m.;* Plymouth Library, 132 South Street, Plymouth, MA; phone: (508) 830–4250.

5. *Thursday, July 25, 2019, from 4:30–7 p.m.:* Gloucester Library, 2 Dale Avenue, Gloucester, MA; phone: (978) 281–9763.

6. *Friday, July 26, 2019, from 4:30–7 p.m.;* Portsmouth High School, 50 Andrew Jarvis Drive, Portsmouth, NH; phone: (603) 610–4166.

7. *Wednesday, August 14, 2019, from 4:30–7 p.m.;* Kermit W. Graf Building, Cornell Cooperative Extension, 423 Griffing Avenue, Riverhead, NY; phone: (631) 632–8730.

8. *Thursday, August 15, 2019, from 4:30–7 p.m.;* Narragansett Office of Town Managers, 25 Fifth Avenue, Narragansett, RI; phone: (401) 782–0645.

9. *Friday, August 16, 2019, from 4:30–7 p.m.;* Fairfield Inn and Suites, 185 MacArthur Drive, New Bedford, MA; phone: (774) 634–2000.

Additional information is available on the Council website at *https://www.nefmc.org/library/groundfish-catch-share-program-review.* The public also should be aware that the sessions will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas Nies (see **ADDRESSES**), at least 5 working days prior to the meeting date.

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

Dated: June 28, 2019.

Rey Israel Marquez,

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

[FR Doc. 2019–14254 Filed 7–2–19; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m., Thursday, July 11, 2019.

PLACE: Three Lafayette Centre, 1155 21st Street NW, Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The following matters will be considered at this meeting:

- Enforcement matters; and
- Exempt swap execution facility (SEF) determination.

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.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552(b).

Dated: July 1, 2019.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2019–14395 Filed 7–1–19; 4:15 pm]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for Data Collection Instruments for AmeriCorps NCCC Impact Studies

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Data Collection Instruments for AmeriCorps NCCC Impact Studies for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by August 2, 2019.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Laura Qin, at 202–606–6767 or by email to *lqin@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may use our web chat for alternative communication: *www.NationalService.gov/contact-us.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on 05/03/2019 at FR Volume 84, Number 86, Page 19056. This comment period ended July 2, 2019. 0 public comments were received from this Notice.

Title of Collection: Data Collection Instruments for AmeriCorps NCCC Impact Studies.

OMB Control Number: TBD. Type of Review: New.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 2,553.

Total Estimated Number of Annual Burden Hours: 1,000.

Abstract: The purpose of this new information collection is to gather data for the upcoming National Civilian Conservation Corps (NCCC) impact studies. The studies intend to assess the performance and impact of NCCC programs on members and communities served by the program. In particular, the studies will investigate three main components of NCCC:

1. The impact of NCCC on developing leaders
2. The impact of NCCC on strengthening communities
3. Retention at the different phases of the program, from application to completion

Dated: June 26, 2019.

Laura Qin,

Research Analyst, Office of Research and Evaluation.

[FR Doc. 2019–14220 Filed 7–2–19; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Availability of Uniform National Discharge Standards (UNDS) for Vessels of the Armed Forces–Phase III Batch One

AGENCY: Department of Defense (DoD).

ACTION: Notice of availability.

SUMMARY: DoD has developed internal regulations on the design, construction, installation, and use of marine pollution control devices (MCPDs) to meet performance standards for 11 discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the United States, the territorial seas, and the contiguous zone, and is making them publicly available.

FOR FURTHER INFORMATION CONTACT: Mike Pletke; Chief of Naval Operations (N45), 2000 Navy Pentagon (Rm. 2D253), Washington, DC 20350–2000; (703) 695–5184; *mike.pletke@navy.mil.*

SUPPLEMENTARY INFORMATION: Section 312 of the Clean Water Act (CWA), as amended by Section 325 of the National Defense Authorization Act of 1996, requires the Environmental Protection Agency (EPA) and DoD to develop Uniform National Discharge Standards (UNDS) to control certain discharges incidental to the normal operation of a

vessel of the Armed Forces. The EPA and DoD have already issued required joint rules (64 FR 25126 (May 10, 1999) and 82 FR 3173 (January 10, 2017), 40 CFR part 1700). This notice announces that DoD is also issuing a DoD-only internal regulation as part of this requirement. Although issued by DoD alone, the regulation will apply (by agreement with the Department of Homeland Security) not only to DoD but also to the U.S. Coast Guard (at all times, including when it is a Service in the Department of Homeland Security).

Section 312(n)(4) of the CWA requires DoD, in consultation with EPA and the Secretary of the Department in which the U.S. Coast Guard is operating, to promulgate regulations governing the design, construction, installation, and use of MPCDs necessary to meet the discharge performance standards established in the EPA-DoD joint rules.

These regulations are issued under the authority of the Secretary as an internal regulation, DoD Manual 4715.06, Volume 4, ''Regulations on Vessels Owned or Operated by the Department of Defense: Discharges Incidental to Normal Operations,'' which can be found at: *https://www.esd.whs.mil/Directives/issuances/dodm/.*

There is no notice and comment requirement for these regulations because they are internal to the department and to the Coast Guard and otherwise exempt by 5 U.S.C. 553(a)(1) and (2). Furthermore, EPA and DoD provided for notice and comment during the promulgation of the joint EPA-DoD regulations, as required by the CWA.

Because EPA and DoD determined that these regulations, once finalized, would have federalism implications, they had several rounds of consultations with state and local governments during the promulgation of the joint EPA-DoD regulations, as described in the final rule at 82 FR 3181, January 10, 2017.

Dated: June 28, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–14211 Filed 7–2–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2019–OS–0081]

Department of Defense Science and Technology Reinvention Laboratory (STRL) Personnel Demonstration (Demo) Project

AGENCY: Under Secretary of Defense for Research and Engineering, (USD(R&E)), Department of Defense (DoD).

ACTION: This notice provides a new authority to all STRL Personnel Demonstration Projects.

SUMMARY: STRLs with published demonstration project plans may implement a new program that provides the authority to offer voluntary assignments in the STRLs to private and public sector United States (U.S.) citizens.

DATES: This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** notice (FRN) published. To be considered, written comments must be submitted on or before August 2, 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:

Department of the Air Force

- Air Force Research Laboratory: Ms. Rosalyn Jones-Byrd, Directorate of Personnel, 1864 4th Street, Wright-Patterson Air Force Base, OH 45433–5209;
- Joint Warfare Analysis Center: Ms. Amy Balmaz, 4048 Higley Road, Dahlgren, VA 22448.

Department of the Army

- Army Research Institute: Dr. Scott Shadrick, 6000 6th Street, Bldg. 1464, Fort Belvoir, VA 22060–5586;
- Army Research Laboratory: Ms. Dianne Hawkins, AMSRD–ARL–O–HR, 2800 Powder Mill Road, Adelphi, MD 20783–1197;
- Combat Capabilities Development Command-Armaments Center: Mr. Mike Nicotra, Human Capital Management Office, Building 1, 3rd Floor, RDAR–EIH, Picatinny Arsenal, NJ 07806–5000;
- Combat Capabilities Development Command-Aviation and Missile Center: Ms. Nancy Salmon, 5400 Fowler Road, Redstone Arsenal, AL 35898–5000;
- Combat Capabilities Development Command-Chemical Biological Center: Ms. Patricia Milwicz, Office of the Technical Director, Workforce Management Office, Department of the Army, ATTN: RDCB–DPC–W, 5183 Blackhawk Road, Building 3330, Aberdeen Proving Ground, MD 21010–5424;
- Combat Capabilities Development Command-Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center: Mr. Christopher Tahaney, C5ISR Campus Building 6002, Room D3126D, ATTN: RDER–DOS–ER, Aberdeen Proving Ground, MD 21005;
- Combat Capabilities Development Command-Ground Vehicle Systems Center: Ms. Jennifer Davis, ATTN: RDTA–CS/MS 204, Warren, MI 48397–5000;
- Combat Capabilities Development Command-Soldier Center: Ms. Joelle Montecalvo, Kansas Street, (AMSRD–NSR–BO–W), Natick, MA 01760;
- Engineer Research and Development Center: Ms. Patricia Sullivan, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199;
- Medical Research and Materiel Command: Ms. Linda Krout, 505 Scott St., Fort Detrick, MD 21702–5000;
- Technical Center, Space and Missile Defense Command/Army Forces Strategic Command (SMDC/ARSTRAT): Mr. Chad Marshall, 5220 Martin Road, Redstone Arsenal, AL 35898–5000.

Department of the Navy

- Naval Air Warfare Center, Weapons Division and Aircraft Division: Mr. Richard Cracraft, Weapons Division, Code 730000D, 1 Administration Circle, Building 00464, China Lake, CA 93555–6100;
- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center: Ms. Lori Leigh, Code BD13, 1000 23rd Avenue, Port Hueneme, CA 93043.

- Naval Information Warfare Centers:
  - Naval Information Warfare Centers Atlantic: Ms. Veronica Truesdale, P.O. Box 190022, North Charleston, SC 29419–9022; and
  - Naval Information Warfare Centers Pacific: Ms. Angela Hanson, 53560 Hull Street, San Diego, CA 92152–5001;
- Naval Medical Research Center: Dr. James Andrews, 503 Robert Grant Ave., Silver Spring, MD 20910–7500;
- Naval Research Laboratory: Ms. Ginger Kisamore, 4555 Overlook Avenue SW, Washington, DC 20375–5320;
- Naval Sea Systems Command Warfare Centers: Ms. Diane Brown, Philadelphia Division, 5001 South Broad Street, Philadelphia, PA 19112–5083;
- Office of Naval Research: Ms. Margaret J. Mitchell, 875 North Randolph Street, Code BD, Arlington, VA 22203;

DoD

- Dr. Jagadeesh Pamulapati, Director, Laboratories and Personnel, 4800 Mark Center Drive, Alexandria, VA 22350.

SUPPLEMENTARY INFORMATION:

1. Background

Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, as amended by section 1109 of the NDAA for FY 2000, and section 1114 of the NDAA for FY 2001, authorizes the Secretary of Defense (SECDEF) to conduct personnel demonstration projects at DoD laboratories designated as STRLs. Most STRLs have a Voluntary Emeritus Program or Voluntary Emeritus Corps flexibility that permits STRLs to offer voluntary assignments to individuals who have retired or separated from Federal service. This new authority will expand this flexibility to permit STRLs to offer the same type of voluntary assignments to U.S. citizens who have not retired or separated from Federal service. Volunteer service will not be used to replace any employee, or interfere with career opportunities of employees. The Volunteer Emeritus Program may not be used to replace or substitute for work performed by civilian employees occupying regular positions required to perform the STRLs mission.

The 20 current STRLs are:

- Air Force Research Laboratory
- Joint Warfare Analysis Center
- Army Research Institute for the Behavioral and Social Sciences
- Army Research Laboratory
- Combat Capabilities Development Command-Armaments Center
- Combat Capabilities Development Command-Aviation and Missile Center
- Combat Capabilities Development Command-Chemical Biological Center
- Combat Capabilities Development Command-Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center
- Combat Capabilities Development Command-Ground Vehicle Systems Center
- Combat Capabilities Development Command-Soldier Center
- Engineer Research and Development Center
- Medical Research and Materiel Command
- Technical Center, U.S. Army Space and Missile Defense Command/Army Forces Strategic Command
- Naval Air Systems Command Warfare Centers
- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center
- Naval Information Warfare Centers, Atlantic and Pacific
- Naval Medical Research Center
- Naval Research Laboratory
- Naval Sea Systems Command Warfare Centers
- Office of Naval Research

2. Overview

I. Introduction

A. Purpose

The Voluntary Expert Program will allow U.S. citizens to provide commercial and public sector knowledge, experience and advice, and valuable mentoring to STRL employees.

B. Required Waivers to Law and Regulation

None.

C. Participating Organizations and Employees

All DoD laboratories designated as STRLs under section 1105 of the NDAA for FY 2010, section 1103 of the NDAA for FY 2015 and section 1104 of the NDAA for FY 2018 (including any newly designated STRLs authorized by SECDEF or by future legislation) with published demonstration project plans may use the provisions described in this FRN. STRLs implementing this flexibility must fulfill any collective bargaining obligations. Each STRL will establish internal operating procedures as appropriate. Authorized STRLs and correlated FRNs are listed in Appendix A.

II. Personnel System Changes

All current and future STRL personnel demonstration project plans are hereby amended to add the following:

A. Voluntary Expert Program

Under the demonstration project, STRLs have the authority to offer voluntary assignments to U.S. citizens who are retired, separated, or on sabbatical from private or public sector organizations. The Voluntary Expert Program will provide opportunities for these individuals to bring commercial sector or public sector knowledge and experience into the STRLs. The Voluntary Expert Program will not be used to replace any employee or interfere with employees' career opportunities. The Volunteer Emeritus Program may not be used to replace or substitute for work performed by civilian employees occupying regular positions required to perform the STRLs mission.

To be accepted into the Voluntary Expert Program, an individual must be a U.S. citizen and must be recommended by an STRL manager. No one is entitled to participate in the Voluntary Expert Program, and application to the Voluntary Expert Program does not guarantee acceptance into the Program or assignment at an STRL. The STRL must clearly document the decision process and decision rationale for each Voluntary Expert Program applicant (regardless of whether the applicant is accepted or rejected for the program) and must retain this documentation throughout the assignment (for accepted applicants), or for two years (for rejected applicants). Voluntary Expert Program participants will not be permitted to perform any inherently governmental function, or to participate in any contracts or solicitations for which the participant has a conflict of interest. Voluntary Expert Program participants are not permitted to participate in contract source selections, nor are they permitted to have access to contractor bid or proposal information or source selection information, or to data or information that is protected by the Trade Secrets Act (18 U.S.C. 1905) without a written agreement between the Voluntary Expert Program participant and the owner of the data or information.

The Voluntary Expert Program participant shall be required to enter a written agreement with the STRL as a condition of participation in the Program. The agreement will be reviewed by the local Legal Office for

legal sufficiency prior to signature. The agreement must be finalized before the Voluntary Expert Program participant assumes any duties and shall include, at a minimum:

(a) A statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation, and any and all claims against the Government (because of the voluntary assignment) are waived by the Voluntary Expert Program participant;

(b) a statement that the Voluntary Expert Program participant will be considered a federal employee solely for the purpose of:

(1) Sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, U.S.C.;

(2) Sections 1343, 1344, and 1349(b) of title 31, U.S.C.;

(3) Chapters 73 and 81 of title 5, U.S.C.;

(4) The Ethics in Government Act of 1978;

(5) Chapter 21 of title 41, U.S.C.;

(6) 28 U.S.C. chapter 171 (tort claims procedure), and any other Federal tort liability statute; and

(7) 5 U.S.C. 552a (records maintained on individuals).

(c) the Voluntary Expert Program participant's work schedule;

(d) the length of the agreement (defined by length of project or time defined by weeks, months, or years);

(e) the support to be provided by the STRL (travel, administrative, office space, supplies);

(f) the Voluntary Expert Program participant's duties;

(g) a provision allowing either party to void the agreement with at least two working days' written notice;

(h) the level of security access required (any security clearance required by the assignment will be managed by the STRL while the participant is a member of the Voluntary Expert Program.

(i) a provision that any written products prepared for publication that are related to Volunteer Expert Program participation will be submitted to the STRL director for review and must be approved prior to publication,

(j) a statement that the Volunteer Expert Program participant accepts accountability for loss or damage to Government property occasioned by the Volunteer Expert Program participant's negligence or willful action;

(k) a statement that the activities of the Volunteer Expert Program participant on the premises will conform to the regulations and requirements of the organization;

(l) a statement that the Volunteer Expert Program participant will not improperly use or disclose any non-public information, to include any pre-decisional or draft deliberative information related to DoD programming, budgeting, resourcing, acquisition, procurement or other matter, for the benefit or advantage of the Volunteer Expert or any non-Federal entities. Volunteer Expert Program participants will handle all non-public information in a manner that reduces the possibility of improper disclosure;

(m) a statement that the Volunteer Expert Program participant agrees to disclose any inventions made in the course of work performed at the STRL. The STRL will have the option to obtain title to any such invention on behalf of the U.S. Government. Should the STRL Director elect not to take title, the STRL will retain a non-exclusive, irrevocable, paid up, royalty-free license to practice or have practiced the invention worldwide on behalf of the U.S. Government;

(n) a statement that the Volunteer Expert Program participant must complete either a Confidential or Public Financial Disclosure Report, whichever applies; a disqualification statement prohibiting the Volunteer Expert program participant from working on matters related to his or her former employer; and ethics training in accordance with Office of Government Ethics regulations prior to implementation of the written agreement; and

(o) a statement that the Volunteer Expert Program participant must receive post-government employment advice from a DoD ethics counselor at the conclusion of program participation. Volunteer Expert Program participants are deemed Federal employees for purposes of post-government employment restrictions.

A written Memorandum of Agreement (MOA) between the STRL and the Volunteer Expert Program participant is required and must include all items above, regardless of format used. The use and wording of the MOA will be provided in the internal operating procedures of the STRL.

B. Evaluation

As part of an annual program evaluation, STRLs will provide specific information concerning the use of this authority to the Director, Defense Laboratories Office.

Appendix A

AUTHORIZED STRLS AND **Federal Register** NOTICES

STRL	**Federal Register** notice
Air Force Research Laboratory	61 FR 60400 amended by 75 FR 53076.
Joint Warfare Analysis Center	Not yet published.
Combat Capabilities Development Command-Armaments Center	76 FR 3744.
Army Research Institute for Behavioral and Social Sciences	Not yet published.
Army Research Laboratory	63 FR 10680.
Combat Capabilities Development Command-Aviation and Missile Center.	62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged together).
Combat Capabilities Development Command-Chemical Biological Center.	74 FR 68936.
Combat Capabilities Development Command- Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center.	66 FR 54872.
Engineer Research and Development Center	63 FR 14580 amended by 65 FR 32135.
Combat Capabilities Development Command- Ground Vehicle Systems Center.	76 FR 12508.
Medical Research and Materiel Command	63 FR 10440.
Combat Capabilities Development Command Soldier Center	74 FR 68448.
Technical Center, U.S. Army Space and Missile Defense Command/ Army Forces Strategic Command.	Not yet published.
Naval Air Systems Command Warfare Centers	76 FR 8530.

AUTHORIZED STRLS AND **Federal Register** NOTICES—Continued

STRL	**Federal Register** notice
Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center.	Not yet published.
Naval Information Warfare Centers, Atlantic and Pacific	76 FR 1924.
Naval Medical Research Center	Not yet published.
Naval Research Laboratory	64 FR 33970.
Naval Sea Systems Command Warfare Centers	62 FR 64050.
Office of Naval Research	75 FR 77380.

Dated: June 27, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–14191 Filed 7–2–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2019 for CSP—Grants to Charter School Developers for the Opening of New Charter Schools and for the Replication and Expansion of High-Quality Charter Schools, Catalog of Federal Domestic Assistance (CFDA) numbers 84.282B and 84.282E, respectively.

DATES:

Applications Available: July 3, 2019.

Date of Pre-Application Webinar: Monday, July 8, 2019, 12:30 p.m., Eastern Time.

Deadline for Transmittal of Applications: August 2, 2019.

Deadline for Intergovernmental Review: August 2, 2019.

Pre-Application Webinar Information: The Department will hold a pre-application meeting via webinar for prospective applicants on Monday, July 8, 2019, 12:30 p.m., Eastern Time. Individuals interested in attending this meeting are encouraged to pre-register by emailing their name, organization, and contact information with the subject heading ''DEVELOPER GRANTS PRE-APPLICATION MEETING'' to *charterschools@ed.gov.* There is no registration fee for attending this meeting.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Hans Neseth, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E215, Washington, DC 20202–5970. Telephone: (202) 401–4125. Email: *charterschools@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The major purposes of the CSP are to expand opportunities for all students, particularly traditionally underserved students, to attend *charter schools* [1] and meet challenging State academic standards; provide financial assistance for the planning, program design, and initial implementation of public *charter schools;* increase the number of *high-quality charter schools* available to students across the United States; evaluate the impact of *charter schools* on student achievement, families, and communities; share best practices between *charter schools* and other public schools; encourage States to provide facilities support to *charter schools;* and support efforts to strengthen the *charter school* authorizing process.

Through CSP Grants to *Charter School Developers* for the Opening of New *Charter Schools* and for the Replication and Expansion of *High-Quality Charter Schools* (CFDA numbers 84.282B and 84.282E, respectively) (also referred to as Developer Grants), the Department provides funds to *charter school developers* on a competitive basis to enable them to open new *charter schools* (CFDA number 84.282B) or *replicate* or *expand high-quality charter schools* (CFDA number 84.282E). Eligibility for a grant under this competition is limited to *charter school developers* in States that do not currently have a CSP State Entity grant (CFDA number 84.282A) under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).[2] Eligibility in a State with a CSP State Educational Agency (SEA) grant under the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB) (CFDA number 84.282A), is limited to *charter school developers* applying for grants for the replication and expansion of *high-quality charter schools* (CFDA number 84.282E) and only if the Department has not approved an amendment to the SEA's approved grant application authorizing the SEA to make subgrants for replication and expansion. *Charter schools* that receive financial assistance through Developer Grants provide programs of elementary or secondary education, or both, and may also serve students in *early childhood education programs* or postsecondary students.

Background: This notice invites applications from eligible applicants for two types of grants: (1) Grants to *Charter School Developers* for the Opening of New *Charter Schools* (CFDA number 84.282B) and (2) Grants to *Charter School Developers* for the Replication and Expansion of *High-Quality Charter Schools* (CFDA number 84.282E). Under this competition, each CFDA number, 84.282B and 84.282E, constitutes its own funding category. The Secretary intends to award grants under each CFDA number for applications that are sufficiently high quality. Information

[1] Italicized terms are defined in the Definitions section of this notice.

[2] All references to the ESEA in this notice are to the ESEA, as amended by the ESSA, unless otherwise noted.

pertaining to each type of grant is provided in subsequent sections of this notice.

We have published elsewhere in this issue of the **Federal Register** a notice of final priorities, requirements, definitions, and selection criteria (NFP) for use in this and future Developer Grant competitions. The NFP aligns with the ESEA and clarifies key statutory provisions.

Eligible applicants are those that are qualified based on the requirements set forth in this notice. For more information on eligibility, please see section III.1. of this notice.

All *charter schools* receiving CSP funds must meet the definition of a charter school in section 4310(2) of the ESEA, including the requirements that a charter school comply with non-discrimination and privacy laws, including the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, section 444 of the General Education Provisions Act (GEPA), part B of the Individuals with Disabilities Education Act (IDEA) (*i.e.,* rights afforded to children with disabilities and their parents), and applicable State laws.

This notice includes a competitive preference priority for developers seeking to open a new charter school or *replicate* or *expand* a *high-quality charter school* within a qualified opportunity zone, as well as an invitational priority for applicants receiving financial assistance from a qualified opportunity fund for the purpose of acquiring or constructing school facilities or other property. Created under the Tax Cuts and Jobs Act (Pub. L. 115–97), opportunity zones are intended to promote economic development and job creation in distressed communities through preferential tax treatment for investors. Specifically, if an individual invests capital gains in an opportunity fund—*i.e.,* a vehicle established for the purpose of investing in property in an opportunity zone—the taxes the individual owes on those gains can be deferred and reduced. Through these priorities, the Administration seeks to harness the power of opportunity zones to help increase the educational choices available to students in these communities.

Priorities: This notice includes one absolute priority, four competitive preference priorities, and one invitational priority. The Absolute Priority and Competitive Preference Priorities 1–3 are from the NFP for this program published elsewhere in this issue of the **Federal Register**. Competitive Preference Priority 4 is from 34 CFR 75.225.

Absolute Priority: For FY 2019 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an Absolute Priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet the priority.

Each subpart of this Absolute Priority constitutes its own funding category. Applicants must clearly indicate under which subpart of the Absolute Priority they are applying. The Secretary intends to award grants under both subparts of the Absolute Priority, provided that applications of sufficiently high quality are submitted.

The priority is:

Rural Community.

Under this priority, applicants must propose to open a new charter school or to *replicate* or *expand* a *high-quality charter school* in one of the following:

(a) A *rural community.*

(b) A community that is not a *rural community.*

Competitive Preference Priorities: For FY 2019 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities.

For CFDA number 84.282B, under 34 CFR 75.105(c)(2)(i), we will award an additional 10 points to an application that meets Competitive Preference Priority 1; up to an additional 10 points to an application, depending on how well the application meets Competitive Preference Priority 2; and an additional 10 points to an application that meets Competitive Preference Priority 4. The maximum number of competitive preference priority points an application for CFDA number 84.282B can receive under these priorities is 30.

For CFDA number 84.282E, under 34 CFR 75.105(c)(2)(i), we award an additional 10 points to an application that meets Competitive Preference Priority 1; up to an additional 10 points to an application, depending on how well the application meets Competitive Preference Priority 2; and an additional 10 points to an application that meets Competitive Preference Priority 3. The maximum number of competitive preference priority points an application for CFDA number 84.282E can receive under these priorities is 30.

These priorities are:

Competitive Preference Priority 1—Spurring Investment in Opportunity Zones. (0 or 10 points under CFDA numbers 84.282B and 84.282E)

Under this priority, an applicant must propose to open a new *charter school* or to *replicate* or *expand* a *high-quality charter school* in a qualified opportunity zone as designated by the Secretary of the Treasury under section 1400Z–1 of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act (Pub. L. 115–97).

An applicant must provide the census tract number of the qualified opportunity zone in which it proposes to open a new *charter school* or *replicate* or *expand* a *high-quality charter school.* A list of qualified opportunity zones, with census tract numbers, is available at *www.cdfifund.gov/Pages/Opportunity-Zones.aspx.*

Competitive Preference Priority 2—Opening a New Charter School or Replicating or Expanding a High-quality Charter School To Serve Native American Students. (Up to 10 points under CFDA numbers 84.282B and 84.282E)

Under this priority, applicants must—

(a) Propose to open a new *charter school,* or *replicate* or *expand* a *high-quality charter school,* that—

(1) Utilizes targeted outreach and recruitment in order to serve a *high proportion* of *Native American* students, consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws;

(2) Has a mission and focus that will address the unique educational needs of *Native American* students, such as through the use of instructional programs and teaching methods that reflect and preserve *Native American language,* culture, and history; and

(3) Has or will have a governing board with a substantial percentage of members who are members of *Indian Tribes* or *Native American organizations* located within the area to be served by the new, *replicated,* or *expanded charter school;*

(b) Submit a letter of support from at least one *Indian Tribe* or *Native American organization* located within the area to be served by the new, *replicated,* or *expanded charter school;* and

(c) Meaningfully collaborate with the *Indian Tribe(s)* or *Native American organization(s)* from which the applicant has received a letter of support in a timely, active, and ongoing manner with respect to the development and implementation of the educational program at the *charter school.*

Competitive Preference Priority 3—Single School Operators. (0 or 10 points under CFDA number 84.282E)

Under this priority, applicants must provide evidence that the applicant currently operates one, and only one, *charter school.*

Competitive Preference Priority 4—Novice Applicants. (0 or 10 points under CFDA number 84.282B)

This priority is for applications submitted by *novice applicants.* (34 CFR 75.225)

Invitational Priority: This priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority any preference over other applications.

This priority is:

Opportunity Funds.

This priority is for applicants that have received or will receive an investment from a qualified opportunity fund under section 1400Z–2 of the Internal Revenue Code, as amended by the Tax Cuts and Jobs Act, for one or more of the following, as needed to open or to *replicate* or *expand* the school:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of the school) in improved or unimproved real property;

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities;

(3) The predevelopment costs required to assess sites for purposes of subparagraph (1) or (2); and

(4) The acquisition of other tangible property.

In addressing this priority, an applicant must identify the qualified opportunity fund from which it has received or will receive financial assistance.

Definitions: The following definitions are from sections 4310 and 8101 of the ESEA, section 602 of the IDEA, 34 CFR 75.225 and 77.1, and the NFP.

Academically poor-performing public school means:

(a) A school identified by the State for comprehensive support and improvement under section 1111(c)(4)(D)(i) of the ESEA; or

(b) A public school otherwise identified by the State or, in the case of a *charter school,* its *authorized public chartering agency,* as similarly academically poor-performing. (NFP)

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a *performance target,* whether a *performance target* is *ambitious* depends upon the context of the relevant *performance measure* and the *baseline* for that measure. (34 CFR 77.1)

Authorized public chartering agency means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a *charter school.* (Section 4310(1) of the ESEA)

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Charter management organization means a nonprofit organization that operates or manages a network of *charter schools* linked by centralized support, operations, and oversight. (Section 4310(3) of the ESEA)

Charter school means a public school that—

(a) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this definition;

(b) Is created by a *developer* as a public school, or is adapted by a *developer* from an existing public school, and is operated under public supervision and direction;

(c) Operates in pursuit of a specific set of educational objectives determined by the school's *developer* and agreed to by the *authorized public chartering agency;*

(d) Provides a program of elementary or secondary education, or both;

(e) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(f) Does not charge tuition;

(g) Complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 444 of GEPA (20 U.S.C. 1232g) (commonly referred to as the ''Family Educational Rights and Privacy Act of 1974''), and part B of the IDEA;

(h) Is a school to which parents choose to send their children, and that—

(1) Admits students on the basis of a lottery, consistent with section 4303(c)(3)(A) of the ESEA, if more students apply for admission than can be accommodated; or

(2) In the case of a school that has an affiliated *charter school* (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (1);

(i) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(j) Meets all applicable Federal, State, and local health and safety requirements;

(k) Operates in accordance with State law;

(l) Has a written performance contract with the *authorized public chartering agency* in the State that includes a description of how student performance will be measured in *charter schools* pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the *authorized public chartering* agency and the *charter school*; and

(m) May serve students in early childhood education programs or postsecondary students. (Section 4310(2) of the ESEA)

Child with a disability means—

(i) In general—

The term ''child with a disability'' means a child—

(A) With intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as ''emotional disturbance''), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(B) Who, by reason thereof, needs special education and related services.

(ii) Child aged 3 through 9—

The term ''child with a disability'' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—

(A) Experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: Physical development; cognitive development; communication development; social or

emotional development; or adaptive development; and

(B) Who, by reason thereof, needs special education and related services. (Section 8101(4) of the ESEA and section 602 of the IDEA)

Developer means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a *charter school* project will be carried out. (Section 4310(5) of the ESEA)

Educationally disadvantaged student means a student in one or more of the categories described in section 1115(c)(2) of the ESEA, which include children who are economically disadvantaged, *children with disabilities,* migrant students, *English learners,* neglected or delinquent students, homeless students, and students who are in foster care. (NFP)

English learner, when used with respect to an individual, means an individual—

(a) Who is aged 3 through 21;

(b) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(c)(1) Who was not born in the United States or whose native language is a language other than English;

(2)(i) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(ii) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(3) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(d) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(1) The ability to meet the challenging State academic standards;

(2) The ability to successfully achieve in classrooms where the language of instruction is English; or

(3) The opportunity to participate fully in society. (Section 8101(20) of the ESEA)

Expand, when used with respect to a *high-quality charter school,* means to significantly increase enrollment or add one or more grades to the *high-quality charter school.* (Section 4310(7) of the ESEA)

High proportion, when used to refer to *Native American* students, means a fact-specific, case-by-case determination based upon the unique circumstances of a particular *charter school* or proposed *charter school.* The Secretary considers ''high proportion'' to include a majority of *Native American* students. In addition, the Secretary may determine that less than a majority of *Native American* students constitutes a ''high proportion'' based on the unique circumstances of a particular *charter school* or proposed *charter school,* as described in the application for funds. (NFP)

High-quality charter school means a *charter school* that—

(a) Shows evidence of strong academic results, which may include strong student academic growth, as determined by a State;

(b) Has no significant issues in the areas of student safety, financial and operational management, or statutory or regulatory compliance;

(c) Has demonstrated success in significantly increasing student academic achievement, including graduation rates where applicable, for all students served by the *charter school*; and

(d) Has demonstrated success in increasing student academic achievement, including graduation rates where applicable, for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such demonstration is not required in a case in which the number of students in a group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. (Section 4310(8) of the ESEA)

Indian Tribe means a federally-recognized or a State-recognized Tribe. (NFP)

Individual from a low-income family means an individual who is determined by a State educational agency or local educational agency to be a child from a low-income family on the basis of (a) data used by the Secretary to determine allocations under section 1124 of the ESEA, (b) data on children eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act, (c) data on children in families receiving assistance under part A of title IV of the Social Security Act, (d) data on children eligible to receive medical assistance under the Medicaid program under title XIX of the Social Security Act, or (e) an alternate method that combines or extrapolates from the data in items (a) through (d) of this definition. (NFP)

Institution of higher education means an educational institution in any State that—

(a) 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, or persons who meet the requirements of section 484(d)of the HEA;

(b) Is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-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;

(d) Is a public or other nonprofit institution; and

(e) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary 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. (NFP)

Logic model (also referred to as theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1)

Native American means an Indian (including an Alaska Native), as defined in section 6132(b)(2) of the ESEA, Native Hawaiian, or Native American Pacific Islander. (NFP)

Native American language means the historical, traditional languages spoken by *Native Americans.* (NFP)

Native American organization means an organization that—

(a) Is legally established—

(1) By Tribal or inter-Tribal charter or in accordance with State or Tribal law; and

(2) With appropriate constitution, by-laws, or articles of incorporation;

(b) Includes in its purposes the promotion of the education of *Native Americans*;

(c) Is controlled by a governing board, the majority of which is *Native American*;

(d) If located on an Indian reservation, operates with the sanction or by charter

of the governing body of that reservation;

(e) Is neither an organization or subdivision of, nor under the direct control of, any *institution of higher education*; and

(f) Is not an agency of State or local government. (NFP)

Novice applicant means—

(a) Any applicant for a grant from the Department that—

(i) Has never received a grant or subgrant under the program from which it seeks funding;

(ii) Has never been a member of a group application, submitted in accordance with 34 CFR 75.127–75.129, that received a grant under the program from which it seeks funding; and

(iii) Has not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications for new awards under the program.

(b) In the case of a group application submitted in accordance with §§ 75.127–75.129, a group that includes only parties that meet the requirements of paragraph (a) of this definition.

(c) For the purposes of paragraph (a) of this definition, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds. (34 CFR 75.225)

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance. (34 CFR 77.1)

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project. (34 CFR 77.1)

Replicate, when used with respect to a *high-quality charter school,* means to open a new *charter school,* or a new campus of a *high-quality charter school,* based on the educational model of an existing *high-quality charter school,* under an existing charter or an additional charter, if permitted or required by State law. (Section 4310(9) of the ESEA)

Rural community is a community served by one or more local educational agencies (LEAs) (a) with a locale code of 32, 33, 41, 42, or 43; or (b) that include a majority of schools with a locale code of 32, 33, 41, 42, or 43. Applicants are encouraged to retrieve locale codes from the National Center for Education Statistics School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes. (NFP)

Application Requirements: Applications for CSP Developer Grant funds must address the following application requirements. These requirements are from the NFP and section 4303(f) [3] of the ESEA. The source of each requirement is provided in parentheses following each requirement. Except as otherwise provided, an applicant may choose to respond to each requirement separately or in the context of the applicant's responses to the selection criteria in section V.1 of this notice.

Grants to Charter School Developers for the Opening of New Charter Schools (CFDA number 84.282B) and for the Replication and Expansion of High-Quality Charter Schools (CFDA number 84.282E).

Applicants for grants under CFDA number 84.282B or 84.282E must address the following application requirements. An applicant must respond to the requirements in paragraph (a) in a stand-alone section of the application or in an appendix.

(a) Describe the eligible applicant's objectives in running a quality *charter school* program and how the program will be carried out, including—

(1) A description of how the eligible applicant will ensure that *charter schools* receiving funds under this program meet the educational needs of their students, including *children with disabilities* and *English learners* (Section 4303(f)(1)(A)(x) of the ESEA);

(2) A description of the roles and responsibilities of eligible applicants, partner organizations, and *charter management organizations,* including the administrative and contractual roles and responsibilities of such partners (Section 4303(f)(1)(C)(i)(I) of the ESEA);

(3) A description of the quality controls agreed to between the eligible applicant and the *authorized public chartering agency* involved, such as a contract or performance agreement, how a school's performance in the State's accountability system and impact on student achievement (which may include student academic growth) will be one of the most important factors for renewal or revocation of the school's charter, and how the *authorized public chartering agency* involved will reserve the right to revoke or not renew a school's charter based on financial, structural, or operational factors involving the management of the school (Section 4303(f)(1)(C)(i)(II) of the ESEA);

(4) A description of how the autonomy and flexibility granted to a *charter school* is consistent with the definition of a *charter school* in section 4310 of the ESEA (Section 4303(f)(1)(C)(i)(III) of the ESEA);

(5) A description of how the eligible applicant will solicit and consider input from parents and other members of the community on the implementation and operation of each *charter school* that will receive funds under the grant (Section 4303(f)(1)(C)(i)(IV) of the ESEA);

(6) A description of the eligible applicant's planned activities and expenditures of grant funds to support the activities described in section 4303(b)(1) of the ESEA, and how the eligible applicant will maintain financial sustainability after the end of the grant period (Section 4303(f)(1)(C)(i)(V) of the ESEA);

(7) A description of how the eligible applicant will support the use of effective parent, family, and community engagement strategies to operate each *charter school* that will receive funds under the grant (Section 4303(f)(1)(C)(i)(VI) of the ESEA); and

(8) A description of how the eligible applicant will ensure that each *charter school* receiving funds under this program has considered and planned for the transportation needs of the school's students (Section 4303(f)(1)(E) of the ESEA).

(b) Describe the educational program that the applicant will implement in the *charter school* receiving funding under this program, including—

(1) Information on how the program will enable all students to meet the challenging State academic standards;

(2) The grade levels or ages of students who will be served; and

(3) The instructional practices that will be used. (NFP)

(c) Describe how the applicant will ensure that the *charter school* that will receive funds will recruit, enroll, and retain students, including *educationally disadvantaged* students, which include *children with disabilities* and *English learners.* (NFP)

(d) Describe the lottery and enrollment procedures that the applicant will use for the *charter school* if more students apply for admission than can be accommodated and, if the applicant proposes to use a weighted lottery, how the weighted lottery complies with section 4303(c)(3)(A) of the ESEA. (NFP)

[3] Per section 4305(c) of the ESEA, Developer Grants shall have the same terms and conditions as grants awarded to State entities under section 4303. For clarity, with respect to requirements that derive from section 4303 the Department has, as applicable, omitted the term ''State entity'' or replaced it with ''eligible applicant.'' In addition, the Department has replaced ''State entity's program'' and ''subgrant,'' respectively, with ''program'' and ''grant.''

(e) Provide a complete *logic model* (as defined in 34 CFR 77.1) for the grant project. The *logic model* must include the applicant's objectives for implementing a new *charter school* or replicating or expanding a *high-quality charter school* with funding under this competition. (NFP)

(f) Provide a budget narrative, aligned with the activities, target grant project outputs, and outcomes described in the *logic model,* that outlines how grant funds will be expended to carry out planned activities. (NFP)

(g) If the applicant proposes to open a new *charter school* (CFDA number 84.282B) or proposes to *replicate* or *expand* a high-quality *charter school* (CFDA number 84.282E) that provides a single-sex educational program, demonstrate that the proposed single-sex educational programs are in compliance with the title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*) (''Title IX'') and its implementing regulations, including 34 CFR 106.34. (NFP)

(h) Provide the applicant's most recent available independently audited financial statements prepared in accordance with generally accepted accounting principles. (NFP)

(i) Provide—

(1) A request and justification for waivers of any Federal statutory or regulatory provisions that the eligible entity believes are necessary for the successful operation of the *charter school* to be opened or to be *replicated* or *expanded;* and

(2) A description of any State or local rules, generally applicable to public schools, that will be waived or otherwise not apply to the school that will receive funds. (NFP)

(j) Describe how each school that will receive funds meets the definition of *charter school* under section 4310(2) of the ESEA. (NFP)

Grants for the Replication and Expansion of High-Quality Charter Schools (CFDA number 84.282E).

In addition to the preceding application requirements, applicants for grants under CFDA number 84.282E must—

(a) For each *charter school* currently operated or managed by the applicant, provide—

(1) Information that demonstrates that the school is treated as a separate school by its *authorized public chartering agency* and the State, including for purposes of accountability and reporting under title I, part A of the ESEA;

(2) Student assessment results for all students and for each subgroup of students described in section 1111(c)(2) of the ESEA;

(3) Attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(4) Information on any significant compliance and management issues encountered within the last three school years by the existing charter school being operated or managed by the eligible entity, including in the areas of student safety and finance. (NFP)

Assurances: Applicants for CSP Developer grants must provide the following assurances. These assurances are from section 4303(f) of the ESEA. The source of each assurance is provided in parentheses following each assurance.

Applicants for funds under this program must provide assurances that—

(a) Each *charter school* receiving funds through this program will have a high degree of autonomy over budget and operations, including autonomy over personnel decisions (Section 4303(f)(2)(A) of the ESEA);

(b) The eligible applicant will support *charter schools* in meeting the educational needs of their students, as described in section 4303(f)(1)(A)(x) of the ESEA (Section 4303(f)(2)(B) of the ESEA); and

(c) The eligible applicant will ensure that each charter school receiving funds under this program makes publicly available, consistent with the dissemination requirements of the annual State report card under section 1111(h) of the ESEA, including on the website of the school, information to help parents make informed decisions about the education options available to their children, including—

(i) Information on the educational program;

(ii) Student support services;

(iii) Parent contract requirements (as applicable), including any financial obligations or fees;

(iv) Enrollment criteria (as applicable); and

(v) Annual performance and enrollment data for each of the subgroups of students, as defined in section 1111(c)(2) of the ESEA, except that such disaggregation of performance and enrollment data shall not be required in a case in which the number of students in a group is insufficient to yield statically reliable information or the results would reveal personally identifiable information about an individual student. (Section 4303(f)(2)(G) of the ESEA)

Program Authority: Title IV, part C of the ESEA, as amended.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 79, 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 in 2 CFR part 3474. (d) The NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $14,460,000.

Estimated Range of Awards: $150,000–$300,000 per year.

Estimated Average Size of Awards: $300,000 per year.

Maximum Award: See *Reasonable and Necessary Costs* in section III.4. for information regarding the maximum amount of funds that may be awarded per new school seat and per new school.

Estimated Number of Awards: 25–35.

Note: The Department is not bound by any estimates in this notice. The estimated range and average size of awards are based on a single 12-month budget period. We may use available funds to support multiple 12-month budget periods for one or more grantees.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants are *developers* that have—

(a) Applied to an *authorized public chartering authority* to operate a *charter school;* and

(b) Provided adequate and timely notice to that authority. (Section 4310(6) of the ESEA).

Additionally, the *charter school* must be located in a State with a State statute specifically authorizing the establishment of *charter schools* (section 4310(2) of the ESEA) and in which a State entity currently does not have a CSP State Entity grant (CFDA number 84.282A) under section 4303 of the ESEA.[4] (Section 4305(a)(2) of the ESEA). Eligibility in a State with a CSP SEA grant (CFDA 84.282A) under the

[4] States in which a State entity currently has an approved CSP State Entity grant application under section 4303 of the ESEA are Arizona, Arkansas, Colorado, Delaware, Idaho, Indiana, Maryland, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Texas, and Wisconsin. We will not consider applications from applicants in these States under either CFDA 84.282B or 84.282E.

ESEA, as amended by NCLB, is limited to grants for replication and expansion [5] (CFDA 84.282E) and only if the Department has not approved an amendment to the SEA's approved grant application authorizing the SEA to make subgrants for replication and expansion.[6]

As a general matter, the Secretary considers *charter schools* that have been in operation for more than five years to be past the initial implementation phase and, therefore, ineligible to receive CSP funds under CFDA number 84.282B to support the opening of a new *charter school* or under CFDA number 84.282E for the replication of a *high-quality charter school;* however, such schools may receive CSP funds under CFDA number 84.282E for the expansion of a *high-quality charter school.*

Note: If an applicant has applied to an *authorized public chartering agency* to operate a new school and has not yet been approved, it should include information in its application addressing the plan and timeline to receive notification from the authorizer on the final decision. Additionally, an applicant should delineate any costs in its proposed budget that are projected to be incurred prior to the date the applicant's *charter school* application is approved by the *authorized public chartering agency.*

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Reasonable and Necessary Costs:* The Secretary may elect to impose maximum limits on the amount of grant funds that may be awarded for a new *charter school,* or *replicated,* or *expanded, high-quality charter school.*

For this competition, the maximum limit of grant funds that may be awarded for a new, *replicated,* or *expanded charter school* is $1,500,000.

In accordance with 2 CFR 200.404, applicants must ensure that all costs included in the proposed budget are reasonable and necessary in light of the goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

A *charter school* that previously has received CSP funds for replication or expansion or for planning or initial implementation of a *charter school* under CFDA number 84.282A or 84.282M (under the ESEA) may not use funds under this grant for the same purpose. However, such *charter school* may be eligible to receive funds under this competition to *expand* the *charter school* beyond the existing grade levels or student count. Likewise, a *charter school* that receives funds under this competition is ineligible to receive funds for the same purpose under section 4303(b)(1) or 4305(b) of the ESEA, including opening and preparing for the operation of a new *charter school,* opening and preparing for the operation of a *replicated high-quality charter school,* or expanding a *high-quality charter school* (*i.e.,* CFDA number 84.282A or 84.282M).

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit 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,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for this competition, an application may include business information that the applicant considers proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program. Please note that, under 34 CFR 79.8(a), we have shortened the standard 60-day intergovernmental review period in order to make awards by the end of FY 2019.

4. *Funding Restrictions:* Grantees must use the grant funds to open and prepare for the operation of a new *charter school;* to open and prepare for the operation of a *replicated high-quality charter school;* or to *expand* a *high-quality charter school,* as applicable. Grant funds must be used to carry out allowable activities, described in section 4303(h) of the ESEA, which include the following:

(a) Preparing teachers, school leaders, and specialized instructional support personnel, including through paying costs associated with—

(1) Providing professional development; and

(2) Hiring and compensating, during the eligible applicant's planning period specified in the application for funds, one or more of the following:

(i) Teachers.

(ii) School leaders.

(iii) Specialized instructional support personnel.

(b) Acquiring supplies, training, equipment (including technology), and educational materials (including developing and acquiring instructional materials).

(c) Carrying out necessary renovations to ensure that a new school building complies with applicable statutes and regulations, and minor facilities repairs (excluding construction).

(d) Providing one-time, startup costs associated with providing transportation to students to and from the charter school.

(e) Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.

(f) Providing for other appropriate, non-sustained costs related to the opening of new *charter schools,* or the replication or expansion of *high-quality charter schools,* as applicable, when

[5] States in which the SEA currently has an approved CSP SEA grant application under the ESEA, as amended by NCLB (*i.e.,* a grant award made in fiscal year 2016 or earlier), include California, District of Columbia, Florida, Georgia, Illinois, Louisiana, Massachusetts, Nevada, Ohio, Oregon, South Carolina, Tennessee, and Washington. We will not consider applications from applicants in these States for grants for the opening of new charter schools submitted under CFDA number 84.282B.

[6] States in which the SEA currently has an approved CSP SEA grant application under the ESEA, as amended by NCLB (*i.e.,* a grant award made in fiscal year 2016 or earlier) and have approved amendment requests that authorize the SEA to make subgrants for replication and expansion, include California, District of Columbia, Nevada, Ohio, and Oregon. We will not consider applications from applicants in these States under CFDA 84.282E either.

such costs cannot be met from other sources.

A grant awarded by the Secretary under this competition may be for a period of not more than five years, of which the grantee may use not more than 18 months for planning and program design. (Section 4303(d)(1)(B) of the ESEA). Applicants may propose to support only one *charter school* per grant application.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the narrative to no more than 50 pages, and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria.* The selection criteria for applicants submitting applications under CFDA numbers 84.282B and 84.282E are listed in paragraphs (a) and (b) of this section, respectively. These selection criteria are from the NFP and 34 CFR 75.210. The maximum possible score for addressing all of the criteria in each section is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion.

In evaluating an application for a Developer Grant, the Secretary considers the following criteria:

(a) *Selection Criteria for Grants for the Opening of New Charter Schools (CFDA number 84.282B).*

(1) *Significance of contribution in assisting educationally disadvantaged students (up to 15 points).*

The Secretary considers the significance of contribution in assisting *educationally disadvantaged students* for the proposed project. In determining the significance of the contribution the proposed project will make in expanding educational opportunity for *educationally disadvantaged students* and enabling those students to meet challenging State academic standards, the Secretary considers the quality of the plan to ensure that the *charter school* the applicant proposes to open, *replicate,* or *expand* will recruit, enroll, and effectively serve *educationally disadvantaged students,* which include *children with disabilities* and *English learners.* (NFP)

(2) *Quality of the project design (up to 30 points).*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; and

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (34 CFR 75.210(c)(1) and (c)(2)(i) and (ii))

(3) *Quality of project personnel (up to 20 points).*

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers:

(i) 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 2 points); and

(ii) The qualifications, including relevant training and experience, of key project personnel (up to 18 points). (34 CFR 75.210(e)(1), (e)(2), and (e)(3)(ii))

(4) *Quality of the management plan (up to 20 points).*

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the applicant's management plan, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 15 points);

(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 3 points); and

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate (up to 2 points). (34 CFR 75.210(g)(1), and (g)(2)(i) and (g)(2)(iv)–(v))

(5) *Quality of the continuation plan (up to 15 points).*

The Secretary considers the quality of the continuation plan for the proposed project. In determining the quality of the continuation plan, the Secretary considers the extent to which the eligible applicant is prepared to continue to operate the charter school that would receive grant funds in a manner consistent with the eligible applicant's application once the grant funds under this program are no longer available. (NFP)

(b) *Selection Criteria for Replication and Expansion Grants (CFDA number 84.282E).*

(1) *Quality of the eligible applicant (up to 30 points).*

The Secretary considers the quality of the eligible applicant for the proposed project. In determining the quality of the eligible applicant, the Secretary considers the following factors:

(i) The extent to which the academic achievement results (including annual student performance on statewide assessments and annual student attendance and retention rates and, where applicable and available, student academic growth, high school graduation rates, postsecondary enrollment and persistence rates, including in college or career training programs, employment rates, earnings, and other academic outcomes) for *educationally disadvantaged students* served by the *charter school(s)* operated or managed by the applicant have exceeded the average academic achievement results for such students served by other public schools in the State (up to 10 points);

(ii) The extent to which one or more *charter schools* operated or managed by the applicant have closed; have had a charter revoked due to noncompliance

with statutory or regulatory requirements; or have had their affiliation with the applicant revoked or terminated, including through voluntary disaffiliation (up to 5 points);

(iii) The extent to which one or more *charter schools* operated or managed by the applicant have had any significant issues in the area of financial or operational management or student safety, or have otherwise experienced significant problems with statutory or regulatory compliance that could lead to revocation of the school's charter (up to 10 points); and

(iv) The extent to which the schools operated or managed by the applicant demonstrate strong results on measurable outcomes in non-academic areas such as, but not limited to, parent satisfaction, school climate, student mental health, civic engagement, and crime prevention and reduction (up to 5 points). (NFP)

(2) *Significance of contribution in assisting educationally disadvantaged students (up to 15 points).*

The Secretary considers the significance of the contribution in assisting *educationally disadvantaged students* for the proposed project. In determining the significance of the contribution the proposed project will make in expanding educational opportunity for *educationally disadvantaged students* and enabling those students to meet challenging State academic standards, the Secretary considers the quality of the plan to ensure that the charter school the applicant proposes to open, *replicate,* or *expand* will recruit, enroll, and effectively serve *educationally disadvantaged students,* which include *children with disabilities* and *English learners.* (NFP)

(3) *Quality of the project design (up to 25 points).*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; and

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (34 CFR 75.210(c)(1) and (c)(2)(i) and (ii))

(4) *Quality of project personnel (up to 10 points).*

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers:

(i) 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 2 points); and

(ii) The qualifications, including relevant training and experience, of key project personnel (up to 8 points). (34 CFR 75.210(e)(1),(e)(2), and (e)(3)(ii))

(5) *Quality of the management plan (up to 10 points)*

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the applicant's management plan, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (up to 6 points);

(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 2 points); and

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate (up to 2 points). (34 CFR 75.210(g)(1) and (g)(2)(i) and (g)(2)(iv)–(v))

(6) *Quality of the continuation plan (up to 10 points).*

The Secretary considers the quality of the continuation plan for the proposed project. In determining the quality of the continuation plan, the Secretary considers the extent to which the eligible applicant is prepared to continue to operate the charter school that would receive grant funds in a manner consistent with the eligible applicant's application once the grant funds under this program are no longer available. (NFP)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications under any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (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 other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and

send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* (a) The Secretary has two performance indicators to measure progress toward achieving the purposes of the program, which are discussed elsewhere in this notice. The performance indicators are: (1) The number of *charter schools* in operation around the Nation and (2) the percentage of fourth- and eighth-grade *charter school* students who are achieving at or above the proficient level on State assessments in mathematics and reading/language arts. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: The Federal cost per student in implementing a successful school (defined as a school in operation for three or more consecutive years).

(b) *Project-Specific Performance Measures.* Applicants must propose project-specific *performance measures* and *performance targets* consistent with the objectives of the proposed project. Applications must provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) *Performance measures.* How each proposed *performance measure* would accurately measure the performance of the project and how the proposed *performance measure* would be consistent with the *performance measures* established for the program funding the competition.

(2) *Baseline data.* (i) Why each proposed *baseline* is valid; or (ii) if the applicant has determined that there are no established *baseline* data for a particular *performance measure,* an explanation of why there is no established *baseline* and of how and when, during the project period, the applicant would establish a valid *baseline* for the *performance measure.*

(3) *Performance targets.* Why each proposed *performance target* is *ambitious* yet achievable compared to the *baseline* for the *performance measure* and when, during the project period, the applicant would meet the *performance target(s).*

(4) *Data collection and reporting.* (i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (ii) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these *performance measures.*

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).

7. *Project Director's Meeting:* Applicants approved for funding under this competition must attend a two-day meeting for project directors at a location to be determined in the continental United States during each year of the project. Applicants may include the cost of attending this meeting as an administrative cost in their proposed budgets.

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.*

Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 28, 2019.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2019–14267 Filed 7–2–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2020–2021 Free Application for Federal Student Aid (FAFSA)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before August 2, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0039. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street, SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact the Applicant Products Team at *StudentExperienceGroup@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2020–2021 Free Application for Federal Student Aid (FAFSA).

OMB Control Number: 1845–0001.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 40,987,637.

Total Estimated Number of Annual Burden Hours: 26,311,037.

Abstract: Section 483, of the Higher Education Act of 1965, as amended (HEA), mandates that the Secretary of Education ''. . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance . . .''.

The determination of need and eligibility are for the following Title IV, HEA, federal student financial assistance programs: the Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS)); the William D. Ford Federal Direct Loan (Direct Loan) Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; the Children of Fallen Heroes Scholarship; and the Iraq and Afghanistan Service Grant.

Federal Student Aid (FSA), an office of the U.S. Department of Education, subsequently developed an application process to collect and process the data necessary to determine a student's eligibility to receive Title IV, HEA program assistance. The application process involves an applicant's submission of the *Free Application for Federal Student Aid* (FAFSA®). After submission and processing of the FAFSA form, an applicant receives a *Student Aid Report* (SAR), which is a summary of the processed data they submitted on the FAFSA form. The applicant reviews the SAR, and, if necessary, will make corrections or updates to their submitted FAFSA data. Institutions of higher education listed by the applicant on the FAFSA form also receive a summary of processed data submitted on the FAFSA form which is called the Institutional Student Information Record (ISIR).

ED and FSA seek OMB approval of all application components as a single ''collection of information''. The aggregate burden will be accounted for under OMB Control Number 1845–0001. The specific application components, descriptions, and submission methods for each are listed in Table 1.

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS

Component	Description	Submission method
Initial Submission of FAFSA		
FAFSA	The electronic version of the FAFSA form completed by applicants	Submitted by the applicant via *fafsa.gov* or the myStudentAid mobile app.
FAFSA— Renewal.	The electronic version of the FAFSA form completed by applicants who have previously completed the FAFSA form.	

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS—Continued

Component	Description	Submission method
FAFSA–EZ	The electronic version of the FAFSA form for applicants who qualify for the Automatic Zero (Auto Zero) needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAFSA—EZ Renewal.	The electronic version of the FAFSA form for applicants who have previously completed the FAFSA form and who qualify for the Automatic Zero (Auto Zero) needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAA Access	Online tool that a financial aid administrator (FAA) utilizes to submit a FAFSA form	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
FAA Access—Renewal.	Online tool that an FAA can utilize to submit a Renewal FAFSA form.	
FAA Access—EZ	Online tool that an FAA can utilize to submit a FAFSA form for applicants who qualify for the Auto Zero needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAA Access—EZ Renewal.	Online tool that an FAA can utilize to submit a FAFSA form for applicants who have previously completed the FAFSA form and who qualify for the Auto Zero needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
Electronic Other	This is a submission done by an FAA, on behalf of the applicant, using the Electronic Data Exchange (EDE).	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Printed FAFSA	The printed version of the PDF FAFSA for applicants who are unable to access the Internet or complete the form using *fafsa.gov* or the myStudentAid mobile app.	Mailed by the applicant.
Correcting Submitted FAFSA Information and Reviewing FAFSA Information		
fafsa.gov– Corrections.	Any applicant who has a Federal Student Aid ID (FSA ID)—regardless of how they originally applied—may make corrections.	Submitted by the applicant via *fafsa.gov.*
Electronic Other—Corrections.	With the applicant's permission, corrections can be made by an FAA using the EDE	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Paper SAR—This is a SAR and an option for corrections.	The full paper summary that is mailed to paper applicants who did not provide an e-mail address and to applicants whose records were rejected due to critical errors during processing. Applicants can write corrections directly on the paper SAR and mail for processing.	Mailed by the applicant.
FAA Access—Corrections.	An institution can use FAA Access to correct the FAFSA form	Submitted through *faaaccess.ed.gov* by an FAA on behalf of an applicant.
Internal Department Corrections.	The Department will submit an applicant's record for system-generated corrections to the Central Processing System. There is no burden to the applicants under this correction type as these are system-based corrections.	These corrections are system- generated.
Federal Student Aid Information Center (FSAIC) Corrections.	Any applicant, with their Data Release Number (DRN), can change the postsecondary institutions listed on their FAFSA form or change their address by calling FSAIC.	These changes are made directly in the CPS by an FSAIC representative.
SAR Electronic (eSAR).	The eSAR is an online version of the SAR that is available on fafsa.gov to all applicants with an FSA ID. Notification for the eSAR is sent to students who applied electronically or by paper and provided a valid e-mail address. These notifications are sent by e-mail and include a hyperlink that takes the user to the *fafsa.gov* site.	Cannot be submitted for processing.
SAR Acknowledgement.	The SAR Acknowledgement is a condensed paper SAR that is mailed to applicants who applied electronically but did not provide a valid e-mail address.	Cannot be submitted for processing.

This information collection also documents an estimate of the annual public burden as it relates to the application process for federal student aid. The Applicant Burden Model (ABM) measures applicant burden through an assessment of the activities each applicant conducts in conjunction with other applicant characteristics and, in terms of burden, the average applicant's experience. Key determinants of the ABM include:

- The total number of applicants that will potentially apply for federal student aid;
- How the applicant chooses to complete and submit the FAFSA form (*e.g.,* by paper or electronically);
- How the applicant chooses to submit any corrections and/or updates (*e.g.,* the paper SAR or electronically);
- The type of SAR document the applicant receives (eSAR, SAR acknowledgment, or paper SAR);
- The formula applied to determine the applicant's expected family contribution (EFC) (full need analysis formula or Automatic Zero); and
- The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2020–21 is based upon two factors—estimating the growth rate of the total enrollment into post-secondary education and applying the growth rate to the FAFSA submissions. The ABM is also based on the application options available to students and parents. ED accounts for each application component based on analytical tools, survey information and other ED data sources.

For 2020–21, ED is reporting a net burden increase of 2,358,697 hours.

Dated: June 28, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–14262 Filed 7–2–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy (DOE), Office of Environmental Management.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, July 24, 2019, 1:00 p.m.–5:15 p.m.

ADDRESSES: El Monte Sagrado, 317 Kit Carson Road, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@em.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

- Call to Order
- Welcome and Introductions
- Approval of Agenda
- Old Business
  - Report from NNMCAB Chair
  - Appointment of Nominating Committee for September Elections of Officers
  - Other Items
- New Business
- Presentation on the Federal Advisory Committee Act and the EM SSAB
- Break
- Public Comment Period
- Presentation on Pre-Legacy, Legacy and Newly Generated Transuranic Waste
- Update from New Mexico Environment Department
- Update from EM-Los Alamos Field Office
- Update from NNMCAB Deputy Designated Federal Officer and Executive Director
- Wrap-Up Comments from NNMCAB Members
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Northern New Mexico, 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 Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests 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 will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the internet at: *https://energy.gov/em/nnmcab/meeting-materials.*

Signed in Washington, DC, on June 27, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–14210 Filed 7–2–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–419–000.
Applicants: Tuscarora Gas Transmission Company.
Description: Report Filing: Tuscarora Refund Report RP19–419.
Filed Date: 6/14/19.
Accession Number: 20190614–5023.
Comments Due: 5 p.m. ET 7/5/19.

Docket Numbers: RP19–1332–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Contracts Expiring to be effective 8/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5101.
Comments Due: 5 p.m. ET 7/8/19.

Docket Numbers: RP19–1333–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Emera contracts eff 7–1–19 to be effective 7/1/2019.
Filed Date: 6/26/19.
Accession Number: 20190626–5105.
Comments Due: 5 p.m. ET 7/8/19.

Docket Numbers: RP19–1334–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rate—Chevron to Eco Energy 8958085 eff 7–1–19 to be effective 7/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5015.
Comments Due: 5 p.m. ET 7/9/19.

Docket Numbers: RP19–1335–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Boston to SFE 799462 eff 7–1–19 to be effective 7/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5016.
Comments Due: 5 p.m. ET 7/9/19.

Docket Numbers: RP19–1336–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate—Seminole 9214212 eff 7–1–19 to be effective 7/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5023.
Comments Due: 5 p.m. ET 7/9/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/*

docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 27, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14204 Filed 7–2–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–106–000.
Applicants: Chief Conemaugh Power II, LLC, Chief Keystone Power II, LLC, PSEG Fossil LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Chief Conemaugh Power II, LLC, et al.
Filed Date: 6/26/19.
Accession Number: 20190626–5351.
Comments Due: 5 p.m. ET 7/17/19.

Docket Numbers: EC19–107–000.
Applicants: Stanton Equity Trading Delaware LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Stanton Equity Trading Delaware LLC.
Filed Date: 6/26/19.
Accession Number: 20190626–5353.
Comments Due: 5 p.m. ET 7/17/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2756–007.
Applicants: Griffith Energy LLC.
Description: Triennial Compliance Filing under Order Nos. 697 and 816, et al. of Griffith Energy LLC.
Filed Date: 6/26/19.
Accession Number: 20190626–5347.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER10–2757–008; ER11–3051–004.
Applicants: Arlington Valley, LLC, Macho Springs Power I, LLC.
Description: Triennial Market Power Update of Arlington Valley, LLC, et al.
Filed Date: 6/27/19.
Accession Number: 20190627–5114.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER10–2794–030; ER14–2672–015; ER12–1825–028.
Applicants: EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.
Description: Updated Market Power Analysis for the Southwest Region of the EDF Sellers, et al.
Filed Date: 6/27/19.
Accession Number: 20190627–5138.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER10–3028–005; ER10–2538–010; ER4–1317–009.
Applicants: Panoche Energy Center, LLC, Sunshine Gas Producers, LLC, Elk Hills Power, LLC.
Description: Triennial Compliance Filing under Order Nos. 697 and 816, et al. of Elk Hills Power, LLC, et al.
Filed Date: 6/27/19.
Accession Number: 20190627–5101.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER13–1562–007; ER10–2488–017; ER12–1931–008; ER10–2504–009; ER12–610–009; ER13–338–007.
Applicants: Catalina Solar Lessee, LLC, Oasis Power Partners, LLC, Pacific Wind Lessee, LLC, Shiloh Wind Project 2, LLC, Shiloh III Lessee, LLC, Shiloh IV Lessee, LLC.
Description: 2019 Triennial Market Power Update Filing for the Southwest Region of EDFR Southwest Sellers, et al.
Filed Date: 6/26/19.
Accession Number: 20190626–5362.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER19–2268–000.
Applicants: Arlington Valley, LLC.
Description: § 205(d) Rate Filing: Triennial Market Power Update and Amendment to Market-Based Rate to be effective 6/28/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5042.
Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: ER19–2269–000.
Applicants: Dougherty County Solar, LLC.
Description: Baseline eTariff Filing: Dougherty County Solar, LLC Application for Market-Based Rates to be effective 8/27/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5059.
Comments Due: 5 p.m. ET 7/18/19.

Docket Numbers: ER19–2270–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: Appendix XII Protocols to be effective 6/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5109.
Comments Due: 5 p.m. ET 7/18/19.

Docket Numbers: ER19–2271–000.
Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.
Description: § 205(d) Rate Filing: 2019–06–27_SA 3326 MP–BPU T–T (Brainerd) to be effective 7/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5112.
Comments Due: 5 p.m. ET 7/18/19.

Docket Numbers: ER19–2272–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: Comanche Regulatory Asset in Rate Base—9/1/18 to be effective 9/1/2018.
Filed Date: 6/27/19.
Accession Number: 20190627–5137.
Comments Due: 5 p.m. ET 7/18/19.

Docket Numbers: ER19–2273–000.
Applicants: Sunflower Electric Power Corporation, Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Sunflower Formula Rate Revisions and Merger of Mid-Kansas into Sunflower to be effective 12/31/9998.
Filed Date: 6/27/19.
Accession Number: 20190627–5140.
Comments Due: 5 p.m. ET 7/18/19.

Docket Numbers: ER19–2274–000.
Applicants: PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: PPL Electric submits revisions to the OATT, Attachment H–8A re: Income Tax Rate to be effective 9/1/2019.
Filed Date: 6/27/19.
Accession Number: 20190627–5176.
Comments Due: 5 p.m. ET 7/18/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 27, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14203 Filed 7–2–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2266–000]

Quitman Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Quitman Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 17, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 27, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–14201 Filed 7–2–19; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201310.

Agreement Name: PFL/CNCO Slot Charter Agreement.

Parties: Pacific Forum Line (Group) Limited and The China Navigation Co. Ptd. Ltd.

Filing Party: David Monroe; GKG Law.

Synopsis: The Agreement authorizes PFL to charter space to CNCO in the trade between American Samoa on the one hand, and Australia, New Caledonia, Vanuatu, Fiji, Samoa, and Tonga on the other hand.

Proposed Effective Date: 8/5/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/22415.

Agreement No.: 201311.

Agreement Name: NPL/CNCO Slot Charter Agreement.

Parties: Neptune Pacific Line Inc. and The China Navigation Co. Ptd. Ltd.

Filing Party: David Monroe; GKG Law.

Synopsis: The Agreement authorizes NPL to charter space to CNCO in the trade between American Samoa on the one hand, and Australia, New Caledonia, Vanuatu, Fiji, Samoa, and Tonga on the other hand.

Proposed Effective Date: 8/5/2019.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/22416.

Dated: June 28, 2019.

JoAnne D. O'Bryant,

Program Analyst.

[FR Doc. 2019–14239 Filed 7–2–19; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Provisions Associated with Guidance on Leveraged Lending (FR 4203; OMB No. 7100–0354).

DATES: Comments must be submitted on or before September 3, 2019.

ADDRESSES: You may submit comments, identified by FR 4203, by any of the following methods:

- *Agency website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from 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 in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission,

including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Recordkeeping Provisions Associated with Guidance on Leveraged Lending.

Agency form number: FR 4203.

OMB control number: 7100–0354.

Frequency: On occasion.

Respondents: All financial institutions substantively engaged in leveraged lending activities supervised by the Board.

Estimated number of respondents: 40.

Estimated average hours per response: 755 hours.

Estimated annual burden hours: 30,200 hours.

General description of report: The Interagency Guidance on Leveraged Lending (Guidance) [1] outlines high-level principles related to safe-and-sound leveraged lending activities. The Guidance includes a number of voluntary recordkeeping provisions that apply to financial institutions for which the Board is the primary federal supervisor that engage in leveraged lending activities, including bank holding companies, savings and loan holding companies, state member banks, and state-chartered branches and agencies of foreign banks that engage in these activities. There are no reporting forms associated with this information collection (the FR 4203 designation is for internal purposes only).

The Guidance includes several provisions that suggest financial institutions engage in recordkeeping. The guidance states that institutions should maintain:

- Well-defined underwriting standards that, among other things, define acceptable leverage levels and describe amortization expectations for senior and subordinate debt;
- sound management information systems that enable management to identify, aggregate, and monitor leveraged exposures and comply with policy across all business lines;
- strong pipeline management policies and procedures that, among other things, provide for real-time information on exposures and limits, and exceptions to the timing of expected distributions and approved hold levels; and
- guidelines for conducting periodic portfolio and pipeline stress tests to quantify the potential impact of economic and market conditions on the institution's asset quality, earnings, liquidity, and capital.

Many community banks are not subject to the Guidance because they do not engage in leveraged lending. The limited number of community and smaller institutions that are involved in leveraged lending activities may discuss with the Federal Reserve System how to implement these collections of information in a cost-effective manner that is appropriate for the complexity of their exposures and activities.

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 (12 U.S.C. 324, 602, and 625) (for state member banks, agreement corporations, and Edge corporations, respectively); section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) (for bank holding companies); section 10(b)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(3)) (for savings and loan holding companies); and section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)) (for state-licensed branches and agencies of foreign banks, other than insured branches).

The information collections under the FR 4203 are voluntary. 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 withheld from disclosure pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of the FOIA, which protects ''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 Board, FDIC, and OCC are discussing whether revisions to the interagency guidance are appropriate.

Current actions: Because there is no actual collection of information as part of the leverage lending guidance, the Board's estimates of the number of respondents is a conservative estimate based on available supervisory information. The Board invites comment on the number of institutions

[1] ''Interagency Guidance on Leveraged Lending,'' March 21, 2013, available at *https://www.federalreserve.gov/supervisionreg/srletters/sr1303a1.pdf.* The Guidance was published jointly by the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

that are affected by the leverage lending guidance.

Board of Governors of the Federal Reserve System, June 28, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–14261 Filed 7–2–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 2019.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *Allegheny Bancshares, Inc., Franklin, West Virginia;* to acquire 100 percent of the voting shares of Mount Hope Bankshares, Inc., and thereby indirectly acquire Bank of Mount Hope, Inc., both of Mount Hope, West Virginia.

Board of Governors of the Federal Reserve System, June 28, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–14218 Filed 7–2–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT

Sunshine Act Meetings

TIME AND DATE: July 2, 2019, 10:00 a.m.

PLACE: Telephonic.

STATUS: *All parts of this meeting will be closed.*

Closed Session

Information covered under 5 U.S.C. 552b(c)(6).

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: July 1, 2019.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2019–14385 Filed 7–1–19; 4:15 pm]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX]; [Docket No. 2019–0001; Sequence No. 11]

Information Collection; Improving Customer Experience—Implementation of Section 280 of OMB Circular A–11

AGENCY: General Services Administration.

ACTION: Notice and request for comments.

SUMMARY: As part of the Administration's commitment to improving customer service delivery, the General Services Administration (GSA), is coordinating the government wide development of the following proposed Information Collection Request ''Improving Customer Experience—Implementation of Section 280 of OMB Circular A–11'' for approval under the Paperwork Reduction Act. This notice announces GSA will be submitting on this collection to OMB for approval and solicits comments on specific aspects of the proposed information collection.

DATES: Submit comments on or before: September 3, 2019.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX, Improving Customer Experience (A–11, Section 280), by any of the following methods:

- *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.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–XXXX, Improving Customer Experience, A–11, Section 280.

Instructions: Please submit comments only and cite Information Collection 3090–XXXX, Improving Customer Experience, in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Amira Boland, Office of Government-wide Policy, 1800 F St. NW, Washington, DC 20405, or via email to *amira.boland@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Title: Improving Customer Experience, (A–11, Section 280)

Abstract: A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership.

This proposed information collection activity provides a means to garner customer and stakeholder feedback in an efficient, timely manner in accordance with the Administration's commitment to improving customer service delivery as discussed in Section 280 of OMB Circular A–11 at *https://www.whitehouse.gov/wp-content/uploads/2018/06/s280.pdf.*

Section 280.7 established seven domains for measuring customer experience.

- Overall: (1) Satisfaction, (2) Confidence/Trust
- Service: (3) Quality
- Process: (4) Ease/Simplicity, (5) Efficiency/Speed, (6) Equity/Transparency

• People: (7) Employee Helpfulness

All High Impact Service Providers listed at *https://www.performance.gov/cx/HISPList.pdf* are required to ask questions in these domains of their customers. However, all agencies are encouraged to conduct their customer experience measurement in line with these standard measures.

As discussed in OMB guidance, agencies should identify their highest-impact customer journeys (using customer volume, annual program cost, and/or knowledge of customer priority as weighting factors) and select touchpoints/transactions within those journeys to collect feedback. For the purposes of this collection, Federal customer experience will focused on real-time transaction-level measures

The results will be used to improve the delivery of Federal services and programs. It will also provide government-wide data on customer experience that can be displayed on *www.performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

For reference, the proposed questions (also available on *www.performance.gov*) are below. All are on a Likert Scale from 1 to 5 (1=strongly disagree to 5=strongly agree) except free text questions).

[Landing Page]

1. I am satisfied with the service I received from [Program/Service name].)
2. This interaction increased my confidence in [Program/Service name]. OR I trust [Agency/Program/Service name] to fulfill our country's commitment to [relevant population].
3. Anything you want to tell us about your scores above? (free text)
4. Would you like to take two more minutes to answer five more questions to help us improve our services? (Y/N)

[Page 2 if respondent answered Y—programs will select what is applicable to them]

5. My need was addressed.
6. It was easy to complete what I needed to do.
7. It took a reasonable amount of time to do what I needed to do.
8. I was treated fairly.
9. Employees I interacted with were helpful.
10. Which service center did you visit today? OR ''which service did you call about today?''
11. Anything else you'd like to share with us? (free text)

Following review and disposition of public comments on this 60-day notice, GSA will submit to OMB a 30-day notice. Upon approval of the collection, GSA will submit collections on behalf of the following agencies for approval: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor Department of State, United States Agency for International Development, the General Services Administration, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Environmental Protection Agency, National Aeronautics and Space Administration, the Consumer Financial Protection Bureau, National Science Foundation, Nuclear Regulatory Commission, the Small Business Administration, the Office of Personnel Management, and Social Security Administration.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

GSA will only submit collections if they meet the following criteria.

• The collections are voluntary;

• The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;

• The collections are non-controversial and do not raise issues of concern to other Federal agencies;

• Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

• Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

• Information gathered is intended to be used for general service improvement and program management purposes;

• Upon agreement between OMB and the agency collecting the information, all or a subset of information may be released only on performance.gov. Release of any other data must be discussed with OMB before release.

Public responses to these individuals collections will provide insights in improving services offered to the public. If this information is not collected, vital feedback from customers and stakeholders on services will be unavailable.

Current Action: New Collection of Information.

Type of Review: New.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: Below is a preliminary estimate of the aggregate burden hours for this new collection. GSA will provide refined estimates of burden in subsequent notices.

Average Expected Annual Number of Activities: Approximately 50 customer feedback surveys.

Average Number of Respondents per Activity: Range varies greatly depending on Federal Service.

Annual Responses: Approximately 40,000,000.

Average Minutes per Response: 3 minutes.

Burden Hours: 2,000,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection

Regulations.gov. 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 Office of Management and Budget control number.

Dated: June 25, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–14217 Filed 7–2–19; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment for QA to QI LLC

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from QA to QI LLC, PSO number P0091, of its status as a PSO, and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on June 15, 2019.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from QA to QI LLC, to voluntarily relinquish its status as a PSO. Accordingly, QA to QI LLC, P0091, was delisted effective at 12:00 Midnight ET (2400) on June 15, 2019.

QA to QI LLC has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Virginia L. Mackay-Smith,

Associate Director.

[FR Doc. 2019–14215 Filed 7–2–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Public Health Service Act, Delegation of Authority

Notice is hereby given that I have delegated to the Director, Center for Surveillance, Epidemiology and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC), and the Director, Human Resources Office (HRO), CDC, without authority to redelegate, the authority vested in the Director, CDC/Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), under Section 317F, Title III of the Public Health Service Act, [42 U.S.C. 247b–7, as amended, to carry out a loan repayment program in accordance with Section 317F, guidelines and procedures issued by the Director, CDC/Administrator, ATSDR, CSELS, HRO, and all other applicable federal laws, regulations and policies, in conjunction with the Future Leaders in Infectious and Global Health Threats (FLIGHT) program.

This delegation became effective on June 26, 2019.

Robert R. Redfield,

Director, Centers for Disease Control and Prevention, Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2019–14255 Filed 7–2–19; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10556]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the

proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by September 3, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10556 Medical Necessity and Contract Amendments Under Mental Health Parity

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medical Necessity and Contract Amendments Under Mental Health Parity; *Use:* Upon request, regulated entities must provide a medical necessity disclosure. Receiving this information will enable potential and current enrollees to make more educated decisions given the choices available to them through their plans and may result in better treatment of their mental health or substance use disorder (MH/SUD) conditions. States use the information collected and reported as part of its contracting process with managed care entities, as well as its compliance oversight role. In states where a Medicaid Managed Care Organization (MCO) is responsible for providing the full scope of medical/surgical and MH/SUD services to beneficiaries, the state will review the parity analysis provided by the MCO to confirm that the MCO benefits are in compliance. CMS uses the information collected and reported in an oversight role of State Medicaid managed care programs. *Form Number:* CMS–10556 (OMB control number: 0938–1280); *Frequency:* Once and occasionally; *Affected Public:* Individuals and households, the Private sector, and State, Local, or Tribal Governments; *Number of Respondents:* 47,468,596; *Total Annual Responses:* 285,444; *Total Annual Hours:* 48,057. (For policy questions regarding this collection contact Juliet Kuhn at 410–786–2480.)

Dated: June 27, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–14131 Filed 7–2–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–2809]

Patient Engagement Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public advisory committee meeting of the Patient Engagement Advisory Committee (the Committee). The general function of the Committee is to provide advice to the Commissioner, or designee, on complex issues relating to medical devices, the regulation of devices, and their use by patients. The meeting will be open to the public.

DATES: The meeting will be held on September 10, 2019, from 8 a.m. to 5:30 p.m.

ADDRESSES: Holiday Inn Gaithersburg, Two Montgomery Village Ave., Gaithersburg, MD 20879. The hotel's telephone number is 301–948–8900; additional information is available online at *https://www.ihg.com/holidayinn/hotels/us/en/gaithersburg/wasrv/hoteldetail.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/advisory-committees/about-advisory-committees/common-questions-and-answers-about-fda-advisory-committee-meetings.*

FOR FURTHER INFORMATION CONTACT: Letise Williams, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring, MD 20993–0002, *letise.williams@fda.hhs.gov,* 301–796–8398, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly

enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/advisory-committees* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On September 10, 2019, the Committee will discuss and make recommendations on the topic ''Cybersecurity in Medical Devices: Communication That Empowers Patients.'' Medical devices are increasingly connected to the internet, hospital networks, and other medical devices to provide features that improve healthcare and increase the ability of healthcare providers to treat patients. These same features may also increase cybersecurity risks. Preserving the benefit of these devices requires continuous vigilance as well as timely and effective communication to medical device users about evolving cybersecurity risks. The recommendations provided by the committee will address which factors should be considered by FDA and industry when communicating cybersecurity risks to patients and to the public, including but not limited to the content, phrasing, the methods used to disseminate the message and the timing of that communication. The recommendations will also address concerns patients have about changes to their devices to reduce cybersecurity risks as well as the role of other stakeholders such as healthcare providers in communicating cybersecurity risks to patients. Additional information about cybersecurity can be found at *https://www.fda.gov/medical-devices/digital-health/cybersecurity.*

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/advisory-committees/committees-and-meeting-materials/patient-engagement-advisory-committee.* Select the link for the 2019 Meeting Materials.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Oral presentations from the public will be scheduled between approximately 10:45 a.m. to 12:15 p.m. on September 10, 2019. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 22, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 24, 2019. Individuals who do not wish to speak at the open public hearing session but would like their comments to be heard by the Committee may send written submissions to the contact person on or before July 30, 2019.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Artair Mallett at *Artair.Mallett@fda.hhs.gov,* or 301–796–9638 at least 7 days in advance of the meeting.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings* for procedures on public conduct during advisory committee meetings. Please be advised that, for the roundtable portion of the meeting, FDA will prepare a summary of the discussion in lieu of detailed transcripts.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14141 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–2040]

Liebel-Flarsheim Company LLC, et al.; Withdrawal of Approval of 11 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of 11 new drug applications (NDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of August 2, 2019.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137.

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
NDA 016983	Conray 30 (iothalamate meglumine) Injection, 30%	Liebel-Flarsheim Co. LLC, 1034 South Brentwood Blvd., Suite 800, Richmond Heights, MO 63117.
NDA 018972	Cordarone (amiodarone HCl) Tablets, 200 mg	Wyeth Pharmaceuticals LLC, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 019009	Maxair Inhaler (pirbuterol acetate inhalation aerosol), equivalent to (EQ) 0.2 mg base/inhalation.	Bausch Health US, LLC, 400 Somerset Corporate Blvd., Bridgewater, NH 08807.

Application No.	Drug	Applicant
NDA 019292	MD–76R (diatrizoate meglumine and diatrizoate sodium) Injection, 66%/10%.	Liebel-Flarsheim Co. LLC.
NDA 020014	Maxair Autohaler (pirbuterol acetate inhalation aerosol), EQ 0.2 mg base/inhalation.	Bausch Health US, LLC.
NDA 021041	DepoCyt (cytarabine liposome) Injection, 10 mg/mL	Pacira Pharmaceuticals, Inc., 5 Sylvan Way, Suite 300, Parsippany, NJ 07054.
NDA 021338	Ionsys (fentanyl iontophoresis transdermal system), 40 mcg/activation.	The Medicines Co., 8 Sylvan Way, Parsippany, NJ 07054.
NDA 021575	Fosamax (alendronate sodium) Oral Solution, EQ 70 mg base/75 mL.	Merck Sharp & Dohme Corp., 1 Merck Dr., P.O. Box 100, Whitehouse Station, NJ 08889–0100.
NDA 022222	Ultresa (pancrelipase (amylase, lipase, protease)), Delayed-Release Capsules, 8,000 USP Units/4,000 USP Units/8,000 USP Units and 27,600 USP Units/13,800 USP Units/27,600 USP Units, and 41,400 USP Units/20,700 USP Units/41,400 USP Units, and 46,000 USP Units/23,000 USP Units/46,000 USP Units.	Allergan Sales, LLC, 5 Giralda Farms, Madison, NJ 07940.
NDA 022396	Dyloject (diclofenac sodium) Injection, 37.5 mg/mL	Javelin Pharmaceuticals, Inc., a subsidiary of Hospira Inc., 275 North Field Dr., Dept. 0392, Bldg. H1–3S, Lake Forest, IL 60045.
NDA 203568	Kynamro (mipomersen sodium) Injection, 200 mg/mL	Kastle Therapeutics, 181 West Madison St., Suite 300, Chicago, IL 60602.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of August 2, 2019. Approval of each entire application is withdrawn, including any strengths or products inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on August 2, 2019 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: June 28, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14219 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–P–1366]

Determination That CLAFORAN (Cefotaxime Sodium) for Injection, 500 Milligrams/Vial, 1 Gram/Vial, 2 Grams/Vial and 10 Grams/Vial, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that CLAFORAN (cefotaxime sodium) for injection, 500 milligrams (mg)/vial, 1 gram (g)/vial, 2 g/vial and 10 g/vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Beth Holck, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6217, Silver Spring, MD 20993–0002, 240–402–7133.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial, is the subject of NDA 050547, held by US Pharmaceutical Holdings II LLC, and initially approved on March 11, 1981. CLAFORAN is indicated for the treatment of patients with serious bacterial infections in eight different organ systems caused by susceptible strains of microorganisms, as specified in the labeling.

In a letter dated February 9, 2018, US Pharmaceutical Holdings II LLC notified FDA that CLAFORAN (cefotaxime for injection) 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Cardinal Health Regulatory Sciences submitted a citizen petition dated January 31, 2019 (Docket No. FDA–2019–P–1366), under 21 CFR 10.30, requesting that the Agency determine whether CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list CLAFORAN (cefotaxime sodium) for injection, 500 mg/vial, 1 g/vial, 2 g/vial and 10 g/vial, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: June 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14172 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3208]

DHL Laboratories Inc.; Withdrawal of Approval of a New Drug Application for Dextrose 5% Injection in Plastic Container, 5 Grams/100 Milliliters

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of new drug application (NDA) 019971 for Dextrose 5% Injection in Plastic Container, 5 grams (g)/100 milliliters (mL), held by DHL Laboratories Inc., 155 Medical Science Dr., Union, SC 23979. The basis for the withdrawal is that the holder of the NDA has repeatedly failed to file required annual reports for the NDA.

DATES: Approval is withdrawn as of July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6248, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: The holder of an approved application to market a new drug for human use is required to submit annual reports to FDA concerning its approved application in accordance with § 314.81 (21 CFR 314.81).

In the **Federal Register** of August 29, 2018 (83 FR 44056), FDA published a notice offering an opportunity for a hearing (NOOH) on a proposal to withdraw approval of NDA 019971 because DHL Laboratories Inc. had failed to submit required annual reports for the NDA. DHL Laboratories Inc. did not respond to the NOOH. Failure to file a written notice of participation and request for hearing as required by § 314.200 (21 CFR 314.200) constitutes an election by the holder of the NDA not to make use of the opportunity for a hearing concerning the proposal to withdraw approval of the NDA and a waiver of any contentions concerning the legal status of the drug product. FDA is withdrawing approval of NDA 019971 for Dextrose 5% Injection in Plastic Container, 5 g/100 mL.

FDA finds that DHL Laboratories Inc. has repeatedly failed to submit reports required by § 314.81. In addition, under § 314.200, FDA finds DHL Laboratories Inc. has waived any contentions concerning the legal status of the drug product. Therefore, under these findings, approval of NDA 019971, and all amendments and supplements thereto, is hereby withdrawn as of July 3, 2019.

Dated: June 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14137 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1114]

Pharmaceutical Distribution Supply Chain Pilot Projects; Reopening of Comment Period; Request for Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period; request for information.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the notices (requests for information) that published in the **Federal Register** of April 15, 2016, and April 28, 2017. FDA is requesting comments regarding issues related to utilizing the product identifier for product tracing, improving the technical capabilities of the supply chain, and identifying system attributes that are necessary to implement the requirements established under the Drug Supply Chain Security Act (DSCSA). The information gathered from reopening of the comment period will allow supply chain stakeholders to share information about relevant piloting activities that are conducted outside of FDA's DSCSA Pilot Project Program to inform DSCSA implementation by FDA and supply chain stakeholders.

DATES: FDA is reopening the comment period on the notices (requests for information) published April 15, 2016 (81 FR 22279), and April 28, 2017 (82 FR 19737). Submit either electronic or written comments by June 28, 2022.

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 June 28, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2022. Comments received by mail/hand delivery/courier

(for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2016–N–1114 for ''Pharmaceutical Distribution Supply Chain Pilot Projects; Reopening of Comment Period; Request for Information.'' 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: Daniel Bellingham, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *DSCSAPilotProjects@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA is interested in comments regarding past or present pilot projects related to enhancing the safety and security of the pharmaceutical distribution supply chain; this may include information related to piloting activities that are conducted outside of FDA's DSCSA Pilot Project Program. Stakeholders that may be interested in responding to this request for information include manufacturers, repackagers, wholesale distributors, dispensers, State and Federal authorities, solution providers, standards organizations, and other interested persons. FDA is particularly interested in learning about the practices, processes, and systems that supply chain stakeholders have used or considered using in such pilot projects. This includes, but is not limited to, information about the following:

• Utilizing the product identifier for tracing of a product, which may include verification of the product identifier of a product, including the use of aggregation and inference;

• Technical capabilities of each supply chain sector to develop and implement the systems and processes needed to utilize the product identifier to enhance the tracing of a product; or

• System attributes that are necessary to implement the requirements established under the DSCSA.

Interested persons are requested to provide any other relevant information that may inform FDA's implementation of the requirements for enhanced product tracing and verification under the DSCSA.

FDA is reopening the comment period for the requests for information for 3 years, until June 28, 2022. The Agency believes that a 3-year comment period allows adequate time for interested persons to submit new, additional, or updated comments on these important issues as they work to implement requirements under the DSCSA.

Dated: June 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14147 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–P–0692]

Determination That THAM Solution (Tromethamine) Injectable, 3.6 Grams/100 Milliliters, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that THAM Solution (tromethamine) injectable, 3.6 grams (g)/100 milliliters (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new

drug applications (ANDAs) for tromethamine injectable, 3.6g/100 mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Katelyn Mineo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–1054.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

THAM Solution (tromethamine) injectable, 3.6 g/100 mL, is the subject of NDA 013025, held by Hospira, Inc., and initially approved on December 16, 1965. THAM Solution is indicated for the prevention and correction of metabolic acidosis.

In a letter dated February 26, 2018, Pfizer Inc., Hospira, Inc.'s parent company, notified FDA that THAM Solution (tromethamine) injectable, 3.6 g/100 mL, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Arent Fox LLP submitted a citizen petition dated January 30, 2019 (Docket No. FDA–2019–P–0692), under 21 CFR 10.30, requesting that the Agency determine whether THAM Solution (tromethamine) injectable, 3.6 g/100 mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that THAM Solution (tromethamine) injectable, 3.6 g/100 mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that THAM Solution (tromethamine) injectable, 3.6 g/100 mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of THAM Solution (tromethamine) injectable, 3.6 g/100 mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list THAM Solution (tromethamine) injectable, 3.6 g/100 mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to THAM Solution (tromethamine) injectable, 3.6 g/100 mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: June 27, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–14146 Filed 7–2–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims (the Court) is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered

childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on May 1, 2019, through May 31, 2019. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: June 27, 2019.

George Sigounas,

Administrator.

List of Petitions Filed

1. Shane Bowers, Waupun, Wisconsin, Court of Federal Claims No: 19–0644V
2. Lynn Acton, New Haven, Connecticut, Court of Federal Claims No: 19–0647V
3. Michele Louise Gray, Lancaster, California, Court of Federal Claims No: 19–0648V
4. Shelley Haynes on behalf of E. H., Mountain City, Tennessee, Court of Federal Claims No: 19–0651V
5. John Hardy Bauer, Twin Falls, Idaho, Court of Federal Claims No: 19–0652V
6. Delinda Smith, Stuttgart, Arkansas, Court of Federal Claims No: 19–0653V
7. Harold Kaplan, Marlton, New Jersey, Court of Federal Claims No: 19–0654V
8. Gladys Wright, Minneapolis, Minnesota, Court of Federal Claims No: 19–0659V
9. Shannon McTernan, Columbia, Missouri, Court of Federal Claims No: 19–0662V
10. Larry Logan, Mustang, Oklahoma, Court of Federal Claims No: 19–0666V
11. Geoff Mead on behalf of M. M., Nanuet, New York, Court of Federal Claims No: 19–0667V
12. Ingrid Minge, Columbia, Missouri, Court of Federal Claims No: 19–0668V
13. Tara Blaise, Huntington Station, New York, Court of Federal Claims No: 19–0670V
14. Rebekah R. Linnett, Astoria, Oregon, Court of Federal Claims No: 19–0672V
15. Gina Binkley Kotch, New York, New York, Court of Federal Claims No: 19–0675V
16. Gary Marco, Bedford, Ohio, Court of Federal Claims No: 19–0677V
17. Branch R. Lew, Fort Wayne, Indiana, Court of Federal Claims No: 19–0679V
18. Felix Willis, Waupun, Wisconsin, Court of Federal Claims No: 19–0680V
19. Rheanan Hoffman, Milwaukee, Wisconsin, Court of Federal Claims No: 19–0681V
20. Lucinda Laird, Salem, Oregon, Court of Federal Claims No: 19–0682V
21. Keith Franco, Smyrna, Georgia, Court of Federal Claims No: 19–0684V
22. Judith Markey, Boston, Massachusetts, Court of Federal Claims No: 19–0687V
23. Kelly Stevens, Clackamas, Oregon, Court of Federal Claims No: 19–0689V
24. Nicholas Catone and Marjorie Catone on behalf of N. C., Deceased, Brick, New Jersey, Court of Federal Claims No: 19–0690V
25. Carolyn Clark, Newark, Ohio, Court of Federal Claims No: 19–0692V
26. Winnifer Kinsey, Slidell, Louisiana, Court of Federal Claims No: 19–0695V
27. Jennifer Dorso, San Antonio, Texas, Court of Federal Claims No: 19–0699V
28. Ernest Ghent, Reno, Nevada, Court of Federal Claims No: 19–0700V
29. Antonio Perez, San Antonio, Texas, Court of Federal Claims No: 19–0702V
30. Laurie Tennessen, Monticello, Minnesota, Court of Federal Claims No: 19–0703V
31. Michael Lucero, Santa Fe, New Mexico, Court of Federal Claims No: 19–0704V
32. Patrick W. Wilson, San Rafael, California, Court of Federal Claims No: 19–0705V
33. L Ruther, Deceased, Orlando, Florida, Court of Federal Claims No: 19–0706V
34. Steven S. Floyd, Memphis, Tennessee, Court of Federal Claims No: 19–0707V
35. William Jenne, Greenlawn, New York, Court of Federal Claims No: 19–0708V
36. John Barry Thomas, Telford, Pennsylvania, Court of Federal Claims No: 19–0709V
37. Christopher Cartwright, Denville, New Jersey, Court of Federal Claims No: 19–0712V
38. Helen Leonard, Ypsilanti, Michigan, Court of Federal Claims No: 19–0714V
39. Anne M. Schubert on behalf of R. S., Elk Grove, California, Court of Federal Claims No: 19–0715V
40. Colleen M. McNerney, Rochester, New York, Court of Federal Claims No: 19–0717V
41. Sherri Cheek, Louisville, Kentucky, Court of Federal Claims No: 19–0718V
42. Geri Meyer, Clarksville, Arkansas, Court of Federal Claims No: 19–0719V
43. Carole Debreczenyi, Maywood, Illinois, Court of Federal Claims No: 19–0721V
44. Victoria Gauvin, Burlington, Vermont, Court of Federal Claims No: 19–0722V
45. Sherly Smith on behalf of Chauncey Smith, Jr., Miami Gardens, Florida, Court of Federal Claims No: 19–0723V
46. Sanders Robinson, Montgomery, Alabama, Court of Federal Claims No: 19–0725V
47. Frank Gibbs, Washington, District of Columbia, Court of Federal Claims No: 19–0726V
48. Fabray Turner, Boston, Massachusetts, Court of Federal Claims No: 19–0727V
49. Ricardo Rodriguez, Farmers Branch, Texas, Court of Federal Claims No: 19–0729V
50. Tammy Robinson, Boston, Massachusetts, Court of Federal Claims No: 19–0730V
51. Michelle Gonzales, Tehachapi, California, Court of Federal Claims No: 19–0731V
52. Christopher Crowley, Dorchester, Massachusetts, Court of Federal Claims No: 19–0732V
53. Michael Wilkinson, Edina, Minnesota, Court of Federal Claims No: 19–0733V
54. Kathryn Larson, Boston, Massachusetts, Court of Federal Claims No: 19–0734V
55. Liang Zhao on behalf of G. L., Davenport, Iowa, Court of Federal Claims No: 19–0735V
56. James Remmes, Charlestown, Massachusetts, Court of Federal Claims No: 19–0736V
57. Edward Carroll, New York, New York,

Court of Federal Claims No: 19–0737V
58. Sheila Amati, Monongahela, Pennsylvania, Court of Federal Claims No: 19–0738V
59. Michael Moses on behalf of P. M., Milwaukee, Wisconsin, Court of Federal Claims No: 19–0739V
60. Tina Coppersmith, Glen Falls, New York, Court of Federal Claims No: 19–0741V
61. Kelsey Metsker, Shawnee Mission, Kansas, Court of Federal Claims No: 19–0743V
62. Patricia Taylor on behalf of A. S., San Antonio, Texas, Court of Federal Claims No: 19–0744V
63. Renee Smith, Luling, Louisiana, Court of Federal Claims No: 19–0745V
64. Virginia Van Zandt, San Francisco, California, Court of Federal Claims No: 19–0746V
65. John Heath and Marie Louise Heath on behalf of J. N. H., San Mateo, California, Court of Federal Claims No: 19–0749V
66. Linda Goggins, Pottstown, Pennsylvania, Court of Federal Claims No: 19–0751V
67. Sally Stokes, Washington, District of Columbia, Court of Federal Claims No: 19–0752V
68. Lance Basting, Eau Claire, Wisconsin, Court of Federal Claims No: 19–0753V
69. Wendy Jacobs, Mankato, Minnesota, Court of Federal Claims No: 19–0761V
70. Mark Santia, Erie, Pennsylvania, Court of Federal Claims No: 19–0762V
71. Young Kwan Jun, Brodheadsville, Pennsylvania, Court of Federal Claims No: 19–0764V
72. John F. Olson, Mankato, Minnesota, Court of Federal Claims No: 19–0768V
73. Yaniris Gonzalez, Brooklyn, New York, Court of Federal Claims No: 19–0769V
74. Chelsea Delvecchio, Tucson, Arizona, Court of Federal Claims No: 19–0772V
75. Beth Wyatt, Sedro-Woolley, Washington, Court of Federal Claims No: 19–0773V
76. Shawn Steiger, Boise, Idaho, Court of Federal Claims No: 19–0775V
77. Kathi Leopard, Greenwood, South Carolina, Court of Federal Claims No: 19–0776V
78. Ines Chicos on behalf of L.C., Sunnyside, New York, Court of Federal Claims No: 19–0778V
79. Linda Bergstrom, Park Ridge, Illinois, Court of Federal Claims No: 19–0784V
80. Natalie A. Woodson, Staten Island, New York, Court of Federal Claims No: 19–0785V
81. Charley Boon, El Cajon, California, Court of Federal Claims No: 19–0788V
82. Arthur Cordisco, Boston, Massachusetts, Court of Federal Claims No: 19–0789V
83. Carol Culwell, Bryan, Texas, Court of Federal Claims No: 19–0790V
84. James G. Strouse, Greensboro, North Carolina, Court of Federal Claims No: 19–0793V
85. Stephanie Hetrick and Jonathan Hetrick on behalf of J H, Ruston, Louisiana, Court of Federal Claims No: 19–0795V
86. Cynthia Paul, Sarasota, Florida, Court of Federal Claims No: 19–0797V
87. Jeffrey Scott Cantrell, Greensboro, North Carolina, Court of Federal Claims No: 19–0799V
88. Kimble Lehman, Paducah, Kentucky, Court of Federal Claims No: 19–0802V
89. Jeremy Williams, Washington, District of Columbia, Court of Federal Claims No: 19–0803V
90. Michael Thomas, Washington, District of Columbia, Court of Federal Claims No: 19–0804V
91. Keith Ratay, Washington, District of Columbia, Court of Federal Claims No: 19–0805V
92. Scott Weaver, Washington, District of Columbia, Court of Federal Claims No: 19–0806V

[FR Doc. 2019–14124 Filed 7–2–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: International and Cooperative Projects 1.
Date: July 26, 2019.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health; 6701 Rockledge Drive Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Planning for Non-Communicable Diseases and Disorders Research Training Programs.
Date: July 26, 2019.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Brian H Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Virology, Cell Biology and Drug Development.
Date: July 30–31, 2019.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.
Date: July 30, 2019.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184 Bethesda, MD 20892, 301–451–2796 *bdey@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–18–022/023: Tobacco Use and HIV in Low and Middle Income Countries.
Date: July 30, 2019.
Time: 11:30 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852 Bethesda, MD 20892, 301–435–1775 *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 18–877: Early Stage Clinical Trials for the Spectrum of Alzheimer's Disease and Age-related Cognitive Deficits
Date: July 30–31, 2019.
Time: 12:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive Bethesda, MD 20892, 301–827–6830 *unja.hayes@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegeneration.
Date: July 30, 2019.
Time: 12:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard D Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301–694–7084 *crosland@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 27, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–14171 Filed 7–2–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the the Substance Abuse and Mental Health Services Administration's National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS

ACTION: Notice.

SUMMARY: Notice is hereby given of the meeting on July 23, 2019, of the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Advisory Council (SAMHSA NAC). The meeting is open to the public and can be accessed via telephone only. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include remarks and dialogue from the Assistant Secretary for Mental Health and Substance Use; updates from the SAMHSA Centers Directors, and a council discussion with SAMHSA NAC members.

DATES: July 23, 2019, 9:00 a.m. to 12:00 p.m. (EDT)/Open.

ADDRESSES: The meeting will be held (virtually) at SAMHSA Headquarters, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Carlos Castillo, Committee Management Officer and, Designated Federal Official, SAMHSA National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail); *Telephone:* (240) 276–2787; *Email: carlos.castillo@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The SAMHSA NAC was established to advise the Secretary, Department of Health and Human Services (HHS), and the Assistant Secretary for Mental Health and Substance Use, SAMHSA, to improve the provision of treatments and related services to individuals with respect to substance use and to improve prevention services, promote mental health, and protect legal rights of individuals with mental illness and individuals who are substance users.

Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions must be forwarded to the contact person by July 16, 2019. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations must notify the contact person by July 16, 2019. Up to 3 minutes will be allotted for each presentation, and as time permits.

To obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx,* or communicate with SAMHSA's Committee Management Officer, CAPT Carlos Castillo.

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's website at *http://www.samhsa.gov/about-us/advisory-councils/* or by contacting Carlos Castillo.

Council Name: Substance Abuse and Mental Health Services Administration National Advisory Council.

Dated: June 28, 2019.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2019–14241 Filed 7–2–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[USCBP–2019–0012]

Notice of Decision on Domestic Interested Party Petition

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of decision on domestic interested party petition.

SUMMARY: This document provides notice of U.S. Customs and Border Protection's (CBP) decision regarding the tariff classification of certain steel special profiles for the manufacture of forklift truck masts and carriages. On April 3, 2019, CBP published in the **Federal Register** a Notice of Receipt of a Domestic Interested Party Petition, regarding the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of the subject steel special profiles. The Petition asked CBP to review the classification of these products and revoke New York Ruling Letter (NY) N293371, dated February 8, 2018. After reviewing 14 comments received in response to the Petition, CBP has issued a decision agreeing with Steel of West Virginia, Inc. (Petitioner) and revoking NY N293371, *supra,* as well as NY F83480, dated March 13, 2000, which pertained to merchandise substantially similar to the subject steel special profiles. This Notice advises Petitioner and all interested parties of CBP's determination.

DATES: July 3, 2019.

FOR FURTHER INFORMATION CONTACT: Albena Peters, Chemicals, Petroleum, Metals and Miscellaneous Articles Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection at (202) 325–0321.

SUPPLEMENTARY INFORMATION:

Background

This document concerns the tariff classification of certain steel special profiles for the manufacture of forklift truck masts and carriages.

Classification of Nonalloy Steel Special Profiles

Merchandise imported into the customs territory of the United States is classified under the HTSUS. The tariff classification of merchandise under the HTSUS is governed by the principles set forth in the General Rules of Interpretation (GRIs). The GRIs are part of the HTSUS and are to be considered statutory provisions of law for all purposes. *See* Section 1204 of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100–418 (Aug. 23, 1988); 19 U.S.C. 3004.

GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, provided such headings or notes do not otherwise require, then according to the other GRIs. *See* GRI 1, HTSUS (2019). GRI 6 prescribes that, for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of

those subheadings and any related subheading notes and, *mutatis mutandis,* according to GRIs 1 to 5, on the understanding that only subheadings at the same level are comparable. *See* GRI 6, HTSUS (2019).

The Explanatory Notes to the Harmonized Commodity Description and Coding System (Harmonized System) represent the official interpretation of the World Customs Organization on the scope of each heading. *See* H.R. Conf. Rep. No. 100–576, 100th Cong., 2d Sess. 549 (1988), *reprinted in* 1988 U.S.C.C.A.N. 1547, 1582; Treasury Decision (T.D.) 89–80, 54 FR 35127, 35128 (August 23, 1989). Although not binding on the contracting parties to the Harmonized System Convention or considered to be dispositive in the interpretation of the Harmonized System, it is CBP's position that the Explanatory Notes should be consulted on the proper scope of the Harmonized System. T.D. 89–80, 54 FR at 35128.

In NY N293371, dated February 8, 2018, the steel special profiles are incomplete mast rails and finger bars (also known as carriage bars) produced by Mannstaedt GmbH in Germany.[1] The articles are imported either cut to a fixed length in accordance with customer instructions or in lengths designed to fit within the transporting cargo container. The subject beams and bars are not joined to form the mast weldments in their condition as imported. The beams need to be drilled and welded to plates and cross bars before acquiring the shape and dimensions necessary for assembly into a mast as well as cleaned to prepare them for painting. The finger bars must be cut to size and notched in specific places along their length depending upon their placement as upper or lower bars, as well as cleaned, painted, and welded to the actual carriage assembly. CBP previously classified the steel profiles in subheading 8431.20.00, HTSUS, as parts suitable for use solely or principally with forklifts of heading 8427, HTSUS.

Filing of Domestic Interested Party Petition

On October 3, 2018, counsel filed a Petition on behalf of Steel of West Virginia, Inc., under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting that CBP reconsider its decision in NY N293371 and classify the subject steel special profiles under subheading 7216.50.00, HTSUS, which provides for ''Angles, shapes and sections of iron or nonalloy steel: Other angles, shapes and sections, not further worked than hot-rolled, hot-drawn or extruded.'' The column one, general rate of duty for subheading 7216.50.00 in 2018 and today is free. However, on March 8, 2018, pursuant to section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), Presidential Proclamation 9705 (83 FR 11625) imposed additional duties on steel products of Germany of subheading 7216.50.00, HTSUS, and steel products of subheading 7216.50.00 are currently subject to additional 25 percent duties under Subchapter III, Chapter 99, U.S. Note 16(b), HTSUS. Importers of such products must also identify subheading 9903.80.01, HTSUS, at entry.

On April 3, 2019, CBP published a Notice of Receipt of a Domestic Interested Party Petition in the **Federal Register** (84 FR 13057). The Notice invited written comments on the Petition from interested parties. The comment period closed on May 3, 2019. CBP received 14 comments in response to the Notice. Seven comments reiterated the Petitioner's position that the merchandise should be classified in subheading 7216.50.00, HTSUS, as other angles, shapes and sections. The other seven commenters argued that the profiles should remain classified in subheading 8431.20.00, HTSUS, as parts suitable solely or principally with forklifts of heading 8427, HTSUS.

Decision on Petition and Notice of CBP's Decision

After review of the arguments set forth by Petitioner as well as those set forth in the responses to the **Federal Register** Notice, CBP has determined that the classification decision in NY N293371 was incorrect. In HQ H303762, which is attached to this Notice, CBP has granted the Domestic Party Petition and revoked the classification determination set forth in NY N293371.

CBP determined in HQ H303762 that the articles at issue are not parts of forklifts. By application of GRIs 1 and 6, the nonalloy steel mast beams and finger bars in NY N293371 are steel special profile shapes of heading 7216, HTSUS, classified specifically under subheading 7216.50.00, which provides for angles, shapes and sections of iron or nonalloy steel, other angles shapes and sections, not further worked than hot-rolled, hot-drawn or extruded. The instant merchandise, imported in bundles of beams and bars of various sizes and shapes, is described by the term ''angles, shapes, and sections'' set forth in note 1(n) to chapter 72, whether or not the product is a standard shape or a special shape designed for a particular application such as use in a lifting mast for a forklift truck. It is simply the beams necessary to compose the weldments that form the inner, intermediate, or outer uprights of the completed mast and crossbars, which in turn are used to construct a portion of the carriage. While the subject merchandise may ultimately be destined for incorporation into a forklift, it is not identifiable as such based on its condition as imported.

Specifically, the beams are not welded to the plates and bars necessary to create the shape and dimensions of an inner, intermediate or outer weldment of a mast. Similarly, the finger bars are not welded to the frame for attachment between the carriage and mast. Without the various cuts, notches, drilled holes and welding, which take place post-importation, the subject beams and bars do not possess characteristics that dedicate them for use in a forklift truck, or even for the weldment of the lifting mast or carriage, based on their condition as imported.

In light of the fact that the subject bars and beams do not have the approximate size or shape of the forklift mast and carriage, or even of the weldment components of the mast and carriage (*i.e.,* they are not identifiable as parts of a lifting mast), they cannot be considered a part of a forklift or a ''blank'' of a forklift part.

Authority

This Notice is published in accordance with 19 U.S.C. 1516(b) and Section 175.22(a) of the CBP Regulations (19 CFR 175.22(a)).

Dated: June 28, 2019.

John Sanders,

Chief Operating Officer and Senior Official, Performing the Functions and Duties of the Commissioner, U.S. Customs and Border Protection.

HQ H303762

June 28, 2019

OT:RR:CTF:CPMM H303762 APP

CATEGORY: Classification

TARIFF NO.: 7216.50.0000; 9903.80.01

Ms. Tamara Browne
Schagrin Associates
900 Seventh Street N.W., Suite 500
Washington, D.C. 20001

RE: Steel Special Profiles; New York Ruling N293371; 19 U.S.C. § 1516; 19 C.F.R. Part 175; Domestic Interested Party Petition

[1] The Petitioner indicated that it believed the subject steel special profiles were from the United Kingdom and Germany. It is CBP's belief that the steel special profiles covered by NY N293371 are of German origin; however, the reasoning applicable in the attached decision would apply equally to such products of U.K. origin (which are at this time also subject to additional duties).

Dear Ms. Browne:

This letter is in response to the Petition by Domestic Interested Party, dated October 2, 2018, filed on behalf of Steel of West Virginia, Inc., pursuant to 19 U.S.C. § 1516 and 19 C.F.R. Part 175. In accordance with 19 C.F.R. § 175.21(a), U.S. Customs and Border Protection (''CBP'') published a Notice titled ''Receipt of Domestic Interested Party Petition Concerning the Tariff Classification of Steel Special Profiles for the Manufacture of Forklift Truck Masts and Carriages'' in the **Federal Register**, Volume 84, Number 64 on April 3, 2019. The Notice solicited comments, which were due by May 3, 2019. We have reviewed all comments and our decision follows.

FACTS:

The subject of the Petition is the merchandise in New York Ruling Letter (''NY'') N293371, dated February 8, 2018, issued to counsel for Mannstaedt GmbH. The merchandise in NY N293371 is described as follows:

> The merchandise in question is described as incomplete steel mast rails and finger bars. The articles are imported either (1) cut to a fixed length in accordance with customer instructions or (2) in lengths designed to fit within the transporting cargo container. You indicate that, in their condition as imported, the mast rails and finger bars are not ready for direct use in fork-lifts. However, the imported articles do have the approximate final shapes of the finished articles. Each article is said to be ''manufactured to a single customer's specifications for use in the lift system of a specific fork-lift truck.'' Minor modifications may be made to the articles subsequent to importation but the value of such operations is said to be estimated substantially lower than the value of the actual imported articles.
>
> The mast rails are the vertical components responsible for lifting, lowering and positioning the loads carried by the fork-lift. The contoured channels in the mast rails are manufactured to fit the specific mast guide bearings used in the fork-lifts. The finger bars are the crossbars to which the forks of a fork-lift are attached. They attach to the mast rails and travel the length of the mast rails during the lifting operations.

A process flow diagram submitted with the ruling request for NY N293371 describes the steps in manufacturing the imported ''forklift section'' as: purchase, receipt, inspection and transportation of blooms to furnace for heating and reheating in preparation for rolling, descaling, rolling, hot saw to remove crop ends, saw to straightening length, test samples and cool, in line and press straightening, detwisting, recut, bundle, weigh and pack for shipment. The control plan submitted with the ruling request notes that the product at the rolling stage is a ''profile shape'' and the sample size for inspection is the ''whole bar.''

In NY N293371, CBP classified Mannstaedt's mast rails and finger bars (also known as carriage bars) in subheading 8431.20.00, Harmonized Tariff Schedule of the United States (''HTSUS''), as parts suitable for use solely or principally with forklifts of heading 8427, HTSUS. Petitioner contends that the proper classification for the steel special profiles is under heading 7216, HTSUS, and specifically under subheading 7216.50.00, HTSUS, which covers angles, shapes and sections of iron or nonalloy steel. The column one, general rate of duty for both subheadings is free. On March 8, 2018, pursuant to section 232 of the Trade Expansion Act of 1962 (19 U.S.C. § 1862), Presidential Proclamation 9705 (83 FR 11625) imposed additional duties on steel products of Germany [2] of subheading 7216.50.00, HTSUS, and steel products of this subheading are currently subject to additional 25 percent duties under subchapter III, chapter 99, U.S. note 16(b), HTSUS. Importers of products classified under subheading 7216.50.00, HTSUS, must also identify subheading 9903.80.01, HTSUS, at entry. Products of subheading 8431.20.00, HTSUS, on the other hand, are not subject to section 232 duties.

SUMMARY OF COMMENTS:

In the April 3, 2019 Notice, CBP informed the public of the filing of your Petition and invited interested parties to submit comments on or before May 3, 2019. During the comment period, CBP received a total of 14 comments. Seven comments support Petitioner's position and seven comments are opposed to Petitioner's position. Comments were received from steel special profiles manufacturers and suppliers, law firms, Members of the U.S. Senate and U.S. House of Representatives, unions, and local government officials.

Six commenters in favor of the Petition point out that Petitioner and its employees are negatively affected by Mannstaedt's imports from Germany and that the United States is deprived of section 232 duties, and urge CBP to remedy the situation by reconsidering NY N293371. One commenter opposing the Petition states that some of the comments politicize tariff classification and disregard tariff classification principles.

All seven commenters opposing the Petition claim that the profiles have the shape or outline of finished beams and bars, are intended for use as forklift parts at the time of importation and have no other practical use, and the processing after importation is minor and accounts for a relatively small percentage of the total value of the merchandise. They also explain that the imported profiles have non-standard shapes and are manufactured to the customer's specifications and meet the exacting tolerances and quality standards for forklift manufacturing.[3]

Two commenters in opposition to the Petition argue that the profiles cannot be classified solely based on General Rule of Interpretation (''GRI'') 1, and that under GRI 2(a), unfinished parts, provided they have the essential character of the finished parts, are classified as if they are finished parts. The commenters argue that the incomplete mast rails and finger bars have the same form and basic structure as the complete beams/bars and should therefore be considered ''blanks.'' [4]

One commenter states that steel profiles are often made of alloy steel and the profiles may be ineligible for heading 7216, HTSUS, which applies only to iron and nonalloy steel. However, heading 7228, HTSUS, contains the same legal language, ''angles, shapes and sections,'' for profiles of ''other alloy steel.'' Therefore, the analysis as to whether the instant merchandise is an unfinished part of a forklift truck is unaffected whether the rails and bars are made of nonalloy or alloy steel, and references to heading 7216, HTSUS, for nonalloy steel will include identical merchandise when made of alloy steel of heading 7228, HTSUS.

ISSUE:

Whether the subject nonalloy steel mast rails and finger bars are classified under heading 7216, HTSUS, as angles, shapes and sections of iron or nonalloy steel, or under heading 8431, HTSUS, as

[2] The Petitioner indicated that it believed the subject steel special profiles were from the United Kingdom and Germany. It is CBP's belief that the steel special profiles covered by NY N293371 are of German origin; however, the reasoning applicable in this decision would apply equally to such products of U.K. origin (which are at this time also subject to additional duties).

[3] The seven commenters in opposition to the Petition claim that most profiles are cut to length before importation and are not straightened; machining/torch cutting creates clearance for a load roller and does not materially alter the shape of the profiles; drilling and/or welding is a minor process; and that the profiles may be subject to surface cleaning operations such as pickling, oiling, and shot blasting to prepare them for painting.

[4] One commenter requested an opportunity to review exhibits 11 and 12 that were not released to the public. Members of the public may file a Freedom of Information Act (''FOIA'') request at *https://www.cbp.gov/site-policy-notices/foia.*

parts suitable for use solely or principally with forklifts.

LAW AND ANALYSIS:

Merchandise imported into the United States is classified under the HTSUS, in accordance with the GRIs. GRI 1 requires that classification be determined first according to the terms of the headings of the tariff schedule and any relative section or chapter notes and, unless otherwise required, according to the remaining GRIs taken in order. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the heading and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. Pursuant to GRI 6, classification at the subheading level uses the same rules, *mutatis mutandis*, as classification at the heading level.

GRI 2(a) states:

> Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.

The HTSUS provisions under consideration are as follows:

7216 Angles, shapes and sections of iron or nonalloy steel:
7216.50.00 Other angles, shapes and sections, not further worked than hot-rolled, hot-drawn or extruded
8427 Fork-lifts; other works trucks fitted with lifting or handling equipment:
8431 Parts suitable for use solely or principally with the machinery of headings 8425 to 8430:
8431.20.00 Of machinery of heading 8427

Note 1(f) to section XV, HTSUS, states that, ''This section does not cover: . . . Articles of section XVI (machinery, mechanical appliances and electrical goods).''

Note 2(b) to section XVI, HTSUS, states that parts that are ''suitable for use solely or principally with a particular kind of machine . . . are to be classified with the machines of that kind or in heading . . . 8431 . . . .''

In interpreting the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes (''ENs'') may be utilized. The ENs, though not dispositive or legally binding, provide commentary on the scope of each heading of the HTSUS, and are the official interpretation of the Harmonized System at the international level. *See* T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to GRI 2(a) provide, in relevant part:

> (I) The first part of Rule 2 (a) extends the scope of any heading which refers to a particular article to cover not only the complete article but also that article incomplete or unfinished, **provided** that, as presented, it has the essential character of the complete or finished article.
>
> (II) The provisions of this Rule also apply to **blanks** unless these are specified in a particular heading. The term ''**blank**'' means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part (e.g., bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape).
>
> Semi-manufactures not yet having the essential shape of the finished articles (such as is generally the case with bars, discs, tubes, etc.) are not regarded as ''blanks'' . . . .

The General ENs to chapter 72, note 1(n) describe angles, shapes, and sections of chapter 72 as ''[p]roducts having a uniform solid cross-section along their whole length which do not conform to any of the definitions at (ij), (k), (l) or (m) above or to the definition of wire.''

EN 72.16 states, in pertinent part, the following:

> **Angles, shapes and sections** are defined in Note 1 (n) to this Chapter.
>
> The sections most commonly falling in this heading are H, I, T, capital omega, Z and U (including channels), obtuse, acute and right (L) angles. The corners may be square or rounded, the limbs equal or unequal, and the edges may or may not be ''bulbed'' (bulb angles or shipbuilding beams).
>
> Angles, shapes and sections are usually produced by hot-rolling, hot-drawing, hot-extrusion or hot-forging or forging blooms or billets . . . .
>
> The products of this heading may have been subjected to working such as drilling, punching or twisting or to surface treatment such as coating, plating or cladding—see Part IV (C) of the General Explanatory Note to this Chapter, **provided** they do not thereby assume the character of articles or of products falling in other headings.
>
> The heavier angles, shapes and sections (e.g., girders, beams, pillars and joists) are used in the construction of bridges, buildings, ships, etc.; lighter products are used in the manufacture of agricultural implements, machinery, automobiles, fences, furniture, sliding door or curtain tracks, umbrella ribs and numerous other articles.

Petitioner is requesting that CBP reconsider the classification of the nonalloy steel mast rails and finger bars described in NY N293371. Petitioner contends that the merchandise is merely nonalloy steel special profile shapes classifiable under heading 7216, specifically under subheading 7216.50.00, HTSUS. Petitioner asserts that the use of GRI 2(a) is inappropriate because the merchandise is a semi-manufactured article, which meets the definition of an angle, shape, or section in note 1(n) to chapter 72, HTSUS. Moreover, Petitioner contends that the profiles must undergo significant manufacturing after importation to create a part suitable for use in the mast or carriage of a forklift.

The instant merchandise, which is imported in bundles of beams and bars of various sizes and shapes, is certainly described by the term ''angles, shapes, and sections'' set forth in note 1(n) to chapter 72, whether or not the product is a standard shape or a special shape designed for a particular application such as use in a lifting mast for a forklift truck. Heading 7216 includes U, I, H, L and T shapes as well as ''other'' shapes, such as special profiles of non-standard cross-section including those used in the manufacture of machinery and automobiles. *See* EN 72.16. In Headquarters Ruling Letter (''HQ'') 966522, dated December 22, 1994, CBP concluded that, ''it is not disputed that . . . S-shaped steel profiles [also known as upper carriage bars] are classified in subheading 7216.50.00, HTSUS.'' CBP has also classified similar incomplete nonalloy steel profiles in subheading 7216.50.00, HTSUS. In NY N295858, dated May 3, 2018; NY N295670, dated April 27, 2018; and NY J82683, dated April 18, 2003, CBP classified nonalloy steel profiles used in the manufacture of forklift truck attachments under subheading 7216.50.00. Like the products at issue, the profiles in NY N295858 and NY N295670 were further machined, assembled into a frame, and painted after importation.[5] Similarly, in NY I85271, dated September 13, 2002, CBP classified steel beams used in construction that did not have the essential character of the finished parts in heading 7216, HTSUS.[6]

[5] One commenter points out that in NY J82683, *supra*, the attachments classified under heading 7216, HTSUS, could go on to many vehicles; in NY N295670, *supra*, the frame profiles classified under heading 7216, were made into a sliding arm clamp attachment not for use as a mast or finger bar after importation; in NY N295858, *supra*, the nonalloy steel profiles classified in heading 7216, HTSUS, were assembled into a frame, which was later made into a clamp attachment not for use as a mast or finger bar. The commenter misses the relevance of these rulings to the merchandise under consideration. Although not specifically beams or bars for masts or finger bars, the merchandise was in a similar state of manufacture as the instant merchandise.

[6] Two commenters in opposition to the Petition cite to HQ 965520, dated July 9, 2002, where elevator guide rails, which were cut to length, had the same shape as the finished article, and were

Accordingly, the merchandise at issue here is classifiable in heading 7216, HTSUS, by virtue of being worked, unless it has assumed the character of a part of a forklift.

In defining a ''part'' for tariff classification purposes, the courts have fashioned two distinct, but not inconsistent, tests for determining whether a particular item qualifies as such. *See Bauerhin Techs. Ltd. P'ship v. United States*, 110 F.3d 774, 778-79 (Fed. Cir. 1997). Under the first test, articulated in *United States v. Willoughby Camera Stores, Inc.* (''*Willoughby*''), 21 C.C.P.A. 322, 324, T.D. 46851 (1933), an imported item is a part only if it is ''something necessary to the completion of that article without which the article to which it is to be joined, could not function as such article.'' The second test, set forth in *United States v. Pompeo*, 43 C.C.P.A. 9, 14, C.A.D. 602 (1955), equates ''part'' to ''an imported item dedicated solely for use with another article.'' *Bauerhin*, 110 F.3d at 779 (*citing Pompeo*, 43 C.C.P.A. at 13).

However, before examining whether the goods in question satisfy one or both of the aforementioned tests, we note that they only qualify to be ''parts'' of the good (a forklift) if they bear a ''direct relationship'' to the good, such that the good is the ''primary article'' of which the item is a component. *See* HQ 255855, dated May 27, 2015. Otherwise, as the Court of International Trade (''CIT'') and its predecessor, the Customs Court, have held, the item will be considered merely a ''part'' of whatever intermediate part constitutes the primary article. *See Mitsubishi Elecs. Am. v. United States*, 19 CIT 378, 383 n.3, 882 F. Supp. 171, 175 n.3 (1995) (''[A] subpart of a particular part of an article is more specifically provided for as a part of the part than as a part of the whole.''); *Liebert v. United States*, 60 Cust. Ct. 677, 686-87, 287 F. Supp. 1008, 1014, Cust. Dec. 3499 (1968) (holding that parts of clutches, which clutches are in turn parts of winches, are more specifically provided for as parts of clutches than as parts of winches).

CBP has consistently adhered to this principle by excluding parts of ''primary articles'' from HTSUS ''parts provisions'' where the primary articles themselves are parts classifiable in such provisions. For example, in HQ H169057, dated September 4, 2014, CBP ruled that a front frame designed to reinforce a wind engine, which in turn constituted one of two components of a wind generator, could not be classified as part of the wind generator itself. Similarly, HQ H005091, dated January 24, 2007, excluded from heading 8708, which provides for motor vehicle parts, a trunk assembly that constituted one of several component parts of an automobile trunk lock. *See also* HQ 020958, dated November 28, 2008; HQ 963325, dated September 15, 2000. In sum, it is not enough that an item will eventually form a portion of another article. Rather the item must be processed to the point where it is no longer recognizable as a profile but instead has the character of a finished part.

In the instant case, finished mast beams and finger bars are eventually welded to other components of a forklift mast, a complex assembly of interlocking weldments formed of beams, bars, plates and tubing containing, rollers, bearings, brackets, chains and pulleys, and ultimately a hydraulic ram. For instance, as described by one forklift retailer, ''. . . the mast is the vertical assembly on the front of the forklift that does the work of raising, lowering, and tilting the load. Most masts are 'three stage' meaning there are three channels on each side. The channels are similar in appearance to I-Beams.'' [7] Another states that, ''The mast is the vertical structure of a forklift that provides a supporting pathway for the carriage rollers and allows the forklift to raise and lower the forks and material it's carrying''.[8] From these descriptions, it is clear that a vertical lifting mast is comprised of much more than beams. The finger bars are horizontal cross bars that are components of the carriage assembly and attach to the mast beams across the front of the lift truck. The carriage assembly is fitted with the forks. Even though the full mast and carriage assembly may be classifiable under heading 8431, HTSUS, as a part of a forklift, heading 8431, HTSUS, does not cover parts of parts of machines of headings 8425 to 8430.

Furthermore, we note that the instant beams and bars are not joined to form the mast weldments in their condition as imported. Moreover, they do not contain the necessary angular cuts for clearance of the rollers, drilled holes for brackets, anchors, and other attachments for pulleys and chains. More importantly, they are not welded to the plates and bars necessary to create the shape and dimensions of an inner, intermediate or outer weldment of a mast. It is the weldments, which are assembled to slide smoothly against the rollers and are sold as a replaceable part.[9] Similarly, the finger bars are not welded to the frame for attachment between the carriage and mast. Rather, the instant merchandise is simply the beams necessary to compose the weldments that form the inner, intermediate, or outer uprights of the completed mast and crossbars necessary to compose a portion of the carriage.[10] Accordingly, while the subject merchandise may ultimately be destined for incorporation into a forklift, it is not identifiable as such based on its condition as imported. Indeed, to the extent a weldment constitutes a part of a forklift, the profiles have not even assumed the character of a weldment.

Commenters in opposition to the Petition emphasize that a portion of the merchandise is cut to a specified customer length and that it is imported to customer specification. Initially, the statement itself concedes that some portion of the imported merchandise is not cut to a specified length for use in the mast assembly. The commenters also do not state that the merchandise is cut to the exact length used in the creation of the weldments for the mast. In fact, one of the submissions shows a picture of ''pre-processing mast rail in the condition as it arrives'' which is at

subject to additional processing after importation, were classified in heading 8431, HTSUS. Elevator guide rails do not appear to be incorporated into a lifting mast but rather are installed in the elevator shaft. We are currently reviewing the analysis in HQ 965520, as well as in NY I81164, dated May 21, 2002, and

NY A82738, dated May 13, 1996, and intend to initiate a process under 19 U.S.C. § 1625 to allow maximum degree of notice.

[7] *See* Mast Types and Their Advantages, *https://www.summithandling.com/mast-types-advantages/* (last viewed May 31, 2019).

[8] *See* Glossary of Forklift Terminology and Definitions, *https://www.mcfa.com/en/mcfa/resources/glossary-forklift-terminology-definitions* (last viewed May 31, 2019).

[9] *See* Lifting Masts Parts Manuals, *http://www.lift-tek.com/support.html?sel=s2* (last viewed May 31, 2019).

[10] As the merchandise is fully described by the terms of heading 7216, the issue is whether it is excluded from classification under note 1(f) to section XV as an article of section XVI. Note 1(f), which excludes ''*Articles* of Section XVI'' (emphasis added), does not apply in this case because heading 8431, HTSUS, merely covers ''parts'' of forklifts. In this respect, HTSUS legal notes that operate to exclude parts of articles (and not just the articles themselves) from a given chapter or section explicitly indicate as such. For example, in note 3(k) to chapter 71, the exclusion specifically identifies ''machinery, mechanical appliances or electrical goods, *or parts thereof*, of Section XVI.'' (Emphasis added.) The exclusion note at issue in this case, note 1(f) to section XV, is tailored to exclude only articles of section XVI, and not their parts, from section XV. *See* HQ 561353, dated September 19, 2002. Accordingly, even if the subject steel profile shapes were *prima facie* classifiable under heading 8431, HTSUS, which is not the case, the instant beams and bars are not excluded from classification under heading 7216 by operation of note 1(f) to section XV.

least three times longer than the rail shown in the adjacent picture of ''post-processing mast rail'' prior to incorporation into a mast assembly.'' Additionally, one commenter notes the angled cut at the top of the rail necessary for clearance of the rollers, though the inner rail does not require this angled cut because no load roller is attached. The commenter also cites to additional drilling and welding for the bearing pad attachment and stub shafts for load rollers.

Commenters in opposition to the Petition also uniformly state that the beams seldom need to be straightened after importation. Again, this statement thus acknowledges the fact that some beams may need straightening or are rejected. All commenters in opposition to the Petition agree that the beams need to be drilled and welded to plates and cross bars before acquiring the shape and dimensions necessary for assembly into a mast as well as subject to surface cleaning operations, such as pickling, oiling, and shot blasting, to prepare them for painting. Finger bars must be cut to size and notched in specific places along their length depending upon their placement as upper or lower bars, as well as cleaned, painted, and welded to the actual carriage assembly.

Commenters further state that the merchandise is manufactured to tight tolerances. We obtained the invoices for a random entry of the merchandise wherein an importer claimed classification in heading 8431, HTSUS. Whereas some invoices indicated certain specifications, others provided for a range of acceptable characteristics of the imported merchandise. This is consistent with the manufacturing process described in the original submission for NY N293371, which showed no steps beyond those necessary to produce a rail or bar. Hence, regardless of whether manufactured to a tight tolerance, without the various cuts, notches, drilled holes and most importantly, welding, that takes place post-importation, there is nothing that dedicates these beams and bars for use solely in a forklift truck, or even for the weldment of the lifting mast or carriage, in accordance with *Bauerhin*.[11]

Commenters opposing the Petition also claim that the merchandise is not a part in and of itself, but a blank for a part of a forklift under GRI 2(a). The EN excludes semi-manufactures not yet having the shape of finished articles, such as bars and rods, from classification as unfinished articles under GRI 2(a). *See* ENs to GRI 2(a), *supra*. As the process and control documents submitted with the ruling request for NY 293371 state, the profiles and bars in their condition as imported are just that: beams and bars. They certainly do not have the shape of the finished forklift part, namely the mast or carriage. Indeed, the process and control documents initially submitted for NY 293371 referred to the products as profiles and bars.

Additionally, we find that the example listed in the EN is particularly instructive to understand the meaning of the term ''blank.'' The bottle preforms have the tubular shape of a bottle, with one closed and one open end. The threads at the open end of the preform that identify the tubular shape as one which will only be fashioned into a bottle are already formed. By contrast, the process in creating a lifting mast and carriage using the imported beams and bars requires significant processing to dedicate their shape to use in a forklift mast or bar carriage. The threads on the bottle preform are like the notching, welding, drilling or cutting that must be performed on the instant beams and bars. The tubular shape specifically with one open and one closed end forms the shape that needs only be expanded to form a bottle. Here, a significant amount of welding to other metal profiles and plates must be performed in order to create the shape of the object that is incorporated into the mast or carriage. The bars and beams do not have the approximate size or shape of the forklift mast and carriage, or even of the weldment components of the mast and carriage. As such, the instant merchandise cannot be considered a blank of a part for a lifting mast for a forklift.

Therefore, we concur with Petitioner that by application of GRIs 1 and 6, the nonalloy steel mast beams and finger bars in NY N293371 are steel special profile shapes of heading 7216, HTSUS, classified specifically under subheading 7216.50.00, which provides for angles, shapes and sections of iron or nonalloy steel, other angles shapes and sections not further worked than hot-rolled, hot-drawn or extruded.[12]

HOLDING:

Your Petition is granted. By application of GRIs 1 and 6, the instant nonalloy steel special profiles are classified in heading 7216, HTSUS, specifically in subheading 7216.50.00, HTSUS, which provides for ''Angles, shapes and sections of iron or nonalloy steel: Other angles, shapes and sections, not further worked than hot-rolled, hot-drawn or extruded.'' The 2019 column one, general rate of duty is free.[13]

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided at *https://hts.usitc.gov/current*.

The steel special profiles from Germany [14] are currently subject to 25 percent *ad valorem* section 232 duties under subheading 9903.80.01, HTSUS, pursuant to subchapter III, chapter 99, U.S. note 16(b).

Section 232 remedies are based on the country of origin. At the time of importation, the importer must report the chapter 99 subheading applicable to the product classification in addition to the chapter 72 subheading listed above. The relevant Proclamations are subject to periodic amendment of the exclusions, so the importer should exercise reasonable care in monitoring the status of goods covered by the Proclamations and the applicable chapter 99 subheadings.

Please be advised that the steel special profiles may be subject to antidumping and countervailing duties (''ADD/CVD''). We note that the U.S. Department of Commerce is not necessarily bound by a country of origin or classification determination issued by CBP, with regard to the scope of ADD/

[11] Furthermore, there is nothing about the chemistry of the steel used in the profile shapes that dedicates them to a specific use. While the particular chemistry of steel may make it stronger, harder, more malleable, more brittle or ascribe other physical charecteristics to the product, customer specifications for the chemistry of the steel do not dedicate the steel to a specific use beyond a use that necessitates that particular physical characteristic.

[12] One commenter cites to NY F83480, dated March 13, 2000, which also involves lifting mast rails. There, the rails had been cut to length, notched, milled, and drilled with holes for assembly into single or multi-stage forklift masts. However, as the merchandise in that ruling had not been welded into the shape of an inner or outer mast for incorporation into the mast assembly, the merchandise is substantially similar to the instant merchandise in ways material to the determination here. Hence, NY F83480 is also revoked by this decision.

[13] Rails and bars of alloy steel are classified under heading 7228, HTSUS, specifically under subheading 7228.70.3041 and subheading 7228.70.3081, HTSUSA. Subheading 7228.70.3041, HTSUSA, provides for: Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or nonalloy steel: Angles, shapes and sections: Hot-rolled, not drilled, not punched and not otherwise advanced: Other: With a maximum cross-sectional dimension of 76 mm or more: Other.'' Subheading 7228.70.3081, HTSUSA, provides for: Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or nonalloy steel: Angles, shapes and sections: Hot-rolled, not drilled, not punched and not otherwise advanced: Other: With a maximum cross-sectional dimension of less than 76 mm: Other.'' The 2019 column one, general rate of duty for both subheadings is free. *See* Subchapter III, chapter 99, U.S. note 16, HTSUS, for additional duties that apply.

[14] *See supra* note 1, at 2.

CVD orders. Written decisions regarding the scope of ADD/CVD orders are issued by the Import Administration in the Department of Commerce and are separate from tariff classification and origin rulings issued by CBP. The Import Administration can be contacted at *http://www.trade.gov/ia/* (*see* Contact Information). A list of current ADD/CVD cases at the U.S. International Trade Commission can be viewed on its website at *http://www.usitc.gov* (click on ''Import Injury'' and then ''Antidumping and Countervailing Duty Investigations''). ADD/CVD deposit and liquidation messages can be searched using ACE, the system of record for ADD/CVD messages, or the ADD/CVD Search tool, at *http://adcvd.cbp.dhs.gov/adcvdweb/*.

EFFECT ON OTHER RULINGS:

NY N293371, dated February 8, 2018, is hereby revoked. CBP is also revoking or modifying any other rulings involving substantially identical merchandise, such as NY F83480 (mast rails), *see supra* note 11, at 10, to reflect the analysis contained in this decision. Pursuant to 19 U.S.C. § 1516(b) and 19 C.F.R. § 175.22, this constitutes CBP's decision and it will be published in the **Federal Register** and the *Customs Bulletin*.

Sincerely,

Myles B. Harmon,

Director, Commercial and Trade Facilitation Division.

[FR Doc. 2019–14230 Filed 7–2–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1943]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Chaffee	City of Salida (19–08–0038P).	The Honorable P.T. Wood, Mayor, City of Salida, 448 East 1st Street, Suite 112, Salida, CO 81201.	City Hall, 448 East 1st Street, Suite 112, Salida, CO 81201.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 10, 2019	080031
Chaffee	Unincorporated areas of Chaffee County (19–08–0038P).	The Honorable Greg Felt, Chairman, Chaffee County Board of Commissioners, P.O. Box 699, Salida, CO 81201.	Chaffee County Planning and Zoning Department, 104 Crestone Avenue, Room 125, Salida, CO 81201.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 10, 2019	080269
Florida:						
Lee	Town of Fort Myers Beach (19–04–3002P).	The Honorable Anita Cereceda, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 11, 2019	120673
Pinellas	City of Clearwater (19–04–0745P).	The Honorable George N. Cretekos, Mayor, City of Clearwater, P.O. Box 4748, Clearwater, FL 33758.	Engineering Department, 100 South Myrtle Avenue, Suite 220, Clearwater, FL 33756.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	125096
Sarasota	Town of Longboat Key (19–04–2109P).	Mr. Thomas A. Harmer, Manager, Town of Longboat Key, 501 Bay Isles Road, Town of Longboat Key, FL 34228.	Planning, Zoning and Building Department, 501 Bay Isles Road, Town of Longboat Key, FL 34228.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 15, 2019	125126
New Mexico: Santa Fe.	City of Santa Fe (18–06–3876P).	The Honorable Alan M. Webber, Mayor, City of Santa Fe, P.O. Box 909, Santa Fe, NM 87504.	Building and Development Services Department, 102 Grant Avenue, Santa Fe, NM 87501.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	350070
Oklahoma: Kingfisher.	Unincorporated areas of Kingfisher County (19–06–0141P).	The Honorable Jeff Moss, Chairman, Kingfisher County Board of Commissioners, 101 South Main Street, Kingfisher, OK 73750.	Kingfisher County Courthouse, 101 South Main Street, Kingfisher, OK 73750.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 3, 2019	400471
Pennsylvania:						
Northumberland.	Borough of Mount Carmel, (18–03–1827P).	The Honorable Robert Shirmer, President, Borough of Mount Carmel Council, 137 West 4th Street, Mount Carmel, PA 17851.	Borough Hall, 137 West 4th Street, Mount Carmel, PA 17851.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	420738
Northumberland.	Township of Mount Carmel (18–03–1827P).	The Honorable Aaron Domanski, Chairman, Township of Mount Carmel, Board of Supervisors, 300 Laurel Street, Mount Carmel, PA 17851.	Township Hall, 300 Laurel Street, Mount Carmel, PA 17851.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	421942
Tennessee: Wilson.	City of Mt. Juliet (19–04–0964P).	The Honorable Ed Hagerty, Mayor, City of Mt. Juliet, 2425 North Mount Juliet Road, Mt. Juliet, TN 37122.	City Hall, 2425 North Mount Juliet Road, Mt. Juliet, TN 37122.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 27, 2019	470290
Texas:						
El Paso	City of El Paso (19–06–0075P).	The Honorable Dee Margo, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	City Development Department, 811 Texas Avenue, El Paso, TX 79901.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	480214
Fort Bend	Unincorporated areas of Fort Bend County (18–06–2990P).	The Honorable K. P. George, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, Richmond, TX 77469.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 20, 2019	480228
Kendall	Unincorporated areas of Kendall County (18–06–3773P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Engineering Department, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	480417
Montgomery	City of Conroe (19–06–0333P).	The Honorable Toby Powell, Mayor, City of Conroe, P.O Box 3066, Conroe, TX 77305.	Engineering Department, 300 West Davis Street, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	480484

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Montgomery ...	Unincorporated areas of Montgomery County (19–06–0333P).	The Honorable Mark J. Keough, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Commissioners Court Building, 501 North Thompson Street, Suite 103, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	480483
Tarrant	City of Crowley (18–06–3679P).	The Honorable Billy P. Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	City Hall, 201 East Main Street, Crowley, TX 76036.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	480591
Tarrant	Unincorporated areas of Tarrant County (18–06–3679P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Suite 401, Fort Worth, TX 76196.	Tarrant County Plaza Building, 100 East Weatherford Street, Suite 401, Fort Worth, TX 76196.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	480582
Virginia: Independent City.	City of Fairfax, (19–03–0492P).	Mr. Robert A. Stalzer, Manager, City of Fairfax, 10455 Armstrong Street, Room 316, Fairfax, VA 22030.	Public Works Department, 10455 Armstrong Street, Room 200, Fairfax, VA 22030.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 11, 2019	515524

[FR Doc. 2019–14180 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1942]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at

both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Greenlee	Unincorporated Areas of Greenlee County (18–09–1753P).	The Honorable Richard Lunt, Chairman, Board of Supervisors, Greenlee County, 253 5th Street, Clifton, AZ 85534.	Greenlee County, Planning and Zoning Department, 253 5th Street, Clifton, AZ 85534.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 3, 2019	040110
Maricopa	City of Buckeye (18–09–2110P).	The Honorable Jackie A. Meck, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 4, 2019	040039
Maricopa	Unincorporated Areas of Maricopa County (18–09–2110P).	The Honorable Bill Gates, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 4, 2019	040037
Kansas:						
Riley	City of Manhattan (18–07–1218P).	The Honorable Linda Morse, Mayor, City of Manhattan, 1101 Poyntz Avenue, Manhattan, KS 66502.	City Hall, 1101 Poyntz Avenue, Manhattan, KS 66502.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 18, 2019	200300
Riley	Unincorporated Areas of Riley County (18–07–1218P).	Mr. Ron Wells, Chairperson, Riley County, 3609 Anderson Avenue, Manhattan, KS 66503.	Riley County Office Building, 110 Courthouse Plaza, Manhattan, KS 66502.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 18, 2019	200298
Nevada: Clark	City of Las Vegas (18–09–1622P).	The Honorable Carolyn G. Goodman, Mayor, City of Las Vegas, City Hall, 495 South Main Street, Las Vegas, NV 89101.	Planning and Zoning Department, 333 North Rancho Drive, Las Vegas, NV 89106.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 4, 2019	325276
Oregon: Multnomah.	City of Portland, (19–10–0138P).	The Honorable Ted Wheeler, Mayor, City of Portland, 1221 Southwest 4th Avenue, Room 340, Portland, OR 97204.	Bureau of Environmental Services, 1221 Southwest 4th Avenue, Room 230, Portland, OR 97204.	*https://msc.fema.gov/portal/advanceSearch.*	Oct. 7, 2019	410183
Texas: Tarrant	City of North Richland Hills, (19–06–0154P).	The Honorable Oscar Trevino, Jr., Mayor, City of North Richland Hills, 4301 City Point Drive, North Richland Hills, TX 76180.	City Hall, 4301 City Point Drive, North Richland Hills, TX 76180.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	480607
Virginia: Fairfax	Unincorporated Areas of Fairfax County (18–03–1211P).	Mr. Bryan Hill, Fairfax County Executive, 12000 Government Center Parkway, Fairfax, VA 22035.	Fairfax County Community Map Repository/Stormwater Planning, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	515525

[FR Doc. 2019–14182 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1939]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of

new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
El Paso	Town of Palmer Lake (18–08–1139P).	The Honorable John Cressman, Mayor, Town of Palmer Lake, P.O. Box 208, Palmer Lake, CO 80133.	Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 19, 2019	080065
Larimer	Town of Johnstown (19–08–0211P).	The Honorable Gary Lebsack, Mayor, Town of Johnstown, 450 South Parish Avenue, Johnstown, CO 80534.	Town Hall, 450 South Parish Avenue, Johnstown, CO 80534.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 19, 2019	080250
Florida:						
Duval	City of Jacksonville (19–04–0422P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Department, 214 North Hogan Street, Suite 2100, Jacksonville, FL 32202.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	120077
Monroe	City of Marathon (19–04–2700P).	The Honorable John Bartus, Mayor, City of Marathon, 9805 Overseas Highway, Marathon, FL 33050.	Planning Department, 9805 Overseas Highway, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	120681
Monroe	Unincorporated areas of Monroe County (19–04–2598P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Key Largo, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 11, 2019	125129

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Orange	City of Orlando (19–04–0400P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department, Engineering Division, 400 South Orange Avenue, Orlando, FL 32801.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 25, 2019	120186
Orange	Unincorporated areas of Orange County (19–04–0400P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th floor, Orlando, FL 32801.	Orange County Public Works Department, 4200 South John Young Parkway, Orlando, FL 32839.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 25, 2019	120179
Osceola	City of St. Cloud (19–04–0673P).	The Honorable Nathan Blackwell, Mayor, City of St. Cloud, 1300 9th Street, St. Cloud, FL 34769.	Building Department, 1300 9th Street, St. Cloud, FL 34769.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 22, 2019	120191
Osceola	Unincorporated areas of Osceola County (19–04–0673P).	The Honorable Cheryl Grieb, Chair, Osceola County Board of Commissioners, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Development Review Department, 1 Courthouse Square, Suite 1400, Kissimmee, FL 34741.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 22, 2019	120189
Polk	Unincorporated areas of Polk County (19–04–0741P).	The Honorable George Lindsey III, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831.	Polk County Land Development Division, 330 West Church Street, Bartow, FL 33830.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 19, 2019	120261
Louisiana:						
Ascension	City of Gonzales (19–06–1893X).	The Honorable Barney Arceneaux, Mayor, City of Gonzales, 120 South Irma Boulevard, Gonzales, LA 70737.	City Hall, 120 South Irma Boulevard, Gonzales, LA 70737.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 20, 2019	220015
Ascension	Town of Sorrento (19–06–1893X).	The Honorable Michael Lambert, Mayor, Town of Sorrento, P.O. Box 65, Sorrento, LA 70778.	Town Hall, 8173 Main Street, Sorrento, LA 70778.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 20, 2019	220016
Ascension	Unincorporated areas of Ascension Parish (19–06–1893X).	The Honorable Kenny Matassa, Ascension Parish President, 615 East Worthy Road, Gonzales, LA 70737.	Ascension Parish Government Complex, 615 East Worthy Road, Gonzales, LA 70737.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 20, 2019	220013
New Mexico: Taos	Unincorporated areas of Taos County (19–06–0621P).	Mr. Brent Jaramillo, Manager, Taos County, 105 Albright Street, Suite G, Taos, NM 87571.	Taos County Planning Department, 105 Albright Street, Taos, NM 87571.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 30, 2019	350078
North Carolina: Surry.	City of Mount Airy (18–04–4879P).	The Honorable David Rowe, Mayor, City of Mount Airy, 300 South Main Street, Mount Airy, NC 27030.	City Hall, 300 South Main Street, Mount Airy, NC 27030.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 12, 2019	370226
Oklahoma:						
Muskogee	Town of Porum (19–06–1205P).	The Honorable Carl Warren, Chairman, Town of Porum Council, P. O. Box 180, Porum, OK 74455.	City Hall, 105 South Arkansas Street, Porum, OK 74455.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2019	400127
Muskogee	Unincorporated areas of Muskogee County (19–06–1205P).	The Honorable Ken Doke, Commissioner, District 1 Muskogee County, 3000 North Street, Muskogee, OK 74403.	Muskogee County Emergency Management, Department, 3000 North Street, Muskogee, OK 74403.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2019	400491
Pennsylvania:						
Montgomery	Township of Lower Merion (18–03–2077P).	The Honorable Daniel S. Bernheim, President, Township of Lower Merion Board of Commissioners, 75 East Lancaster Avenue, Ardmore, PA 19003.	Township Hall, 75 East Lancaster Avenue, Ardmore, PA 19003.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	420757
Philadelphia	City of Philadelphia (18–03–2077P).	The Honorable James Keeney, Mayor, City of Philadelphia, 400 John F. Kennedy Boulevard, Philadelphia, PA 19107.	Department of Licenses and Inspections, 1401 John F. Kennedy Boulevard, Room 1130, Philadelphia, PA 19102.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	420757

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
South Carolina: Charleston.	Town of Sullivan's Island (19–04–2775P).	The Honorable Patrick O'Neil, Mayor, Town of Sullivan's Island, P.O. Box 427, Sullivan's Island, SC 29482.	Town Hall, 2056 Middle Street, Sullivan's Island, SC 29482.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 25, 2019	455418
Tennessee: Sumner.	City of Gallatin (18–04–7343P).	The Honorable Paige Brown, Mayor, City of Gallatin, 132 West Main Street, Gallatin, TN 37066.	Planning Department, 132 West Main Street, Gallatin, TN 37066.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2019	470185
Texas:						
Bexar	City of Leon Valley (18–06–3403P).	The Honorable Chris Riley, Mayor, City of Leon Valley, 6400 El Verde Road, Leon Valley, TX 78238.	Community Development Department, 6400 El Verde Road, Leon Valley, TX 78238.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480042
Bexar	City of San Antonio (18–06–3403P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480045
Bexar	City of San Antonio (19–06–0142P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480045
Collin and Denton.	City of Celina (18–06–1942P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Services Department, 142 North Ohio Street, Celina, TX 75009.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480133
Collin	City of McKinney (18–06–2399P).	The Honorable George Fuller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 221 North Tennessee Street, McKinney, TX 75069.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 9, 2019	480135
Collin	Unincorporated areas of Collin County (18–06–1942P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480130
Dallas	City of Coppell (18–06–2208P).	The Honorable Karen Hunt, Mayor, City of Coppell, P.O. Box 9478, Coppell, TX 75019.	City Hall, 255 East Parkway Boulevard, Coppell, TX 75019.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2019	480170
Dallas	City of Rowlett (18–06–3684P).	Mr. Brian Funderburk, Manager, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	Community Development Department, 3901 Main Street, Rowlett, TX 75088.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2019	480185
Denton	Unincorporated areas of Denton County (18–06–1942P).	The Honorable Andy Eads, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Public Works, Engineering Department, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 5, 2019	480774
Grayson	City of Sherman (19–06–0025P).	The Honorable David Plyler, Mayor, City of Sherman, 220 West Mulberry Street, Sherman, TX 75090.	Engineering Department, 220 West Mulberry Street, Sherman, TX 75090.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 30, 2019	485509
Liberty	Unincorporated areas of Muskogee County (19–06–1218P).	The Honorable Jay H. Knight, Liberty County Judge, 1923 Sam Houston Street, Room 201, Liberty, TX 77575.	Liberty County Engineering Department, 624 Fannin Street, Liberty, TX 77575.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 20, 2019	480438
Rockwell	City of Fate (18–06–3709P).	The Honorable Lorne Megyesi, Mayor, City of Fate, P.O. Box 159, Fate, TX 75132.	City Hall, 1900 C.D. Boren Parkway, Fate, TX 75087.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 16, 2019	480544

[FR Doc. 2019–14176 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Montgomery (FEMA Docket No.: B–1904)..	City of Montgomery (17–04–6774P).	The Honorable Todd Strange, Mayor, City of Montgomery, 103 North Perry Street, Montgomery, AL 36104.	Engineering Department, 25 Washington Avenue, Montgomery, AL 36104.	Apr. 25, 2019	010174
Shelby (FEMA Docket No.: B–1916).	City of Pelham (19–04–1376X).	The Honorable Gary W. Waters, Mayor, City of Pelham, 3162 Pelham Parkway, Pelham, AL 35124.	City Hall, 3162 Pelham Parkway, Pelham, AL 35124.	May 6, 2019	010193
Colorado:					
Broomfield (FEMA Docket No.: B–1904).	City and County of Broomfield (18–08–0957P).	The Honorable Randy Ahrens, Mayor, City and County of Broomfield, 1 DesCombes Drive, Broomfield, CO 80020.	Engineering Department, 1 DesCombes Drive, Broomfield, CO 80020.	May 10, 2019	085073
Jefferson (FEMA Docket No.: B–1904).	City of Westminster (18–08–0957P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	May 10, 2019	080008
Jefferson (FEMA Docket No.: B–1904).	Unincorporated areas of Jefferson County (18–08–0875P).	The Honorable Casey Tighe, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	Apr. 26, 2019	080087
Florida:					
Charlotte (FEMA Docket No.: B–1904).	Unincorporated areas of Charlotte County (18–04–6671P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Department of Community Development, 18500 Murdock Circle, Port Charlotte, FL 33948.	Apr. 22, 2019	120061
Lee (FEMA Docket No.: B–1904).	Unincorporated areas of Lee County (18–04–7249P).	Mr. Roger Desjarlais, Manager, Lee County, 2120 Main Street, Fort Myers, FL 33901.	Lee County Building Department, 1500 Monroe Street, Fort Myers, FL 33901.	Apr. 25, 2019	125124

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Sarasota (FEMA Docket No.: B–1904).	Unincorporated areas of Sarasota County (18–04–4837P).	The Honorable Nancy Detert, Chair, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	May 3, 2019	125144
Louisiana: Ascension (FEMA Docket No.: B–1904).	Unincorporated areas of Ascension Parish (18–06–3150P).	The Honorable Kenny Matassa, Ascension Parish President, 615 East Worthey Road, Gonzales, LA 70737.	Ascension Parish Public Works Department, 615 East Worthey Road, Gonzales, LA 70737.	May 10, 2019	220013
Mississippi:					
DeSoto (FEMA Docket No.: B–1904).	City of Hernando (18–04–4824P).	The Honorable N.C. Tom Ferguson, Mayor, City of Hernando, 475 West Commerce Street, Hernando, MS 38632.	Planning Department, 475 West Commerce Street, Hernando, MS 38632.	Apr. 26, 2019	280292
DeSoto (FEMA Docket No.: B–1904).	Unincorporated areas of DeSoto County (18–04–4824P).	The Honorable Michael Lee, Chairman, DeSoto County Board of Supervisors, 365 Losher Street, Suite 300, Hernando, MS 38632.	DeSoto County Planning Commission, 365 Losher Street, Hernando, MS 38632.	Apr. 26, 2019	280050
South Carolina: Charleston (FEMA Docket No.: B–1904).	City of Charleston (18–04–7585P).	The Honorable John J. Tecklenburg, Mayor, City of Charleston, 80 Broad Street, Charleston, SC 29401.	Public Services Department, 2 George Street, Suite 2100, Charleston, SC 29401.	May 13, 2019	455412
South Dakota:					
Lincoln (FEMA Docket No.: B–1916).	Town of Tea (18–08–1197P).	The Honorable John Lawler, Mayor, Town of Tea, P.O. Box 128, Tea, SD 57064.	Town Hall, 600 East 1st Street, Tea, SD 57064.	May 13, 2019	460143
Lincoln (FEMA Docket No.: B–1916).	Unincorporated areas of Lincoln County (18–08–1197P).	The Honorable David Gillespie, Chairman, Lincoln County Board of Commissioners, 104 North Main Street, Canton, SD 57013.	Lincoln County GIS Department, 104 North Main Street, Canton, SD 57013.	May 13, 2019	460277
Texas:					
Bexar (FEMA Docket No.: B–1917).	City of San Antonio (18–06–2159P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	May 13, 2019	480045
Bexar (FEMA Docket No.: B–1917).	City of San Antonio (18–06–2478P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	May 13, 2019	480045
Bexar (FEMA Docket No.: B–1917).	City of San Antonio (18–06–3206P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	Apr. 29, 2019	480045
Bexar (FEMA Docket No.: B–1917).	Unincorporated areas of Bexar County (18–06–3206P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Apr. 29, 2019	480035
Bexar (FEMA Docket No.: B–1904).	Unincorporated areas of Bexar County (18–06–3287P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	Apr. 22, 2019	480035
Dallas (FEMA Docket No.: B–1917).	City of DeSoto (18–06–3315P).	The Honorable Curtistene Smith McCowan, Mayor, City of DeSoto, 211 East Pleasant Run Road, DeSoto, TX 75115.	Engineering Department, 211 East Pleasant Run Road, DeSoto, TX 75115.	May 3, 2019	480172
Dallas (FEMA Docket No.: B–1917).	City of Garland (18–06–2735P).	The Honorable Lori Barnett Dodson, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	City Hall, 800 Main Street, Garland, TX 75040.	May 13, 2019	485471
Denton (FEMA Docket No.: B–1904).	City of Aubrey (18–06–2849P).	The Honorable Janet Meyers, Mayor, City of Aubrey, 107 South Main Street, Aubrey, TX 76227.	City Hall, 107 South Main Street, Aubrey, TX 76227.	Apr. 29, 2019	480776
Harris (FEMA Docket No.: B–1904).	Unincorporated areas of Harris County (18–06–2511P).	The Honorable Edward Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Department, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	May 13, 2019	480287
Kerr (FEMA Docket No.: B–1917).	City of Kerrville (18–06–2862P).	The Honorable Bill Blackburn, Mayor, City of Kerrville, 701 Main Street, Kerrville, TX 78028.	Engineering Department, 200 Sidney Baker Street, Kerrville, TX 78028.	May 13, 2019	480420
Tarrant (FEMA Docket No.: B–1928).	City of Fort Worth (18–06–2089P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	Apr. 11, 2019	480596
Travis (FEMA Docket No.: B–1904).	City of Austin (18–06–3308P).	Mr. Spencer Cronk, Manager, City of Austin, P.O. Box 1088, Austin, TX 78767.	Watershed Protection Department, 505 Barton Springs Road, Austin, TX 78704.	Apr. 29, 2019	480624
Travis (FEMA Docket No.: B–1904).	City of Pflugerville (18–06–2107P).	The Honorable Victor Gonzales, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78691.	Development Services Department, 201–B East Pecan Street, P.O. Box 589, Pflugerville, TX 78691.	May 6, 2019	481028

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Travis (FEMA Docket No.: B–1904).	Unincorporated areas of Travis County (18–06–2107P).	The Honorable Sarah Eckhardt, Travis County Judge, 700 Lavaca Street, Suite 2300, Austin, TX 78701.	Travis County TNR, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	May 6, 2019	481026
Webb (FEMA Docket No.: B–1917).	Unincorporated areas of Webb County (19–06–0140X).	The Honorable Tano E. Tijerina, Webb County Judge, 1000 Houston Street, 3rd Floor, Laredo, TX 78040.	Webb County Planning Department, 1110 Washington Street, Suite 302, Laredo, TX 78040.	Apr. 25, 2019	481059
Wilson (FEMA Docket No.: B–1904).	Unincorporated areas of Wilson County (18–06–3960P).	The Honorable Richard L. Jackson, Wilson County Judge, 1420 3rd Street, Suite 101, Floresville, TX 78114.	Wilson County Courthouse Annex II, 800 10th Street, Building B, Floresville, TX 78114.	May 2, 2019	480230
Virginia:.					
Prince William (FEMA Docket No.: B–1904).	City of Manassas (18–03–1933P).	Mr. William Patrick Pate, Manager, City of Manassas, 9027 Center Street, Manassas, VA 20110.	Engineering Department, 8500 Public Works Drive, Manassas, VA 20110.	Apr. 25, 2019	510122
Washington District of Columbia (FEMA Docket No.: B–1904).	District of Columbia (18–03–1305P).	The Honorable Muriel Bowser, Mayor, District of Columbia, 1350 Pennsylvania Avenue Northwest, Washington, DC 20004.	Department of Energy and Environment, 1200 1st Street Northeast, 5th Floor, Washington, DC 20002.	Apr. 29, 2019	110001

[FR Doc. 2019–14179 Filed 7–2–19; 8:45 am]

BILLING CODE 9111–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0046]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Electronic Bonds Online (eBonds) Access; Comment Request

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** (84 FR 18299) on April 30, 2019, allowing for a 60-day comment period. ICE received one comment in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until August 2, 2019.

ADDRESSES: Interested persons are invited to submit written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov* or faxed to (202) 395–5806. All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1653–0046.

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 agencies 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:* Electronic Bonds Online (eBonds) Access.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* I–352SA/I–352RA; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information taken in this collection is necessary for ICE to grant access to eBonds and to notify the public of the duties and responsibilities associated with accessing eBonds. The I–352SA and the I–352RA are the two instruments used to collect the information associated with this collection. The I–352SA is to be completed by a Surety that currently holds a Certificate of Authority to act as a Surety on Federal bonds and details the requirements for accessing eBonds as well as the documentation, in addition to the I–352SA and I–352RA, which the Surety must submit prior to being granted access to eBonds. The I–352RA provides notification that eBonds is a Federal government computer system and as such users must abide by certain conduct guidelines to access eBonds and the consequences if such guidelines are not followed.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 60 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 30 annual burden hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated annual cost

burden associated with this collection of information is 2,255.

Dated: June 27, 2019.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2019–14126 Filed 7–2–19; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0050]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery; Comment Request

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: In accordance with the Paperwork Reductions Act (PRA) of 1995 the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance. This information collection was previously published in the **Federal Register** (84 FR 18564) on May 1, 2019, allowing for a 60-day comment period. ICE received 1 comment in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until August 2, 2019.

ADDRESSES: Interested persons are invited to submit written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov* or faxed to (202) 395–5806. All submissions must include the words ''Department of Homeland Security'' and the OMB Control Number 1653–0050.

SUPPLEMENTARY INFORMATION:

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 agencies 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:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households; Farms; Business or other for-profit; Not-for-profit institutions; State, local or Tribal governments; The information collection garners qualitative customer and stakeholder feedback in an efficient and timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback provides insights into customer or stakeholder perceptions, experiences and expectations, provides an early warning of issues with service, or focuses attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It also allows feedback to contribute directly to the improvement of program management. Feedback collected under this generic clearance provides useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 139,587 responses at 5 minutes (0.0833 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,586 annual burden hours.

Dated: June 27, 2019.

Scott Elmore,

PRA Clearance Officer.

[FR Doc. 2019–14167 Filed 7–2–19; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request an Extension From OMB of One Current Public Collection of Information: Pipeline Corporate Security Review Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently-approved

Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0056, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection allows TSA to assess the current security practices in the pipeline industry through TSA's Pipeline Corporate Security Review (PCSR) program. The PCSR program is part of the larger domain awareness, prevention, and protection program supporting TSA's and the Department of Homeland Security's missions.

DATES: Send your comments by September 3, 2019.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0056; Pipeline Corporate Security Review (PCSR) Program. Under the Aviation and Transportation Security Act (ATSA) [1] and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for ''security in all modes of transportation . . . including security responsibilities . . . over modes of transportation that are exercised by the Department of Transportation.'' [2] TSA is specifically empowered to assess threats to transportation,[3] develop policies, strategies, and plans for dealing with threats to transportation,[4] oversee the implementation and adequacy of security measures at transportation facilities,[5] and carry out other appropriate duties relating to transportation security.[6] The Implementing Recommendations of the 9/11 Commission Act (9/11 Act) included a specific requirement for TSA to conduct assessments of critical pipeline facilities.[7]

Consistent with these authorities and requirements, TSA developed the PCSR program to assess the current security practices in the pipeline industry, with a focus on the physical and cyber security of pipelines and the crude oil and petroleum products, such as gasoline, diesel, jet fuel, home heating oil, and natural gas, moving through the system infrastructure. PCSRs are voluntary, face-to-face visits, usually at the headquarters facility of the pipeline owner/operator. Typically, TSA sends one to three employees to conduct a seven to eight hour interview with representatives from the owner/operator. The TSA representatives analyze the owner/operator's security plan and policies and compare their practices with recommendations in TSA's Pipeline Security Guidelines.

During the PCSR assessment, the PCSR program subject matter experts:

- Meet with senior corporate officers and security managers.
- Develop knowledge of security planning at critical pipeline infrastructure sites.
- Establish and maintain a working relationship with key security staff who operate critical pipeline infrastructure.
- Identify industry smart practices and lessons learned.
- Maintain a dynamic modal network through effective communications with the pipeline industry and government stakeholders.

Through this engagement, TSA is also able to establish and maintain productive working relationships with key pipeline security personnel. This engagement and access to pipeline facilities also enables TSA to identify and share smart security practices observed at one facility to help enhance and improve the security of the pipeline industry. As a result, participation in the voluntary PCSR program enhances pipeline security at both specific facilities and across the industry.

TSA has developed a Question Set to aid in the conducting of PCSRs. The PCSR Question Set structures the TSA-owner/operator discussion and is the central data source for the security information TSA collects. TSA developed the PCSR Question Set based on input from government and industry stakeholders on how best to obtain relevant information from a pipeline owner/operator about its security plan and processes. The questions are designed to examine the company's current state of security, as well as to address measures that are applied if there is a change in the National Terrorism Advisory System. The PCSR Question Set also includes sections for facility site visits and owner/operator contact information. By asking questions related to specific topics (such as security program management, vulnerability assessments, components of the security plan, security training, and emergency communications), TSA is able to assess the strength of owner/operator's physical security, cyber security, emergency communication capabilities, and security training.

This PCSR information collection provides TSA with real-time information on a company's security posture. The relationships these face-to-face contacts foster are critical to the Federal government's ability to reach out to the pipeline stakeholders affected

[1] Public Law 107–71 (115 Stat. 597; Nov. 19, 2001), codified at 49 U.S.C. 114.

[2] *See* 49 U.S.C. 114(d). The TSA Administrator's current authorities under ATSA have been delegated to him by the Secretary of Homeland Security. Section 403(2) of the Homeland Security Act (HSA) of 2002, Public Law 107–296 (116 Stat. 2135, Nov. 25, 2002), transferred all functions of TSA, including those of the Secretary of Transportation and the Under Secretary of Transportation of Security related to TSA, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Administrator of TSA, subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in section 403(2) of the HSA.

[3] 49 U.S.C. 114(f)(2).

[4] 49 U.S.C. 114(f)(3).

[5] 49 U.S.C. 114(f)(11).

[6] 49 U.S.C. 114(f)(15).

[7] Public Law 110–53 (121 Stat. 266; August 3, 2007), sec. 1557.

by the PCSRs. In addition, TSA follows up via email with owner/operators on specific recommendations made by TSA during the PCSR.

When combined with information from other companies across the sector, TSA can identify and develop recommended smart practices and security recommendations for the pipeline mode. This information allows TSA to adapt programs to the changing security threat, while incorporating an understanding of the improvements owners/operators make in their security measures. Without this information, the ability of TSA to perform its security mission would be severely hindered.

Portions of PCSR responses that are deemed Sensitive Security Information (SSI) are protected in accordance with procedures meeting the transmission, handling, and storage requirements of SSI set forth in 49 Code of Federal Regulations (CFR) parts 15 and 1520.

The annual hour burden for this information collection is estimated to be between 180 and 220 hours based upon 20 PCSR visits per year, each lasting a total of eight hours and the follow-up regarding security recommendations, lasting approximately one to three hours.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2019–14253 Filed 7–2–19; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7011–N–25]

30-Day Notice of Proposed Information Collection: FHA Insured Title I Property Improvement and Manufactured Home Loan Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 2, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 19, 2019 at 84 FR 14128.

A. Overview of Information Collection

Title of Information Collection: FHA Insured Title I Property Improvement and Manufactured Home Loan Programs.

OMB Approval Number: 2502–0328.

Type of Request: Extension of currently approved collection.

Form Number: HUD–637, HUD 646, HUD 27030, HUD 55013 HUD 55014 HUD 56001, HUD 56001–MH, HUD 5002–MH and SF 3881.

Description of the need for the information and proposed use: Title I loans are made by private sector lenders and insured by HUD against loss from defaults. HUD uses this information to evaluate individual loans on their overall program performance. The information collected is used to determine insurance eligibility and claim eligibility.

Respondents: Lender approved to make insured Title I Loans; Dealer/Contractors; Manufacturers of manufactured homes; Applicants for property improvement loans; Applicants for Manufactured home loans.

Estimated Number of Respondents: 13,593.

Estimated Number of Responses: 73,440.

Frequency of Response: On occasion, periodic.

Average Hours per Response: 17.3.

Total Estimated Burdens: 46,099.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: *June 13, 2019.*

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14244 Filed 7–2–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2019–0043; FXES11130800000 190]

Endangered and Threatened Species; Proposed Low-Effect Habitat Conservation Plan for the Desert Tortoise, Nye County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Canyon Mesa Solar, LLC for an incidental take permit under the Endangered Species Act. The requested permit would authorize take of the Mojave desert tortoise resulting from the construction, operation, and maintenance of a solar photovoltaic facility in Pahrump, Nevada. The permit application includes a proposed low-effect habitat conservation plan (HCP). In accordance with the requirements of the National Environmental Policy Act (NEPA), we have prepared a draft low-

effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under NEPA. We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

DATES: Please send your written comments by August 2, 2019.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R8–ES–2019–0043 at *http://www.regulations.gov.* Persons wishing to review documents may obtain copies by written or telephone request to Jennifer Wilkening, by phone at 702–515–5239, or by mail at U.S. Fish and Wildlife Service, Southern Nevada Fish and Wildlife Office, 4701 N Torrey Pines Dr., Las Vegas, NV 89130.

Submitting Comments: You may submit comments by one of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2019–0043.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2019–0043; U.S. Fish and Wildlife Service; MS: JAO/1N; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT: Jennifer Wilkening, Southern Nevada Fish and Wildlife Office, 702–515–5239 (phone) or *jennifer_wilkening@fws.gov* (email). If you use a telecommunications device for the deaf, hard-of-hearing, or speech disabled, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, have received an application from Canyon Mesa Solar, LLC for a 30-year incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the threatened Mojave desert tortoise (*Gopherus agassizii*) resulting from the construction, operation, and maintenance of a solar photovoltaic facility in Pahrump, Nevada. The permit application includes a proposed low-effect habitat conservation plan (HCP) that incorporates measures the applicant would implement to minimize and mitigate effects of otherwise lawful project activities on the desert tortoise. We have prepared a draft low-effect screening form supporting our preliminary determination that the proposed action qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We are accepting comments on the permit application, proposed low-effect HCP, and draft NEPA compliance documentation.

Background

Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Although not listed as endangered, the Mojave desert tortoise was listed as threatened on April 2, 1990 (55 FR 12178), with an accompanying ESA section 4(d) rule (16 U.S.C. 1533(d)), which applies the same take prohibitions for an endangered species to the threatened tortoise.

Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species are set forth in title 50 of the Code of Federal Regulations (CFR) at part 17, section 17.32.

NEPA (42 U.S.C. 4321 *et seq.*) requires a detailed environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the human environment. An agency may use an environmental assessment (EA) to inform a decision as to whether to complete an EIS, or it can establish categories of actions that individually or cumulatively generally do not have significant effects on the human environment and do not require either an EA or an EIS. For this permit application, the Service has preliminarily determined that the issuance of the ITP is not a major Federal action that will significantly affect the quality of the human environment, nor will it individually or cumulatively have more than a negligible effect on the species covered by the HCP, and should therefore be categorically excluded from further NEPA analysis as a low-effect HCP (see table below).The project occurs on land parcels zoned light industrial or mixed use, and the area has been impacted by prior disturbances such as a now-abandoned airfield, off-road use, trash dumping, and target shooting. Vegetation within the majority of the site (95 acres) will be mowed or trimmed, rather than bladed or graded, and site fencing will include openings to allow tortoises to enter and exit the facility after construction. Photovoltaic (PV) panels will be installed at a greater height than the industry standard, and panel spacing will be increased to facilitate optimum vegetative growth, which will help to maintain future habitat connectivity for wildlife following construction.

Applicant, city, state	HCP covered species	Location and Size	Activities	Type of take	Project's actions to minimize and mitigate for take
Canyon Mesa Solar, LLC, Las Vegas, Nevada.	Mojave desert tortoise *(Gopherus agassizii).*	Nye County, NV.. South of City of Pahrump.. 165.6 acres	Survey, capture, handle, restore habitat, and translocate.	Harm, possible mortality or injury.	Translocation, habitat restoration, research and monitoring, testing and development of invasive weed management techniques, leaving native vegetation in place and allowing for wildlife use inside site after construction, maintaining habitat connectivity.

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public review at *http://www.regulations.gov.*

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.

Next Steps

If we decide to issue a permit to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We issue this notice pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing

regulations (50 CFR 17.22 and 17.32) and consistent with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.205).

Glen Knowles,

Field Supervisor, Southern Nevada Fish and Wildlife Office, Las Vegas, Nevada.

[FR Doc. 2019–14196 Filed 7–2–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–ES–2019–0021; FF09E42000 178 FXES11130900000]

Endangered and Threatened Species; Issuance of Enhancement of Survival and Incidental Take Permits for Safe Harbor Agreements, Candidate Conservation Agreements, and Habitat Conservation Plans, 2018; Issuance of Recovery Permits, July 1, 2017, Through December 31, 2018

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, in accordance with the Endangered Species Act (ESA), provided a list to the public of certain permits issued under the ESA. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes or exempts the taking under the ESA. In a recent **Federal Register** notice announcing these permit issuances, we inadvertently made some errors, which we correct via this notice. We regret any inconvenience to the public.

DATES: The notice that published on June 6, 2019, at 84 FR 26424 is now corrected.

ADDRESSES: The notice that published on June 6, 2019, at 84 FR 26424 and this correction notice may be found on *www.regulations.gov* in Docket No. FWS–HQ–ES–2019–0021.

FOR FURTHER INFORMATION CONTACT: For general information about the ESA permit process, contact Karen Anderson, via phone at 703–358–2301,via email at *karen_anderson@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, in accordance with section 10(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), as amended, periodically provide lists to the public of the permits issued under sections 10(a)(1)(A) and 10(a)(1)(B) of the ESA. On June 6, 2019 (84 FR 26424), we published a **Federal Register** notice that provided a summary of our permit issuances for Candidate Conservation Agreements with Assurances, Safe Harbor Agreements, and Habitat Conservation Plans for calendar year 2018, and for Recovery Permits issued between July 1, 2017, and December 31, 2018. Unfortunately, due to some technical errors, our list was incomplete, and some permit information appeared in the wrong lists. In this notice, we correct those errors. Please see the original notice for additional background information regarding our permit issuance process.

Corrections

In notice document 84 FR 26424 appearing on pages 26424–26436 of the **Federal Register** in the issue of Thursday, June 6, 2019, we make the following corrections:

On page 26424, the names of the following three permittees are corrected for Habitat Conservation Plan (HCP) and Safe Harbor Agreement (SHA) permits. All other permits issued under an HCP or SHA listed throughout the original notice remain the same.

Hawaii, Idaho, Oregon (except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories

Permit No.	Plan or agreement type	Permittee	Date issued
TE72314C–0	HCP (WA)	Walters Grandchildren Washington, LLC	6/14/2018
TE01952D–0	HCP (HI)	Na Pua Makani Power Partners, LLC	9/7/2018
TE57529C–0	SHA (WA)	Graysmarsh, LLC	3/7/2018

Beginning on page 26425, the full list of Recovery Permits issued from July 1, 2017, to December 31, 2018, for the indicated States and Territories are republished as follows:

Hawaii, Idaho, Oregon (except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories

Permit No.	Plan or agreement type	Permittee	Date issued
TE36166C	Recovery	Herron, Gretchen J	7/5/2017.
TE31740C	Recovery	U.S. Forest Service—Siuslaw National Forest	7/5/2017.
TE39372B	Recovery	Institute for Natural Resource, Portland State University	7/6/2017.
TE027734	Recovery	Oregon Cooperative Fish and Wildlife Service Research Unit	7/10/2017.
TE97807A	Recovery	Oregon Parks and Recreation Department	7/12/2017.
TE25955C	Recovery	Price, Melissa R	7/13/2017.
TE41449C	Recovery	S.P. Cramer & Associates	8/3/2017.
TE001103	Recovery	Chelan County Public Utility District No. 1	8/3/2017.
TE41558C	Recovery	Natural Systems Design, Inc	8/9/2017.
TE19806C	Recovery	Environmental Solutions and Innovations, Inc	8/11/2017.
TE018078	Recovery	Hawaii Volcanoes National Park	8/28/2017.
TE40123A	Recovery	U.S. Army Garrison—Pohakuloa Training Area	11/7/2017.
TE702631	Recovery	U.S. Fish and Wildlife Service, Region 1	9/5/2017, 11/30/2017 (issued twice during this time period).
TE53969C	Recovery	University of Hawaii at Hilo	12/11/2017.

Permit No.	Plan or agreement type	Permittee	Date issued
TE40879B	Recovery	Grette Associates, LLC	12/20/2017.
TE070589	Recovery	Pacific Northwest Research Station, U.S. Forest Service	1/19/2018.
TE081309	Recovery	Weyerhauser Company	2/28/2018.
TE62696C	Recovery	Assured Bio Lab, LLC	3/16/2018.
TE09155B	Recovery	Ha, Renee Robinette	3/26/2018.
TE025731	Recovery	Washington State Department of Transportation	3/26/2018.
TE64600C	Recovery	University of Guam, Center for Island Sustainability	4/11/2018.
TE043638	Recovery	U.S. Army Garrison—Hawaii, Directorate of Public Works—Environmental Division.	4/23/2018.
TE25955C	Recovery	Price, Melissa R	7/13/2017, 5/14/2018 (issued twice during this time period).
TE89863B	Recovery	Oregon State University	5/16/2018.
TE043875	Recovery	U.S. Geological Survey, Columbia River Research Laboratory	6/1/2018.
TE003483	Recovery	U.S. Geological Survey, Pacific Island Ecosystems Research	6/6/2018.
TE38768B	Recovery	Micronesian Environmental Services	6/6/2018.
TE21217B	Recovery	Oregon Department of Transportation	6/6/2018.
TE844478	Recovery	Kalispel Tribe of Indians	6/6/2018.
TE63382B	Recovery	Nyman, Stephen	6/6/2018.
TE28364B	Recovery	Moore, Randall P	6/11/2018.
TE72492B	Recovery	Electron Hydro, LLC	6/20/2018.
TE068143	Recovery	Eastern Washington University	6/26/2018.
TE90982C	Recovery	Brady, Megan E	7/11/2018.
TE93243C	Recovery	Francis, Tessa B	7/11/2018.
TE056557	Recovery	U.S. Bureau of Reclamation	7/17/2018.
TE78405C	Recovery	Guam Plant Extinction Prevention Program	7/19/2018.
TE87849C	Recovery	Umatilla National Forest	7/19/2018.
TE799558	Recovery	Idaho Power Company	7/23/2018.
TE67017A	Recovery	NOAA/NMFS Northwest Fisheries Science Center	7/24/2018.
TE78730C	Recovery	Wescom, Robert W	8/3/2018.
TE98709C	Recovery	U.S. Geological Survey, Western Fisheries Research Center	8/8/2018.
TE72088A	Recovery	NOAA/NMFS Pacific Islands Fisheries Science Center	8/9/2018.
TE82868C	Recovery	University of Guam, Marine Laboratory	8/27/2018.
TE98722C	Recovery	Campbell Environmental	8/27/2018.
TE060179	Recovery	Zoological Society of San Diego	9/10/2018.
TE014497	Recovery	Haleakala National Park	1/10/2018, 9/10/2018 (issued twice during this time period).
TE03784D	Recovery	Parker, Michael S	9/10/2018.
TE19045C	Recovery	Hawaii Department of Land and Natural Resources—Division of Forestry and Wildlife.	9/21/2018.
TE99044C	Recovery	U.S. Army Corps of Engineers	9/27/2018.
TE69397C	Recovery	Seattle Aquarium	12/20/2018.
TE45531B	Recovery	Hawaii Division of Forestry and Wildlife	12/21/2018.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, Commonwealth of Puerto Rico, and the U.S. Virgin Islands:

Permit No.	Plan or agreement	Permittee	Date issued
TE040423	Recovery	Roe, Kevin J	7/5/2017.
TE42183A	Recovery	Eglin Air Force Base	7/19/2017.
TE125620	Recovery	Burns & McDonnell Engineering Company, Inc	7/19/2017.
TE98596B	Recovery	Veselka, Sarah Elizabeth	7/26/2017.
TE98486B	Recovery	University of Mississippi Biology Department	8/2/2017.
TE40523A	Recovery	Nelson, David H	8/7/2017.
TE117405	Recovery	Tennessee Valley Authority	8/20/2017.
TE002412	Recovery	Comalander, Cecil Lamar	8/22/2017.
TE78919A	Recovery	East Coast Zoological Society	8/25/2017.
TE59798B	Recovery	Daguna Consulting, LLC	8/25/2017.
TE121059	Recovery	Round Mountain Biological & Environmental Studies, Inc	8/25/2017.
TE070846	Recovery	Walters, Jeffrey R	8/29/2017.
TE68616B	Recovery	Atkinson, Carla Lee	8/29/2017.
TE23537C	Recovery	Appalachian Ecological Services, LLC	9/6/2017.
TE079883	Recovery	Arkansas Highway and Transportation Department	9/7/2017.
TE65334A	Recovery	Molano-Flores, Brenda	9/13/2017.
TE47720B	Recovery	Perez, Hector E	9/15/2017.
TE171516	Recovery	Copperhead Environmental Consulting, Inc	9/15/2017.

Permit No.	Plan or agreement	Permittee	Date issued
TE30733C	Recovery	Thalken, Marissa Michelle	9/15/2017.
TE237544	Recovery	Golladay, Stephen W	10/2/2017.
TE06337C	Recovery	Loughman, Zachary J	10/2/2017.
TE34387C	Recovery	U.S. Fish and Wildlife Service	10/5/2017.
TE055241	Recovery	Montgomery, Robert L	10/10/2017.
TE12169B	Recovery	Mitigation Management	10/10/2017.
TE91733B	Recovery	Adams, Joshua J	10/17/2017.
TE02167C	Recovery	Gore, James William	10/18/2017.
TE37652B	Recovery	Blue Ridge Parkway—National Park Service	10/27/2017.
TE00479C	Recovery	Johnson, Kevin Layne	11/1/2017.
TE206894	Recovery	Rothermel, Betsie B	11/2/2017.
TE81756A	Recovery	Robinson, Jason B	11/13/2017.
TE063179	Recovery	Edwards-Pitman Environmental, Inc	11/14/2017.
TE106708	Recovery	Morrison, Joan L	11/19/2017.
TE05565B	Recovery	UT-Batelle Corp	12/5/2017.
TE98532B	Recovery	Fridell, John A	12/6/2017.
TE43261B	Recovery	Altman, Ann M	12/8/2017.
TE148282	Recovery	Wilhide, Jack (J.D.) D	12/13/2017.
TE57120C	Recovery	Altamaha Environmental Consulting, LLC	12/15/2017.
TE55292B	Recovery	University of Florida	12/20/2017.
TE43264B	Recovery	Riddle, Nicole Levinson	12/20/2017.
TE33465A	Recovery	USDA Forest Service, National Forests in Alabama	12/21/2017.
TE31057A	Recovery	North Carolina Wildlife Resources Commission	1/4/2018.
TE05526B	Recovery	Robinson, Jesse R	1/5/2018.
TE069280	Recovery	Alabama Department of Transportation	1/16/2018.
TE88823B	Recovery	Schaetz, Brian Abney	1/18/2018.
TE98424B	Recovery	U.S. Geological Survey	2/10/2018.
TE089074	Recovery	Corblu Ecology Group, LLC	2/19/2018.
TE087194	Recovery	Goethe State Forest	2/27/2018.
TE100626	Recovery	Selby Environmental, Inc	3/2/2018.
TE060988	Recovery	Fort Jackson	3/5/2018.
TE129703	Recovery	HMB Professional Engineers, Inc	3/20/2018.
TE075916	Recovery	Virzi, Thomas	3/21/2018.
TE28975C	Recovery	Stallsmith, Bruce Wagner	3/22/2018.
TE71854A	Recovery	Eargle, David A	3/22/2018.
TE26554C	Recovery	Central Florida Zoological Society	3/22/2018.
TE34429C	Recovery	Buschhaus, Nancy L	3/23/2018.
TE63577A	Recovery	Mammoth Cave National Park	3/29/2018.
TE049654	Recovery	Gordon, William David	4/2/2018.
TE171545	Recovery	Redman, Ronald K	4/2/2018.
TE37219B	Recovery	Perry, Roger W	4/4/2018.
TE91373A	Recovery	Miller, Jonathan M	4/4/2018.
TE070800	Recovery	Ecological Solutions, Inc	4/10/2018.
TE034476	Recovery	Florida Forest Service	4/15/2018.
TE79580A	Recovery	Butler, Jason M	4/15/2018.
TE206872	Recovery	O'Keefe Joy Marie	4/19/2018.
TE61573C	Recovery	University of Southern Mississippi	4/22/2018.
TE78148C	Recovery	Dinkins, Barbara J	4/22/2018.
TE38792A	Recovery	U.S. Army Fort Gordon	4/24/2018.
TE132409	Recovery	O'Neill Gary R	4/25/2018.
TE22311A	Recovery	George, Anna L	4/30/2018.
TE812344	Recovery	Pennington and Associates, Inc	4/30/2018.
TE106005	Recovery	Breininger, David R	5/1/2018.
TE070796	Recovery	Apogee Environmental & Archaeological, Inc	5/18/2018.
TE56749B	Recovery	Moore, Patrick R	5/22/2018.
TE56746B	Recovery	Johnson, Joseph S	5/24/2018.
TE056510	Recovery	Pechmann, Joseph H.K	6/1/2018.
TE14105A	Recovery	Breedlove, Dennis and Associates, Inc	6/7/2018.
TE87861C	Recovery	Boyd, Jennifer N	6/7/2018.
TE73104C	Recovery	Sorenson, Clyde E	6/11/2018.
TE48579B	Recovery	Ecological Solutions, Inc	6/13/2018.
TE20269C	Recovery	Byerly, Paige A	6/22/2018.
TE56430B	Recovery	Hootman, Jonathan R	6/22/2018.
TE102292	Recovery	Jackson, Jeremy Lynn	6/22/2018.
TE25343A	Recovery	Volkert, Inc	6/22/2018.
TE80381A	Recovery	Department of Defense (Army)	6/25/2018.
TE94704A	Recovery	Brown, Dorothy C	6/26/2018.
TE57873C	Recovery	Arkansas Natural Heritage Commission	6/26/2018.
TE171577	Recovery	Fort Chaffee Joint Maneuver Training Center	6/27/2018.
TE65550A	Recovery	Gawlik, Dale E	6/28/2018.
TE142294	Recovery	Holimon, William (Bill) C	7/6/2018.
TE088889	Recovery	The Nature Conservancy	7/9/2018.
TE16616C	Recovery	Nupp, Thomas E	7/9/2018.

Permit No.	Plan or agreement	Permittee	Date issued
TE065972	Recovery	U.S. Forest Service	7/10/2018.
TE41910B	Recovery	Rush, Scott Anderson	7/10/2018.
TE77197C	Recovery	U.S. Army Corps of Engineers	7/10/2018.
TE94667A	Recovery	Mobile County Commission	7/13/2018.
TE64767C	Recovery	Collins, John H	7/16/2018.
TE37490B	Recovery	Littrell, Melissa Toncray	7/29/2018.
TE94728A	Recovery	Environmental Consulting Operations, Inc	7/29/2018.
TE022468	Recovery	Endangered Species, Branch, U.S. Department of Defense	7/30/2018.
TE37663B	Recovery	Ijames, Rebecca D	7/30/2018.
TE119937	Recovery	Loeb, Susan Carol	7/30/2018.
TE21809A	Recovery	Folk, Monica L	7/31/2018.
TE237548	Recovery	Counts, Tommy U	8/1/2018.
TE066980	Recovery	Rutledge, Brandon Ty	8/2/2018.
TE73593C	Recovery	Parks, Cody A	8/7/2018.
TE27608B	Recovery	McGehee Engineering Corporation	8/9/2018.
TE108990	Recovery	Spears, Ronald E	8/12/2018.
TE37492B	Recovery	Grow, Anthony Christopher	8/12/2018.
TE63633A	Recovery	Biodiversity Research Institute	8/14/2018.
TE54578B	Recovery	Frazer, Mary E	8/14/2018.
TE237549	Recovery	Holliday, Cory	8/14/2018.
TE64393C	Recovery	Vanasse Hangen Brustlin, Inc	8/14/2018.
TE59645B	Recovery	Brock, Stephen C	8/30/2018.
TE37900B	Recovery	Lauerman, Sarah A	9/6/2018.
TE53149B	Recovery	Otto, Hans William	9/7/2018.
TE75551C	Recovery	Arant, Phillip Lee	9/11/2018.
TE237535	Recovery	Bok Tower Gardens	9/12/2018.
TE077258	Recovery	University of Florida	9/20/2018.
TE28025A	Recovery	The Orianne Society	9/21/2018.
TE121400	Recovery	Fort Worth Zoo	9/26/2018.
TE65968A	Recovery	Dickey, Richard Jason	9/28/2018.
TE46056C	Recovery	Ceilley, David W	10/23/2018.
TE027344	Recovery	Chattahoochee–Oconee National Forests	10/26/2018.
TE18986C	Recovery	North Carolina Zoological Park	11/6/2018.
TE78383C	Recovery	Casto, Joel Patrick	12/19/2018.
TE206777	Recovery	Ralph Costa's Woodpecker Outfit, LLC	12/20/2018.

Beginning on page 46431, the following permits should be added to the list of issued permits to the tables corresponding to the States and Territories indicated below. All other permits listed in these tables remain the same.

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming

Permit No.	Plan or agreement	Permittee	Date issued
TE201549	HCP	The Nature Conservancy	7/25/2018.
TE27485B	Recovery	Dixie State University	5/13/2018.
TE66969B	Recovery	CEMML—Colorado State University	11/27/2018.

California, Nevada, and the Klamath Basin Portion of Oregon

Permit number	Plan or agreement	Permittee	Date issued
TE37481A	Recovery	Wood, Justin	11/13/2017.
TE823990	Recovery	Wildwing-Schultz, Sandra	3/8/2018.
TE72875C	Recovery	Boyd, Ian	12/12/2018.

Dated: June 27, 2019.

Martha Balis-Larsen,

Acting Assistant Director for Ecological Services.

[FR Doc. 2019–14125 Filed 7–2–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2019–N080; FXES11140100000–190–FF01E00000]

Proposed Site Plans Under a Candidate Conservation Agreement With Assurances for the Fisher in Oregon; Enhancement of Survival Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received five enhancement of survival permit (permit) applications pursuant to the Endangered Species Act (ESA) that we are processing as a batch. If granted, the requested permits would authorize the incidental take of the fisher, should the species become federally listed in the future under the ESA. The permit applications are associated with a template candidate conservation agreement with assurances (CCAA) previously developed for the conservation of the fisher. The conservation measures in the CCAA are intended to provide for a net conservation benefit to the fisher. We also have prepared individual draft environment action statements (EASs) pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA) for the potential issuance of each of these permits. We are making the permit application packages and draft EASs available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties no later than August 2, 2019.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the ''Fisher CCAA'' and indicate by name which permit application (see below) you are interested in or addressing.

- *Internet:* Documents may be viewed on the internet at *http://www.fws.gov/oregonfwo/.*
- *Email: fisherCCAAcomments@fws.gov.* Include ''Fisher CCAA'' in the subject line of the message or comments.
- *U.S. Mail:* State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service; 2600 SE 98th Avenue, Suite 100; Portland, OR 97266.
- *Fax:* 503–231–6195, Attn: Fisher CCAA.
- *In-Person Drop-off, Viewing, or Pickup:* Comments and materials received will be available for public inspection, by appointment (necessary for viewing or picking up documents only), during normal business hours at the Oregon Fish and Wildlife Office (at the above address); call 503–231–6179 to make an appointment. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Richard Szlemp (see **ADDRESSES**); telephone: 503–231–6179; facsimile: 503–231– 6195. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the Service, have received five permit applications from timber land owners in Oregon pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would authorize incidental take of the fisher (*Pekania pennanti*) during the applicants' routine forest-related management activities until June 20, 2048, or the remaining duration of the CCAA, should the fisher become federally listed in the future under the ESA. Each permit application includes a proposed individual site plan written under the template CCAA previously developed for the conservation of the fisher. We also have prepared individual draft environment action statements (EASs) pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) for the potential issuance of each of these permits.

Background

A CCAA is a voluntary agreement whereby landowners agree to manage their lands to remove or reduce threats to species that may become listed under the ESA (64 FR 32726; June 17, 1999). CCAAs are intended to facilitate the conservation of proposed and candidate species, and species likely to become candidates in the near future, by giving non-Federal property owners incentives to implement conservation measures for declining species by providing certainty with regard to land, water, or resource use restrictions that might be imposed should the species later become listed as threatened or endangered under the ESA. In return for managing their lands to the benefit of the covered species, enrolled landowners receive assurances that additional regulatory requirements pertaining to the covered species will not be required if the covered species becomes listed as threatened or endangered under the ESA, so long as the CCAA remains in place and is being fully implemented.

A CCAA serves as the basis for the Service to issue permits to non-Federal participants pursuant to section 10(a)(1)(A) of the ESA. Application requirements and issuance criteria for permits under CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). The Service developed a template CCAA for the West Coast distinct population segment (DPS) of the fisher in Oregon and a draft EAS for future permit issuance under the finalized template to comply with NEPA. The template CCAA and the EAS were noticed for comment in the **Federal Register** (81 FR 15737; March 24, 2016). The template CCAA and EAS were finalized and signed by the Service on June 20, 2018.

The CCAA template established general guidelines and identified minimum conservation measures for potential participants in the CCAA. Interested participants can voluntarily enroll their property under the CCAA through development of individual site plans written in accordance with the CCAA and that are submitted as part of their permit applications. The permits would authorize incidental take with assurances to qualifying landowners who carry out conservation measures that would benefit the West Coast DPS of the fisher.

Proposed Actions

Pursuant to the ESA, we have received an application for a section 10(a)(1)(A) permit under the template CCAA from each of the following five timber landowners (applicants) for their identified lands in Oregon:

- Hancock Forest Management
- Lone Rock Timber Management Company
- Oregon Department of Forestry
- Roseburg Resources Company
- Weyerhaeuser Company

Each requested permit would authorize incidental take of the fisher, should it become federally listed, during the applicant's routine forest-related

management activities on their managed properties until June 20, 2048, or the current time remaining under the template CCAA.

Each permit application includes a proposed site plan that describes the lands to be covered by the permit and the required conservation measures of the template CCAA as they will be specifically enacted by the individual applicant. Primary conservation measures common to all five site plans include:

- Allowing access to covered lands to conduct fisher surveys;
- Protecting denning fisher and their young by limiting disturbance and impacts to denning structures;
- Limiting trapping/nuisance control for other animals that could pose a risk to fisher (note: Trapping of fisher is prohibited by State law);
- Allowing the potential future translocation of the fisher onto enrolled lands; and
- Promoting the development of habitat structures that would support the fisher.

Public Comments

We are making the five permit application packages, including the individual site plans and the five draft EASs, available for public review and comment (see **ADDRESSES**). The final template CCAA and EAS that were finalized and signed by the Service on June 20, 2018, are also available for reference. You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on our proposed Federal action, including adequacy of the site plan in relation to the template CCAA, pursuant to the requirements for permits at 50 CFR parts 13 and 17.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*), and their implementing regulations (50 CFR 17.22, and 40 CFR 1506.6, respectively).

Robyn Thorson,

Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2019–14206 Filed 7–2–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW035.L51050000.EA0000.LVRCF1 805950.241A.18XL5017APMO #4500134707]

Temporary Closure and Temporary Restrictions of Specific Uses on Public Lands for the 2019 Burning Man Event (Permitted Event), Pershing County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure and restrictions.

SUMMARY: Under the authority of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office, will implement a temporary closure and temporary restrictions to protect public safety and resources on public lands both within and adjacent to the proposed Permitted Event on the Black Rock Desert playa.

DATES: The temporary closure and temporary restrictions takes effect from 12:01 a.m. July 25, 2019, to 11:59 p.m. September 30, 2019.

FOR FURTHER INFORMATION CONTACT: Mark E. Hall, Field Manager, BLM Black Rock Field Office, Winnemucca District, 5100 East Winnemucca Boulevard, Winnemucca, NV 89445–2921; telephone: 775–623–1500; email: *mehall@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The temporary closure and temporary restrictions affect public lands both within and adjacent to the Permitted Event authorized on the Black Rock Desert playa within the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area in Pershing County, Nevada. The temporary closure of public lands will be conducted in two phases in order to reduce impacts on the general public outside of the Permitted Event. Phase 1 will encompass a smaller temporary closure area during the building and tear-down of Black Rock City, and Phase 2 will encompass the larger, full temporary closure area during the event itself. Phase 2 includes all of the Phase 1 area. The Phase 2 temporary closure is the same size as the temporary closure area for the Permitted Event in previous years.

The legal description of the affected public lands in the temporary public closure area of both stages is:

Mount Diablo Meridian, Nevada

Phase 1, encompassing the smaller area of 9,715 acres, will be effective for 31 days before the main event from 12:01 a.m. Sunday, July 25, 2019, until 6:00 a.m. Monday, August 19, 2019. Phase 1 resumes for 24 days following the event at 6:00 a.m. Saturday, September 7, 2019, through 11:59 p.m. Monday, September 30, 2019.

Phase 1

T. 33 N, R. 24 E, unsurveyed
- Sec. 1, N½, those portions lying northwesterly of East Playa Highway;
- Sec. 2, N½ and SW¼;
- Sec. 3;
- Secs. 4 and 5, those portions lying southeasterly of Washoe County Road 34;
- Sec. 9, N½;

T. 33½ N, R. 24 E, unsurveyed
- Secs. 25 and 26;
- Sec. 27, those portions lying southeasterly of West Playa Highway;
- Sec. 33, S½, those portions lying easterly and northeasterly of Washoe County Road 34;
- Sec. 34, those portions lying southeasterly of West Playa Highway;
- Secs. 35 and 36.

T. 34 N, R. 24 E, partly unsurveyed
- Sec. 25;
- Sec. 26, those portions lying southeasterly of West Playa Highway;
- Sec. 27, SE¼, those portions lying southeasterly of West Playa Highway;
- Sec. 34, E½, those portions lying southeasterly of West Playa Highway;
- Secs. 35 and 36.

T. 34 N, R. 25 E, unsurveyed

Sec. 16, SW¼SW¼;
Sec. 21;
Sec. 27, W½NW¼ and W½SW¼;
Sec. 28;
Sec. 33, N½ and SW¼;
sec. 34; W½NW¼.

Phase 2, encompassing the larger area of 14,153 acres which includes all of Phase 1, will be effective for 19 days from 6:00 a.m. Monday, August 19, 2019, until 6:00 a.m. Saturday, September 7, 2019.

Phase 2

T. 33 N, R. 24 E, unsurveyed
Secs. 1 and 2, those portions lying northwesterly of East Playa Road;
Sec. 3;
Sec. 4, that portion lying southeasterly of Washoe County Road 34;
Sec. 5;
Sec. 8, NE¼;
Secs. 9 and 10, N½;
Sec. 11, N½, those portions lying northwesterly of East Playa Road.
T. 33 ½ N, R. 24 E, unsurveyed
Secs. 25 thru 27;
Secs. 28, 29 and 33, those portions lying easterly and northeasterly of Washoe County Road 34;
Secs. 34 thru 36.
T. 34 N, R. 24 E, partly unsurveyed
Secs. 23 and 24, S½;
Secs. 25 and 26;
Sec. 27, E½NE¼, E½SW¼, and SE¼;
Sec. 33, NE¼NE¼, S½NE¼, that portion of the SW¼ lying northeasterly of Washoe County Road 34, and SE¼;
Secs. 34 thru 36.
T. 33 N, R. 25 E,
Sec. 4, lots 2 thru 4, those portions lying northwesterly of East Playa Highway.
T. 34 N, R. 25 E, unsurveyed
Sec. 16, S½;
Sec. 21;
Sec. 22, W½NW¼ and SW¼;
Sec. 27, W½;
Sec. 28;
Sec. 33, those portions lying northwesterly of East Playa Highway;
Sec. 34, W½ those portions northwesterly of East Playa Highway.

The two-phase temporary closure area is in Pershing County, Nevada, and is necessary for the period of time from July 25, 2019, to midnight September 30, 2019, because of the Permitted Event. The Permitted Event's activities begin with the golden spike, fencing the site perimeter, Black Rock City setup (July 25 to August 19), followed by the actual event (August 20 to September 6), Black Rock City tear down and cleanup, and final site cleanup (September 7 to September 30).

The public temporary closure area comprises about 13 percent of the Black Rock Desert playa. Public access to the other 87 percent of the playa outside the temporary closure area will remain open to dispersed casual use.

The event area is fully contained within the Phase 2 temporary closure area. The event area is defined as the portion of the temporary closure area that: (1) Is entirely contained within the event perimeter fence, including 50 feet from the outside of the event perimeter fence; (2) Lies within 25 feet from the outside edge of the event access road; and (3) Includes the entirety of the aircraft parking area outside the event perimeter fence. The temporary closure and restrictions are necessary to provide a safe environment for the staffs, volunteers, paid participants and members of the public visiting the Black Rock Desert, and to protect public land resources by addressing law enforcement and public safety concerns associated with the event. The temporary closure and temporary restrictions are also necessary to enable BLM law enforcement personnel to provide for public safety and to protect the public lands, as well as to support and assist State and local agencies with enforcement of existing laws. The Permitted Event takes place within Pershing County, Nevada, a rural county with a small population and a small Sheriff's Department. Key BLM staff members—including the authorizing officer for the 2019 event, the event incident commander, and the law enforcement operations chief—met with the Pershing County Sheriff and his planning team to coordinate and plan the 2019 event. The Sheriff's input and comments are incorporated in this temporary closure order.

The Permitted Event attracts up to 70,000 paid participants to a remote, rural area, located more than 90 miles from urban infrastructure and support, including such services as public safety, emergency medical delivery, transportation, and communication. During the Permitted Event, Black Rock City, the temporary city associated with the event, becomes one of the largest population areas in Nevada.

A temporary closure and restrictions order, under the authority of 43 CFR 8364.1, is appropriate for a single event. The temporary closure and restrictions are specifically tailored to the time frame that is necessary to provide a safe environment for the public and for participants at the Permitted Event and to protect public land resources while avoiding imposing restrictions that may not be necessary in the area during the remainder of the year.

The BLM will post copies of the temporary closure, temporary restrictions, and an associated map in kiosks at access points to the Black Rock Desert playa, and at the Gerlach Post Office, Bruno's Restaurant, Empire Store, Black Rock City Offices, Friends of Black Rock-High Rock Offices, the BLM—Nevada Black Rock Station near Gerlach, the Winnemucca District Office, and the BLM—California Applegate Field Office. The BLM will also make the materials available on the BLM external web page at: *http://www.blm.gov.*

In addition to the Nevada Collateral Forfeiture and Bail Schedule as authorized by the United States District Court, District of Nevada and under the authority of Section 303(a) of FLPMA, 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce a temporary public closure and the following temporary restrictions will apply within and adjacent to the Permitted Event on the Black Rock Desert playa from July 25, 2019, through September 30, 2019:

Temporary Restrictions

(a) Environmental Resource Management and Protection

(1) No person may deface, disturb, remove or destroy any natural object.

(2) Fires/Campfires: The ignition of fires on the surface of the Black Rock Desert playa without a burn blanket or burn pan is prohibited. Campfires may only be burned in containers that are sturdily elevated 6 inches above the playa surface and in a manner that does not pose a risk of fire debris falling onto the playa surface. Plastic and nonflammable materials may not be burned in campfires. The ignition of fires other than a campfire is prohibited. This restriction does not apply to events sanctioned and regulated as art burns by the event organizer.

(3) Fireworks: The use, sale or possession of personal fireworks is prohibited except for uses of fireworks approved by the permit holder and used as part of a Burning Man sanctioned art burn event.

(4) Grey and Black Water Discharge: The discharge and dumping of grey water onto the playa/ground surface is prohibited. Grey water is defined as water that has been used for cooking, washing, dishwashing, or bathing and/or contains soap, detergent, or food scraps/residue, regardless of whether such products are biodegradable or have been filtered or disinfected. Black water is defined as waste water containing feces, urine and/or flush water.

(5) Human Waste: The depositing of human waste (liquid and/or solid) on the playa/ground surface is prohibited.

(6) Trash: The discharge of any and all trash/litter onto the ground/playa surface is prohibited. All event participants must pack out and properly dispose of all trash at an appropriate disposal facility.

(7) Hazardous Materials: The dumping or discharge of vehicle oil,

petroleum products or other hazardous household, commercial or industrial refuse or waste onto the playa surface is prohibited. This applies to all recreational vehicles, trailers, motorhomes, port-a-potties, generators, and other camp infrastructure.

(8) Fuel Storage: The storage of greater than 110 gallons of fuel in a single camp is prohibited. Each camp storing fuel must establish a designated fuel storage area at least ten (10) feet apart from combustible materials and twenty-five (25) feet from vehicles, camp trailers/RV's, and generators, unless manufactured and designed to store fuel, and any sources of ignition (such as burning cigarettes, open flame, electrical connections or trailer/RV appliances); and one hundred (100) feet from other designated fuel storage areas. Fuel containers, regardless of size or type, shall not exceed 80% capacity per container. Storage areas for all fuel, regardless of amount, and not exceeding 110 gallons, must include a secondary containment system that can hold a liquid volume equal to or greater than 110% of the largest container being stored. Secondary containment measures must comply with the following:

(a) The secondary containment system must be free of cracks or gaps and constructed of materials impermeable to the fuel(s) being stored; and

(b) The secondary containment system must be designed to allow the removal of any liquids captured resulting from leaks, spills or precipitation.

(9) Water Discharge: The unauthorized dumping or discharge of fresh water onto the playa surface, onto city streets and/or other public areas or onto camp electric systems in a manner that creates a hazard or nuisance is prohibited. This provision does not prohibit the use of water trucks contracted by the event organizer to provide dust abatement measures.

(b) Commercial Activities

In accordance with 43 CFR 2932, vending and the 2019 Special Recreation Permit Stipulation for the Permitted Event, ALL vendors and air carrier services must provide proof of authorization to operate at the Permitted Event issued by the permitting agency and/or the permit holder upon request. Failure to provide such authorization could result in eviction from the event.

(c) Aircraft Landing

The public closure area is closed to aircraft landing, taking off, and taxiing. Aircraft is defined in Title 18, U.S.C., section 31(a)(1) and includes lighter-than-air craft and ultra-light craft. The following exceptions apply:

(1) All aircraft operations, including ultra-light and helicopter landings and takeoffs, will occur at the designated 88NV Black Rock City Airport landing strips and areas defined by airport management. All takeoffs and landings will occur only during the hours of operation (6:00 through 18:30) of the airport as described in the Burning Man Operating Plan. All pilots that use the Black Rock City Airport must agree to and abide by the published airport rules and regulations;

(2) Only fixed wing and helicopters providing emergency medical services may land at the designated Emergency Medical Services areas/pads or at other locations when required for medical incidents. The BLM authorized officer, or an authorized State/Local Law Enforcement Officer or his/her delegated representative may approve other helicopter landings and takeoffs when deemed necessary for the benefit of the law enforcement operation; and

(3) Landings or takeoffs of lighter-than-air craft previously approved by the BLM authorized officer.

(d) Alcohol/Prohibited Substance

(1) Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion, is prohibited;

(2) Possession of alcohol by minors:

(i) The following are prohibited:

(A) Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands; and

(B) Selling, offering to sell or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands.

(3) Operation of a motor vehicle while under the influence of alcohol, narcotics or dangerous drugs:

(i) Title 43 CFR 8341.1(f)(3) prohibits the operation of an off-road motor vehicle on public land while under the influence of alcohol, narcotics or dangerous drugs.

(ii) In addition to the prohibition found at 43 CFR 8341.1(f)(3), it is prohibited for any person to operate or be in actual physical control of a motor vehicle while:

(A) The operator is under the combined influence of alcohol, a drug, or drugs to a degree that renders the operator incapable of safe operation of that vehicle; or

(B) The alcohol concentration in the operator's blood or breath is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more of alcohol per 210 liters of breath; and

(C) It is unlawful for any person to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access with an amount of a prohibited substance in his or her urine or blood that is equal to or greater than the following nanograms per milliliter (ng/ml):

(1) Amphetamine: Urine, 500 ng/ml; blood, 100 ng/ml;

(2) Cocaine: Urine, 150 ng/ml; blood, 50 ng/ml;

(3) Cocaine metabolite: Urine, 150 ng/ml; blood, 50 ng/ml;

(4) Heroin: Urine, 2,000 ng/ml; blood, 50 ng/ml;

(5) Heroin metabolite:

(i) Morphine: Urine, 2,000 ng/ml; blood, 50 ng/ml;

(ii) 6-monoacetyl morphine: Urine, 10 ng/ml; blood, 10 ng/ml;

(6) Lysergic acid diethylamide: Urine, 25 ng/ml; blood, 10 ng/ml;

(7) Marijuana: Urine, 10 ng/ml; blood, 2 ng/ml;

(8) Marijuana metabolite: Urine, 15 ng/ml; blood, 5 ng/ml;

(9) Methamphetamine: Urine, 500 ng/ml; blood, 100 ng/ml;

(10) Phencyclidine: Urine, 25 ng/ml; blood, 10 ng/ml;

(iii) Tests:

(A) At the request or direction of any law enforcement officer authorized by the Department of the Interior to enforce this closure and restriction order, who has probable cause to believe that an operator of a motor vehicle has violated a provision of paragraph (i) or (ii) of this section, the operator shall submit to one or more tests of the blood, breath, saliva or urine for the purpose of determining blood alcohol and drug content.

(B) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(C) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized law enforcement officer.

(D) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(iv) Presumptive levels:

(A) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (i) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (ii)(B) of this section, this fact does not give rise to

any presumption that the operator is or is not under the influence of alcohol.

(B) The provisions of paragraph (iv)(A) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, a drug or multiple drugs or any combination thereof.

(4) Definitions:

(i) Open container: Any bottle, can or other container which contains an alcoholic beverage, if that container does not have a closed top or lid for which the seal has not been broken. If the container has been opened one or more times, and the lid or top has been replaced, that container is an open container.

(ii) Possession of an open container includes any open container that is physically possessed by the driver or operator or is adjacent to and reachable by that driver or operator. This includes, but is not limited, to containers in a cup holder or rack adjacent to the driver or operator, containers on a vehicle floor next to the driver or operator, and containers on a seat or console area next to a driver or operator.

(e) Drug Paraphernalia

(1) The possession of drug paraphernalia is prohibited.

(2) Definition: Drug paraphernalia means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of any state or Federal law, or regulation issued pursuant to law.

(f) Disorderly Conduct

(1) Disorderly conduct is prohibited.

(2) Definition: Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy or violence; or recklessly creating a risk thereof:

(i) Engages in fighting or violent behavior;

(ii) Uses language, an utterance or gesture or engages in a display or act that is physically threatening or menacing or done in a manner that is likely to inflict injury or incite an immediate breach of the peace, or

(iii) Obstructs, resists or attempts to elude a law enforcement officer, or fails to follow their orders or directions.

(g) Eviction of Persons

(1) The public closure area is closed to any person who:

(i) Has been evicted from the event by the permit holder, whether or not the eviction was requested by the BLM;

(ii) Has been evicted from the event by the BLM; or

(iii) Has been ordered by a law enforcement officer to leave the area of the permitted event.

(2) Any person evicted from the event forfeits all privileges to be present within the perimeter fence or anywhere else within the public closure area even if they possess a ticket to attend the event.

(h) Motor Vehicles

(1) Must comply with the following requirements:

(i) The operator of a motor vehicle must possess a valid driver's license.

(ii) Motor vehicles and trailers must possess evidence of valid registration, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iii) Motor vehicles must possess evidence of valid insurance, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(iv) Motor vehicles and trailers must not block a street used for vehicular travel or a pedestrian pathway.

(v) Motor vehicles must not exceed the posted or designated speed limits. Posted or designated speed limits also apply to: motorized skateboards, hover boards, electric assist bicycles and Go-Peds with handlebars.

(vi) No person shall occupy a trailer while the motor vehicle is in transit upon a roadway, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration.

(vii) During night hours, from a half-hour after sunset to a half-hour before sunrise, motor vehicles, other than a motorcycle or golf cart must be equipped with at least two working headlamps and at least two functioning tail lamps, except for mutant vehicles or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(viii) Motor vehicles, including motorcycles or golf carts, must display a red, amber or yellow light brake light visible to the rear in normal sunlight upon application of the brake, except for mutant vehicles, or other vehicles registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(ix) Motorcycles or golf carts require only one working headlamp and one working tail light during night hours, from a half-hour after sunset to a half-hour before sunrise, motor vehicles—unless registered with the permitted event organizers and operated within the scope of that registration, so long as they are adequately lit according to Black Rock City LLC Department of Mutant Vehicle requirements.

(x) Trailers pulled by motor vehicles must be equipped with at least two functioning tail lamps and at least two functioning brake lights.

(2) The public closure area is closed to motor vehicle use, except as provided below. Motor vehicles may be operated within the public closure area under the circumstances listed below:

(i) Participant arrival and departure on designated routes;

(ii) BLM, medical, law enforcement and firefighting vehicles are authorized at all times;

(iii) Vehicles, mutant vehicles or art cars operated by the permit holder's staff or contractors and service providers on behalf of the permit holder are authorized at all times. These vehicles must display evidence of event registration in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(iv) Vehicles used by disabled drivers and displaying official state disabled driver license plates or placards; or mutant vehicles and art cars, or other vehicles registered with the permit holder must display evidence of registration at all times in such manner that it is visible to the rear of the vehicle while the vehicle is in motion;

(v) Participant drop-off of approved burnable material and wood to the Burn Garden/Wood Reclamation Stations (located on open playa at 3:00, 6:00, 9:00 Promenades and the Man base) from 10:00 a.m. Sunday through the end of day Tuesday, post event;

(vi) Passage through, without stopping, the public closure area on the west or east playa roads or from the east side of the playa to the west and vice versa to traverse the entirety of the playa surface.

(vii) Support vehicles for art vehicles, mutant vehicles and theme camps will be allowed to drive to and from fueling stations.

(3) Definitions:

(i) A motor vehicle is any device designed for and capable of travel over land and which is self-propelled by a motor, but does not include any vehicle operated on rails or any motorized wheelchair.

(ii) Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion.

(iii) ''Trailer'' means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, this includes camp trailers, pop-up trailers, 4′x7′ or larger flatbed trailers, enclosed cargo trailers, or RV style trailers.

(i) Public Camping

The public closure area is closed to public camping with the following exception:

The permitted event's ticket holders who are camped in designated event areas provided by the permit holder and ticket holders who are camped in the authorized pilot camp and the permit holder's authorized staff, contractors and BLM authorized event management related camps are exempt from this closure.

(j) Public Use

The public closure area is closed to use by members of the public unless that person:

(i) Is traveling through, without stopping, the public closure area on the west or east playa roads; possesses a valid ticket to attend the event;

(ii) Is an employee or authorized volunteer with the BLM, a law enforcement officer, emergency medical service provider, fire protection provider, or another public agency employee working at the event and that individual is assigned to the event;

(iii) Is a person working at or attending the event on behalf of the permit holder; or is authorized by the permit holder to be onsite prior to the commencement of the event for the primary purpose of constructing, creating, designing or installing art, displays, buildings, facilities or other items and structures in connection with the event;

(iv) Is an employee of a commercial operation contracted to provide services to the event organizers and/or participants authorized by the permit holder through a contract or agreement and authorized by BLM through a Special Recreation Permit.

(k) Lasers

(1) The possession and or use of handheld lasers is prohibited.

(2) Definition:

(i) A laser means any hand held laser beam device or demonstration laser product that emits a single point of light amplified by the stimulated emission of radiation that is visible to the human eye.

(l) Weapons

(1) The possession of any weapon is prohibited except weapons within motor vehicles passing, without stopping, through the public closure area on the designated west or east playa roads or from the east side of the playa to the west and vice versa to traverse the entirety of the playa surface.

(2) The discharge of any weapon is prohibited.

(3) The prohibitions above shall not apply to county, state, tribal and Federal law enforcement personnel who are working in their official capacity at the event. ''Art projects'' that include weapons and are sanctioned by the permit holder will be permitted after obtaining authorization from the BLM authorized officer.

(4) Definitions:

(i) Weapon means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, cross bow, blowgun, spear gun, hand-thrown spear, sling shot, irritant gas device, electric stunning or immobilization device, explosive device, any implement designed to expel a projectile, switch-blade knife, any blade which is greater than 10 inches in length from the tip of the blade to the edge of the hilt or finger guard nearest the blade (*e.g.,* swords, dirks, daggers, machetes) or any other weapon the possession of which is prohibited by state law. Exception: This rule does not apply in a kitchen or cooking environment or where an event worker is wearing or utilizing a construction knife for their duties at the event.

(ii) Firearm means any pistol, revolver, rifle, shotgun or other device which is designed to, or may be readily converted to expel a projectile by the ignition of a propellant.

(iii) Discharge means the expelling of a projectile from a weapon.

(m) Enforcement

Any person who violates this temporary closure or any of these temporary restrictions may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

Authority: 43 CFR 8364.1.

Mark E. Hall,

Field Manager, Black Rock Field Office, Winnemucca District.

[FR Doc. 2019–14231 Filed 7–2–19; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–28322; 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 22, 2019, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by July 18, 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 22, 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:

MICHIGAN

Calhoun County

Record Printing and Box Company Building, 15 Carlyle St., Battle Creek, SG100004225.

Wayne County

Checker Cab Taxi Garage and Office Building, 2128 Trumbull Ave., Detroit, SG100004226.

MISSOURI

Cape Girardeau County

Fort D, 920 Fort St., Cape Girardeau, SG100004219.

Laclede County

Rice-Stix Building, The, 200 E. Commercial St., Lebanon, SG100004220.

NEW MEXICO

Chaves County

Henge, The, 3600 La Joya Rd., Roswell vicinity, SG100004221.

UTAH

Sanpete County

Pectol-Works House, 96 West 400 North, Manti, SG100004223.

A request to move has been received for the following resources:

SOUTH DAKOTA

Hutchinson County

Deckert, Ludwig, House, (German-Russian Folk Architecture TR), 880 S. Cedar St., Freeman, MV84003309.

Authority: 36 CFR 60.13.

Dated: June 26, 2019.

Christopher Hetzel,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2019–14200 Filed 7–2–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–HPS–NPS0027440; PPWOCRADP1, PRN00HP12.CS0000, XXXP104214; OMB Control Number 1024–0009]

Agency Information Collection Activities; Historic Preservation Certification Application

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 3, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, Acting NPS Information Collection Clearance Officer, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at *phadrea_ponds@nps.gov;* or by telephone at 970–267–7231. Please reference OMB Control Number 1024–0009 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR by mail, contact Brian Goeken, Chief, Technical Preservation Services, 1849 C St. NW, Room 2255, Washington, DC 20240; or by email at *brian_goeken@nps.gov;* or by telephone at 202–354–2033. Please reference OMB Control Number 1024–0009 in the subject line of your comments.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Federal Historic Preservation Tax Incentives Program encourages private-sector investment in the rehabilitation and re-use of historic buildings. Through this program, underutilized or vacant buildings throughout the country of every period, size, style, and type have been rehabilitated and reused in a manner that maintains their historic character. To be eligible for tax incentives for historic buildings, a building must be listed individually on the National Register of Historic Places (NRHP); or located in a registered historic district and certified by the NPS as contributing to the historic significance of that district. A registered historic district is any district listed on the NRHP; or a state or local district if the district and the enabling statute have also been certified by the NPS. The NRHP is the official list of the Nation's historic places worthy of preservation.

Section 47 of the Internal Revenue Code requires that the Secretary of the Interior certify to the Secretary of the Treasury upon application by owners of historic properties for Federal tax benefits: (a) The historic significance of the property, and (b) that the rehabilitation work is consistent with its historic character. The NPS administers the program with the Internal Revenue Service in partnership with the State Historic Preservation Offices (SHPOs). The NPS uses the information collected in the Historic Preservation Certification Application (Forms 10–168, 10–168a, 10–168b, and 10–168c) to evaluate the condition and historic significance of buildings undergoing rehabilitation, and to evaluate whether or not the rehabilitation work meets the Secretary of the Interior's Standards for Rehabilitation.

Regulations codified in 36 CFR part 67 contain a requirement for completion of an application form. The NPS needs the information required on the application form to allow the authorized officer to determine if the project is qualified to obtain historic preservation certifications from the Secretary of the Interior. These certifications are necessary for an applicant to receive substantial federal tax incentives authorized by Section 47 of the Internal Revenue Code. These incentives include a 20% federal income tax credit for the rehabilitation of income-producing historic buildings and an income tax deduction for the charitable donation of easements on historic properties. The Internal Revenue Code also provides a 10% federal income tax credit for the rehabilitation of nonhistoric, nonresidential buildings built before 1936. An owner of a nonhistoric building in a historic district must also use the application to obtain a certification from the Secretary of the Interior that his or her building does not contribute to the significance of the historic district before claiming this

lesser tax credit for rehabilitation. The 10% credit was repealed as part of the 2017 tax reform legislation, but remains in effect under certain transition rules.

SHPOs are the first point of contact for property owners wishing to use the rehabilitation tax credits. They help applicants determine if an historic building is eligible for Federal or State historic preservation tax incentives, provide guidance on an application before or after the project begins, and provide advice on appropriate preservation work. SHPOs use Forms 10–168d and 10–168e to make recommendations to NPS.

In accordance with 36 CFR 67, we also collect information for: (1) Certifications of State and local statutes (§ 67.8), (2) certifications of State or local historic districts (§ 67.9), and (3) appeals (§ 67.10).

Title of Collection: Historic Preservation Certifications, 36 CFR part 67.

OMB Control Number: 1024–0009.

Form Number: NPS Forms 10–168, 10–168a, 10–168b, 10–168c, 10–168d, and 10–168e.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, organizations, companies and businesses, and State or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $3,973,359 based primarily on application fees and other costs (includes printing photographs and architectural drawings).

Activity	Estimated total annual responses	Estimated average completion time	Estimated total annual burden hours *
Form 10–168 (Part 1):			
Individuals	74	27	1,998
Private Sector	1,401	27	37,827
Form 10–168a (Part 2):			
Individuals	65	51	3,315
Private Sector	1,242	51	63,342
Form 10–168b (Amendment):			
Individuals	94	15	1,410
Private Sector	1,795	15	26,925
Form 10–168c (Part 3):			
Individuals	44	17	748
Private Sector	841	17	14,297
Forms 10–168d and 10–168e (State Review Sheets):			
Form 10–168d	1,475	2.5	3,688
Form 10–168e (Part 2s)	1,307	5	6,535
Form 10–168e (Part 3s)	885	3.5	3,098
Form 10–168e (for Amendments)	1,889	2.5	4,723
Certification of Statutes	1	5	5
Cert of Historic Districts	3	60	180
Appeals:			
Individuals	4	40	160
Private Sector	30	40	1,200
Totals	11,150		169,451

* Rounded

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2019–14223 Filed 7–2–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1088]

Certain Road Construction Machines and Components Thereof; Commission Final Determination Finding a Section 337 Violation; Issuance of a Limited Exclusion Order and a Cease and Desist Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (''section 337''), as amended, in this investigation. The Commission has issued a limited exclusion order (''LEO'') prohibiting the importation by respondents Wirtgen GmbH, Wirtgen Group Holding GmbH (''Wirtgen Group''), and Wirtgen America, Inc. (''Wirtgen America'') of certain road construction machines and components thereof that infringe claim 19 of U.S. Patent No. 7,140,693. The Commission has also issued a cease and desist order (''CDO'') directed to respondent Wirtgen America. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E

Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server 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.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 29, 2017, based on a complaint, as supplemented, filed by Caterpillar Inc. of Peoria, Illinois and Caterpillar Paving Products, Inc. of Minneapolis, Minnesota (collectively, ''Complainants''). *See* 82 FR 56625–26 (Nov. 29, 2017). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain road construction machines and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,140,693 (''the '693 patent''); 9,045,871 (''the '871 patent''); and 7,641,419 (''the '419 patent''). *See id.* The notice of investigation identifies the following respondents: Wirtgen GmbH of Windhagen, Germany; Joseph Vögele AG of Ludwigshafen, Germany; Wirtgen Group of Windhagen, Germany; and Wirtgen America of Antioch, Tennessee. *See id.* The Office of Unfair Import Investigations is not a party to this investigation. *See id.*

The ALJ terminated the '871 patent from the investigation after finding the asserted claims of that patent to be invalid under 35 U.S.C. 101. *See* Order No. 18 (May 24, 2018), *previously reviewed,* Comm'n Notice (July 3, 2018). The Commission terminated the '419 patent from the investigation after Complainants withdrew their allegations with respect to that patent. *See* Order No. 26 (July 5, 2018), *unreviewed,* Comm'n Notice (July 25, 2018). The Commission also terminated claim 25 of the '693 patent from the investigation after Complainants withdrew their allegations as to that claim. *See* Order No. 38 (Oct. 16, 2018), *unreviewed,* Comm'n Notice (Nov. 9, 2018).

On February 14, 2019, the ALJ issued the FID finding a violation of section 337 by certain accused products by reason of infringement of claim 19 of the '693 patent. In addition, the FID finds all the asserted claims, except claim 19 of the '693 patent, to be invalid as anticipated and/or obvious over the prior art. Furthermore, the FID finds that Complainants have satisfied the domestic industry requirement with respect to the '693 patent. The ALJ also issued a recommended determination (''RD'') recommending that the Commission issue an LEO against the infringing products and a CDO against each respondent. The ALJ further recommended against setting a bond during the period of Presidential review.

On April 12, 2019, the Commission issued a Notice determining to review the FID in part. *See* 84 FR 16282–83 (Apr. 18, 2019). The Commission's notice solicited written submissions on remedy, the public interest, and bonding. On April 30, 2019, the parties filed written submissions in response to the April 12, 2019 Notice, and on May 10, 2019, the parties filed responses to each other's submissions.

Having examined the record of this investigation, including the FID, the RD, and the parties' submissions, the Commission has determined to affirm with modification the FID's ultimate conclusion of a section 337 violation with respect to claim 19 of the '693 patent. In addition, as explained in the Commission Opinion filed concurrently herewith, the Commission has determined to modify the FID's findings with respect to: (1) The construction of the claim term ''a retracted position relative to said frame''; (2) the infringement of the asserted method claims, *i.e.,* claims 17–19, 24, 26–28, and 38 of the '693 patent; (3) the invalidity of claims 1, 15–18, 24, 26, 27, 36, and 38 of the '693 patent over Volpe SF–100 T4 in view of U.S. Patent No. 3,633,292 (Ulrich); (4) no invalidity of claims 1, 15–19, 24, 26–28, 36, and 38 of the '693 patent over U.S. Patent No. 3,843,274 (Gutman) alone or in combination with other prior art; and (5) no invalidity of claim 19 over Volpe SF–100 T4 in view of Ulrich and WO 97/42377 (Busley). All findings in the FID that are not inconsistent with the Commission's determination are affirmed.

The Commission has also determined to affirm the ALJ's initial determination (Order No. 18) terminating the '871 patent from the investigation based on the invalidity of the asserted claims of that patent under 35 U.S.C. 101. Commissioner Schmidtlein dissents from the Commission's decision to affirm Order No. 18 and has filed a separate dissenting opinion.

Accordingly, the Commission finds that there is a violation of section 337 with respect to claim 19 of the '693 patent. The Commission has determined that the appropriate remedy is a limited exclusion order against Wirtgen Group, Wirtgen GmbH, and Wirtgen America's infringing products, and a cease and desist order against Wirtgen America. The Commission has also determined that the public interest factors enumerated in subsections 337(d)(1) and (f)(1) (19 U.S.C. 1337(d)(1), (f)(1)) do not preclude the issuance of the limited exclusion order and cease and desist order. The Commission has further determined to set a bond at zero (0) percent of entered value during the Presidential review period (19 U.S.C. 1337(j)).

The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 27, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–14189 Filed 7–2–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1166]

Certain Foodservice Equipment and Components Thereof; 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 May 30, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Illinois Tool Works, Inc. of Glenview, Illinois; Vesta Global Limited of Hong Kong; Vesta (Guangzhou) Catering Equipment Co., Ltd. of China; and Admiral Craft Equipment Corp. of Westbury, New York. A letter supplement was filed on June 14, 2019. The supplemented complaint alleges violations of section 337 based upon in the importation of articles into the United States, or in the sale of such articles by the owner, importer, or consignee of certain foodservice equipment and components thereof by reason of misappropriation of trade secrets and unfair competition through

tortious interference with contractual relationships, the threat or effect of which is to destroy or substantially injure a domestic industry.

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, 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, The 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 (2019).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 26, 2019, *ordered that*—

(1) 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)(A) of section 337 in the importation of articles into the United States, or in the sale of such articles by the owner, importer, or consignee, of certain products identified in paragraph (2) by reason of misappropriation of trade secrets or unfair competition through tortious interference with contractual relationships, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) 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 ''commercial kitchen equipment and components thereof for use in restaurants, bars, cafes, cafeterias, or the like'';

(3) 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:

Illinois Tool Works Inc., 155 Harlem Avenue, Glenview, IL 60025

Vesta Global Limited, Unit 902 9F, 113 Argyle Street, Mong Kok, Kowloon, Hong Kong

Vesta (Guangzhou) Catering Equipment, Co., Ltd., 43 South Lianglong Street, Huashan town, Huadu District, Guangzhou, China 510880

Admiral Craft Equipment Corp., 800 Shames Drive, Westbury, NY 11590

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Guangzhou Rebenet Catering Equipment Manufacturing Co., Ltd., 101, 9 Jintian Industrial Road, Huadong Town, Huadu District, Guangzhou, China 510890

Zhou Hao, Team 3, Xihe Village, Yankou Town, Xixiang County, Shaanxi, Province, China 723502

Aceplus International Limited (aka Ace Plus International Ltd.), Rm. 1104, Fuli Tianhe Commercial Building, #4 HuaTing Road, Guangzhou, China 510610

Guangzhou Liangsheng Trading Co., Ltd., Rm. 1104, Fuli Tianhe Commercial Building, #4 HuaTing Road, Guangzhou, China 510610

Zeng Zhaoliang, Room 1104, Fuli Tian He Shang Mao Building, No. 4, Tian He Bei Lin He Dong Hua Ting Road, Guangzhou Guangdong Province, China 510610

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) 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 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 complaint and the notice of investigation. Extensions of time for submitting responses to the 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 complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the 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 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 27, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–14190 Filed 7–2–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1068]

Certain Microfluidic Devices; Notice of Modification of Deadline for Reply Supplemental Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the ''Commission'') has determined to modify the deadline for reply supplemental submissions on the public interest.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its

internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (''EDIS'') (*https://edis.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On September 6, 2017, the Commission instituted this investigation based on a complaint filed by Bio-Rad Laboratories, Inc. of Hercules, California (''Bio-Rad'') and Lawrence Livermore National Security, LLC of Livermore, California (collectively, ''Complainants''). 82 FR 42115 (Sept. 6, 2017). Complainants alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), by 10X Genomics, Inc. of Pleasanton, California (''10X'') based on its importation into the United States of certain microfluidic devices asserted to infringe one or more claims of U.S. Patent Nos. 9,500,664; 9,636,682; 9,649,635; and 9,126,160. *Id.* The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.* The Commission also directed the ALJ to take evidence and hear arguments regarding the public interest and provide the Commission with findings of fact and a recommended determination on the statutory public interest factors, as requested by 10X. *Id.*

On September 20, 2018, the presiding administrative law judge (''ALJ'') issued a final initial determination finding that 10X violated section 337 through its importation of its GEM–Q and GEM–U Chips (collectively, the ''GEM Chips''). However, the ALJ found no violation by 10X based on its importation of its Chip SE or Chip GB.

On September 28, 2018, the ALJ issued a recommended determination on remedy, bonding, and the public interest (the ''RD''). The ALJ recommended that, if the Commission finds a violation of section 337, it should issue a limited exclusion order (''LEO'') against infringing microfluidic devices, which are imported, sold for importation, and/or sold after importation by 10X. The LEO would prevent the importation by 10X of microfluidic devices that infringe Complainants' asserted patents. The ALJ further recommended that, if the Commission finds a violation of section 337, it should issue a cease and desist order (''CDO'') against 10X. The CDO would prevent the transfer by 10X to others of microfluidic devices that infringe Complainants' asserted patents. The ALJ found that ''the public interest factors weigh in favor of imposition of the recommended remedial orders.'' RD at 30.

On December 4, 2018, the Commission determined to review the ALJ's findings as to the GEM Chips, the Chip SE, and the Chip GB. 83 FR 63672 (Dec. 11, 2018). The Commission also requested briefing from the parties, interested government agencies, and other interested persons on remedy, the public interest, and bonding. *Id.*

On June 10, 2019, the Commission issued another notice, which requested supplemental information from the parties, interested government agencies, and other interested persons on the public interest. 84 FR 27802 (June 14, 2019). The Commission's notice requested that the parties file their opening submissions by June 24, 2019, and their reply submissions by July 1, 2019. The Commission's notice also requested that interested government agencies and other interested persons file their comments by July 1, 2019.

To ensure the opportunity to respond to comments from interested government agencies and other interested persons, the Commission has determined to modify the briefing schedule to provide for reply submissions by July 15, 2019.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 28, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–14257 Filed 7–2–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Administrator, Office of Trade Adjustment Assistance, at the address shown below, no later than July 15, 2019.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than July 15, 2019.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 11th day of June 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

188 TAA PETITIONS INSTITUTED BETWEEN 4/1/19 AND 5/31/19

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94677	Dexcom Inc. (Company)	Mesa, AZ	04/01/19	03/29/19
94678	Wells Fargo Vendor Financial (Workers)	Macon, GA	04/01/19	03/29/19
94679	Wells Fargo Vendor Financial LLC (Workers)	Macon, GA	04/01/19	03/29/19
94680	Wells Fargo Vendor Financial Services (Workers)	Macon, GA	04/01/19	03/29/19

188 TAA PETITIONS INSTITUTED BETWEEN 4/1/19 AND 5/31/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94681	Bosal Industries-Georgia, Inc. (Union)	Ypsilanti, MI	04/02/19	03/22/19
94682	Bryant Rubber Corp., including on-site leased workers from Kimco (Company).	Harbor City, CA	04/02/19	04/01/19
94683	Steelcase Inc. (State/One-Stop)	, MI	04/02/19	04/01/19
94684	Superior Industries International (State/One-Stop)	Fayetteville, AR	04/02/19	04/01/19
94685	Alorica Inc. (State/One-Stop)	Fredericksburg, VA	04/03/19	04/02/19
94686	Chinook Trading Company (Chinook Asia LLC) (State/One-Stop).	Lake Oswego, OR	04/03/19	04/02/19
94687	Consolidated Metco (Company)	Etowah, TN	04/04/19	04/03/19
94688	Fargo Assembly Company (State/One-Stop)	Atchison, KS	04/04/19	04/03/19
94689	Philly Shipyard, Inc. (Union)	Philadelphia, PA	04/04/19	04/03/19
94690	Tosoh Quartz, Inc. (State/One-Stop)	Portland, OR	04/04/19	04/03/19
94691	Android (Union)	Belvidere, IL	04/05/19	04/04/19
94692	ATT Inc. (Workers)	Oakland and San Ramon, CA.	04/05/19	04/04/19
94693	CSG International (State/One-Stop)	Elkhorn, NE	04/05/19	04/03/19
94694	Faneuil, Inc. (Vienna location only) (State/One-Stop)	Vienna, VA	04/05/19	04/04/19
94695	Grupo Antolin (Union)	Belvidere, IL	04/05/19	04/04/19
94696	Industrial Harness Company, Inc. (Company)	Shippensburg, PA	04/05/19	04/04/19
94697	Integrated Manufacturing and Assembly (State/One-Stop)	Hamtramck, MI	04/05/19	04/04/19
94698	Lumentum (State/One-Stop)	Milpitas, CA	04/05/19	04/04/19
94699	The Mosaic Company (State/One-Stop)	Plymouth, MN	04/05/19	04/04/19
94700	Payless (State/One-Stop)	Topeka, KS	04/05/19	04/04/19
94701	Cognizant (State/One-Stop)	Topeka, KS	04/05/19	04/04/19
94702	Rosenberger North America (Company)	Plano, TX	04/05/19	04/04/19
94703	Hanesbrands, Inc. (Company)	Humacao, PR	04/05/19	04/04/19
94704	Sulzer Pumps US Inc./Sulzer Bingham Pumps (State/One-Stop).	Portland, OR	04/05/19	04/04/19
94705	Syncreon (Union)	Belvidere, IL	04/05/19	04/04/19
94706	DXC Technologies (State/One-Stop)	Tysons, VA	04/08/19	04/05/19
94707	The Flint Group (State/One-Stop)	Weyers Cave, VA	04/08/19	04/05/19
94708	Amita Health (Workers)	Lisle, IL	04/09/19	04/08/19
94709	Cardone Industries, Inc. (Company)	Philadelphia, PA	04/09/19	04/08/19
94710	Claims Recovery Financial Services (State/One-Stop)	Albion, NY	04/09/19	04/08/19
94711	Helmut Lang New York LLC (State/One-Stop)	New York, NY	04/09/19	04/08/19
94712	Highmark (Workers)	Camp Hill, PA	04/09/19	04/05/19
94713	Performance Direct, Inc. (Workers)	Sophia, WV	04/09/19	04/08/19
94714	Verizon Wireless (State/One-Stop)	Albuquerque, NM	04/09/19	04/08/19
94715	Zinus (Workers)	Tracy, CA	04/09/19	04/08/19
94716	Zinus (Workers)	Tracy, CA	04/09/19	04/08/19
94717	Zinus (Workers)	Summerville, SC	04/09/19	04/08/19
94718	HSBC Technology Services, USA (State/One-Stop)	Arlington Heights, IL	04/10/19	04/10/19
94719	Johnson Crushers International Inc. (State/One-Stop)	Eugene, OR	04/10/19	04/09/19
94720	Savox Communications Inc. (State/One-Stop)	Lincoln, NE	04/10/19	04/09/19
94721	Agfa US Corp. (Company)	Greenville, SC	04/11/19	04/10/19
94722	Atos IT Solutions & Services (State/One-Stop)	Hillsboro, OR	04/11/19	04/10/19
94723	Cardone Industries, Inc. (Workers)	Philadelphia, PA	04/11/19	04/04/19
94724	Continental Tire the Americas, LLC (State/One-Stop)	Mt. Vernon, IL	04/11/19	04/11/19
94725	Hanesbrands, Inc. (Company)	Mt. Airy, NC	04/11/19	04/10/19
94726	Marshfield Clinic Health System, Inc. (Workers)	Marshfield, WI	04/11/19	04/08/19
94727	HSNi (Workers)	St. Petersburg, FL	04/12/19	04/11/19
94728	Intel (State/One-Stop)	Hillsboro, OR	04/12/19	04/11/19
94729	Alfa Laval (Workers)	Lykens, PA	04/15/19	04/14/19
94730	Partners HealthCare Systems, Inc. (State/One-Stop)	Cambridge, MA	04/15/19	04/12/19
94731	State Street Corporation (State/One-Stop)	Quincy, MA	04/15/19	03/29/19
94732	Dimension Data North America, Inc. (State/One-Stop)	Santa Clara, CA	04/16/19	04/11/19
94733	EaglePicher Technologies LLC (State/One-Stop)	Joplin, MO	04/16/19	04/15/19
94734	Anixter International, Inc. (Workers)	Glenview, IL	04/17/19	04/16/19
94735	Consumer Products Group—a Company of Leggett & Platt (State/One-Stop).	Neosho, MO	04/17/19	04/17/19
94736	Construction Equipment Company (State/One-Stop)	Sheridan, OR	04/18/19	04/17/19
94737	LaMont Limited (State/One-Stop)	Burlington, IA	04/18/19	04/17/19
94738	Thermo Fisher Scientific Inc. (Company)	Bellefonte, PA	04/18/19	04/17/19
94739	Amphenol Printed Circuits (State/One-Stop)	Nashua, NH	04/19/19	04/17/19
94740	Associated Spring, a Business of Barnes Group Inc. (State/One-Stop).	Syracuse, NY	04/19/19	04/18/19
94741	Globarket Tire Recycling (State/One-Stop)	Vista, CA	04/19/19	04/18/19
94742	Hearst Media Services Connecticut LLC (State/One-Stop)	Norwalk, CT	04/19/19	04/18/19
94743	Logic Dental Solutions (State/One-Stop)	Lakewood, CO	04/19/19	04/18/19
94744	Optimas OE Solutions (State/One-Stop)	Commerce, CA	04/19/19	04/18/19
94745	ReEnergy (Workers)	Fort Fairfield, ME	04/19/19	04/18/19

188 TAA PETITIONS INSTITUTED BETWEEN 4/1/19 AND 5/31/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94746	Concentrix CVG Customer Management Group Inc. (State/One-Stop).	Charlotte, NC	04/22/19	04/22/19
94747	Xerox Corporation (State/One-Stop)	Webster, NY	04/23/19	04/22/19
94748	The Bank of New York Mellon (Workers)	Pittsburgh, PA	04/24/19	04/23/19
94749	Deluxe Digital Distribution Inc. dba Deluxe on Demand (Workers).	Burbank, CA	04/24/19	04/23/19
94750	K & K Clothing Inc. (State/One-Stop)	Los Angeles, CA	04/24/19	04/23/19
94751	Ametek Instrumentation Systems (Company)	Warrenville, IL	04/25/19	04/19/19
94752	Cypress Creek Renewables (State/One-Stop)	Santa Monica, CA	04/25/19	04/23/19
94753	Deluxe Media Inc. (State/One-Stop)	Burbank, CA	04/25/19	04/24/19
94754	iPacesetters LLC (Workers)	Weston, WV	04/25/19	04/24/19
94755	LEDVANCE LLC (Company)	Saint Mary's, PA	04/25/19	04/25/19
94756	Ethan Allen Operations, Inc. (Company)	Passaic, NJ	04/26/19	04/25/19
94757	Evolent Health, LLC (State/One-Stop)	Arlington, VA	04/26/19	04/25/19
94758	Vertical Textiles, LLC (Workers)	Miami, FL	04/26/19	04/25/19
94759	Conduent Education Services LLC (State/One-Stop)	Long Beach, CA	04/26/19	04/24/19
94760	Imagination International Inc. (State/One-Stop)	Eugene, OR	04/29/19	04/26/19
94761	Isringhausen (State/One-Stop)	Galesburg, MI	04/29/19	04/26/19
94762	PayPal, Inc. (State/One-Stop)	Hunt Valley, MD	04/29/19	04/26/19
94763	PerkinElmer Health Sciences Inc. (State/One-Stop)	Shelton, CT	04/29/19	04/26/19
94764	Ross Mould LLC (Union)	Washington, PA	04/29/19	04/26/19
94765	Cenveo Publisher Services (State/One-Stop)	Richmond, VA	04/30/19	04/29/19
94766	Clover Yarns, Inc. (State/One-Stop)	Clover, VA	04/30/19	04/29/19
94767	Health First (State/One-Stop)	New York, NY	04/30/19	04/29/19
94768	Renovate America, Inc. (State/One-Stop)	San Diego, CA	04/30/19	04/29/19
94769	U.S. Bank, Portland Columbia Center (State/One-Stop)	Portland, OR	04/30/19	04/29/19
94770	Falcon Transportation (State/One-Stop)	Youngstown, OH	05/01/19	05/01/19
94771	Verso Corporation (MD and WV locations) (State/One-Stop).	Luke, MD	05/01/19	04/30/19
94772	Watlow Electric Manufacturing Company (State/One-Stop)	Columbia, MO	05/01/19	04/30/19
94773	Citicorp Credit Svcs Inc. USA dba Citibank and Citifinancial Svcs (State/One-Stop).	Irving, TX	05/02/19	05/01/19
94774	Ethan Allen Operations, Inc. (Company)	Old Fort, NC	05/02/19	04/25/19
94775	General Motors (State/One-Stop)	Warren, MI	05/02/19	05/01/19
94776	Thomson Reuters (State/One-Stop)	Rochester, NY	05/02/19	05/01/19
94777	Amsted Rail Company, Inc. (Union)	Granite City, IL	05/03/19	05/02/19
94778	Dalton Corporation/Motor Castings Foundry (Union)	Milwaukee, WI	05/03/19	05/02/19
94779	State Street Corporation (State/One-Stop)	Quincy, MA	05/03/19	05/02/19
94780	Target Corporation (State/One-Stop)	Minneapolis, MN	05/03/19	05/02/19
94781	Infocus Systems (Image Holdings Corporation) (State/One-Stop).	Portland, OR	05/06/19	05/03/19
94782	OMNOVA Solutions Inc. (Workers)	Green Bay, WI	05/06/19	05/03/19
94783	Sitel Group (State/One-Stop)	Albuquerque, NM	05/06/19	05/03/19
94784	Monterey Mushrooms, Inc. (State/One-Stop)	Bonne Terre, MO	05/07/19	05/03/19
94785	Quad Graphics Printing II LLC (State/One-Stop)	Portland, OR	05/07/19	05/06/19
94786	Silver Star Brands (Company)	Oshkosh, WI	05/07/19	05/06/19
94787	HBD/Thermoid (State/One-Stop)	Elgin, SC	05/08/19	05/07/19
94788	Honeywell International Inc. (State/One-Stop)	Galena, IL	05/08/19	05/06/19
94789	Kohler Co. (Company)	Brownwood, TX	05/08/19	05/07/19
94790	Valeo USA, Inc. (State/One-Stop)	Auburn Hills, MI	05/08/19	05/07/19
94791	ABB Inc. (State/One-Stop)	South Boston, VA	05/09/19	05/08/19
94792	Cooper Standard (Company)	Goldsboro, NC	05/09/19	05/08/19
94793	Lumedx Inc. (State/One-Stop)	Bellevue, WA	05/09/19	05/07/19
94794	American Technical Ceramics Corp. (Company)	Huntington Station, NY	05/10/19	05/09/19
94795	Columbia Forest Products (State/One-Stop)	Trumann, AR	05/10/19	05/09/19
94796	Hubbell Lighting, Inc.—Elgin (Company)	Elgin, IL	05/10/19	05/08/19
94797	Allianz Global Corporate & Specialty (State/One-Stop)	Burbank, CA	05/13/19	05/10/19
94798	Fargo Assembly of PA, Division of ECI (State/One-Stop)	Bethanu, MO	05/13/19	05/10/19
94799	Ocwen Loan Servicing (Company)	Glendale, CA	05/13/19	05/10/19
94800	Ocwen Loan Servicing (Company)	Fort Washington, PA	05/13/19	05/10/19
94801	Ocwen Loan Servicing (Company)	Orlando, FL	05/13/19	05/10/19
94802	Ocwen Loan Servicing (Company)	West Palm Beach, FL	05/13/19	05/10/19
94803	Oracle America Inc. (State/One-Stop)	Portland, OR	05/13/19	05/10/19
94804	PHH Mortgage Corporation (Company)	Mount Laurel, NJ	05/13/19	05/10/19
94805	Pure Wick (State/One-Stop)	El Cajon, CA	05/13/19	05/10/19
94806	Sysco Hampton Roads Inc. (State/One-Stop)	Suffolk, VA	05/13/19	05/10/19
94807	Asteelflash Raleigh (Workers)	Morrisville, NC	05/14/19	05/14/19
94808	Lester Inc. (State/One-Stop)	East Haven, CT	05/14/19	05/13/19
94809	Web.com Group, Inc. (State/One-Stop)	Spokane, WA	05/14/19	05/08/19
94810	Georgia Pacific Paper (Union)	Coos Bay, OR	05/15/19	05/13/19
94811	Liberty Mutual Group Inc. (State/One-Stop)	Mishawaka, IN	05/15/19	05/14/19

188 TAA PETITIONS INSTITUTED BETWEEN 4/1/19 AND 5/31/19—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94812	Premier Aviation Overhaul Center, Ltd. (State/One-Stop)	Rome, NY	05/15/19	05/14/19
94813	AEP (State/One-Stop)	Conesville, OH	05/16/19	05/16/19
94814	American Technical Ceramics (Company)	Jacksonville, FL	05/16/19	02/13/19
94815	Asheboro Elastics Corporation (State/One-Stop)	Boykins, VA	05/16/19	05/15/19
94816	TMG Health, A Cognizant Technologies Company (State/One-Stop).	Jessup, PA	05/16/19	05/15/19
94817	Arconic Technology Center (Workers)	New Kensington, PA	05/17/19	05/16/19
94818	Interplex Daystar, Inc. (Company)	Franklin Park, IL	05/17/19	05/16/19
94819	Key Surgical LLC. DBA Mectra Laboratory (State/One-Stop).	Bloomfield, IN	05/17/19	05/17/19
94820	Kitron Technologies Inc. (State/One-Stop)	Windber, PA	05/17/19	05/15/19
94821	NYDJ Production LLC (State/One-Stop)	Vernon, CA	05/17/19	05/16/19
94822	VTech Communications (State/One-Stop)	Beaverton, OR	05/17/19	05/16/19
94823	AdvanSix (Workers)	Pottsville, PA	05/20/19	05/17/19
94824	AIG (Workers)	Berkeley Heights, NJ	05/20/19	05/19/19
94825	Payless Shoesource Worldwide, Inc. (State/One-Stop)	Topeka, KS	05/20/19	05/20/19
94826	TE Connectivity (Company)	Berwyn, PA	05/20/19	05/17/19
94827	Alorica Inc. (State/One-Stop)	St. Joseph, MO	05/21/19	05/21/19
94828	Eni USA R&M Company, Inc. (Company)	Cabot, PA	05/21/19	05/20/19
94829	Standard Insurance Co.(StanCorp Financial Group) (State/One-Stop).	Portland, OR	05/21/19	05/20/19
94830	U.S. Bank (Workers)	Owensboro, KY	05/21/19	05/20/19
94831	Arrow International (Company)	Asheboro, NC	05/22/19	05/21/19
94832	Classic American Hardwoods Inc. (State/One-Stop)	Memphis, TN	05/22/19	05/21/19
94833	Del Monte Foods, Inc., Deduction Analyst Department (State/One-Stop).	Walnut Creek, CA	05/22/19	05/21/19
94834	Emblem Health (State/One-Stop)	New York, NY	05/22/19	05/21/19
94835	Frontier Communications (State/One-Stop)	Rochester, NY	05/22/19	05/21/19
94836	Eagle Test systems (a Teradyne Company) (State/One-Stop).	Buffalo Grove, IL	05/23/19	05/22/19
94837	HCL America (State/One-Stop)	Frisco, TX	05/23/19	05/22/19
94838	Inspired By Drive (State/One-Stop)	Santa Fe Springs, CA	05/23/19	05/22/19
94839	Xerox Corporation (Workers)	Webster, NY	05/23/19	05/22/19
94840	Baker Hughes a GE Company (Lufkin Industries), Accounts Payable (State/One-Stop).	Lufkin, TX	05/24/19	05/23/19
94841	Conagra Brands (formally known as Pinnacle Foods) (State/One-Stop).	Cherry Hill, NJ	05/24/19	05/23/19
94842	Conagra Brands (Was Pinnacle Foods) (State/One-Stop)	Parsippany, NJ	05/24/19	05/23/19
94843	Sabre (Workers)	Southlake, TX	05/24/19	05/23/19
94844	Unilin North America LLC (division of Mohawk Industries) (State/One-Stop).	Danville, VA	05/24/19	05/23/19
94845	Vesuvius USA (State/One-Stop)	Tyler, TX	05/24/19	05/23/19
94846	A123 Systems, LLC (State/One-Stop)	Romulus, MI	05/28/19	05/24/19
94847	A123 Systems, LLC (State/One-Stop)	Livonia, MI	05/28/19	05/28/19
94848	David's Bridal (Workers)	New York, NY	05/28/19	05/26/19
94849	Deluxe Digital Cinema Inc. (State/One-Stop)	Wilmington, OH	05/28/19	05/24/19
94850	Geometric Americas, Inc. (State/One-Stop)	Troy, MI	05/28/19	05/24/19
94851	WoodCrest (Workers)	Peru, IN	05/28/19	05/24/19
94852	ZPOWER (State/One-Stop)	Camarillo, CA	05/28/19	05/24/19
94853	Detroit Renewable Power (Company)	Detroit, MI	05/29/19	05/28/19
94854	Clarion Sintered Metals (State/One-Stop)	Ridgway, PA	05/30/19	05/29/19
94855	Columbia Forest Products (State/One-Stop)	Klamath Falls, OR	05/30/19	05/29/19
94856	Finastra (Workers)	Plano, TX	05/30/19	05/29/19
94857	Millipore Sigma (State/One-Stop)	Burlington, MA	05/30/19	05/30/19
94858	Teck Washington Incorporated—Pend Oreille Operations (Company).	Metaline Falls, WA	05/30/19	05/29/19
94859	Wood Mode Inc. (State/One-Stop)	Kreamer, PA	05/30/19	05/29/19
94860	ATT Services—IT Voice Call Operations and Applications Development (Company).	Hoffman Estates, IL	05/31/19	05/30/19
94861	BD-Becton Dickinson (State/One-Stop)	Chelmsford, MA	05/31/19	05/30/19
94862	Breg, Inc. (Company)	Grand Prairie, TX	05/31/19	05/23/19
94863	Light Speed LLC (State/One-Stop)	Bellevue, WA	05/31/19	05/29/19
94864	Teck Washington Incorporated (State/One-Stop)	Metaline Falls, WA	05/31/19	05/30/19

[FR Doc. 2019–14187 Filed 7–2–19; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Post Enrollment Data Collection for Job Corps Participants

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL's), Employment Training Administration (ETA) is soliciting comments concerning a proposed revision for the authority to conduct the information collection request (ICR) titled, ''Post Enrollment Data Collection for Job Corps Participants.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by September 3, 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 by contacting Lawrence Lyford by telephone at 202–693–3121 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Lyford.Lawrence@dol.gov*.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Job Corps, 200 Constitution Avenue NW, Room N4507, Washington, DC 20210; by email: *Lyford.Lawrence@dol.gov;* or by Fax 202–693–3113.

FOR FURTHER INFORMATION CONTACT: Lawrence Lyford by telephone at 202–693–3121 (this is not a toll free number) or by email at *Lyford.Lawrence@dol.gov*.

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Job Corps is the nation's largest residential, educational, and career technical training program for young Americans. The Economic Opportunity Act established Job Corps in 1964, and it currently operates under the authority of the Workforce Innovation and Opportunity Act (WIOA) of 2014. For over 54 years, Job Corps has helped prepare over three million at-risk young people between the ages of 16 and 24 for success in our nation's workforce. With 123 centers in 50 states, Puerto Rico, and the District of Columbia, Job Corps assists students across the nation in attaining academic credentials, including High School Diplomas (HSD) and/or High School Equivalency (HSE), and career technical training credentials, including industry-recognized certifications, state licensures, and pre-apprenticeship credentials.

Job Corps is a national program administered by the U.S. Department of Labor (DOL) through the Office of Job Corps and six Regional Offices. DOL awards and administers contracts for the recruiting and screening of new students, center operations, and the placement and transitional support of graduates and former enrollees. Large and small corporations and nonprofit organizations manage and operate 98 Job Corps centers under contractual agreements with DOL. These contract Center Operators are selected through a competitive procurement process that evaluates potential operators' technical expertise, proposed costs, past performance, and other factors, in accordance with the Competition in Contracting Act and the Federal Acquisition Regulations. The U.S. Department of Agriculture operates the remaining 25 Job Corps centers, called Civilian Conservation Centers, via an interagency agreement. The DOL has a direct role in the operation of Job Corps and does not serve as a pass-through agency for this program. The Workforce Innovation Opportunity Act (WIOA), Section 116(b)(2)(A)(i) and Section 159(c)(4) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless OMB approves the collection under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0426.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Post Enrollment Data Collection for Job Corps Participants.

Forms: Appendix A, B, C, and D.

OMB Control Number: 1205–0426.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits.

Estimated Number of Respondents: 28,860.

Frequency: For participants, the second and fourth calendar quarter after exit quarter from Job Corps and upon initial separation.

Total Estimated Annual Responses: 50,720.

Estimated Average Time per Response: varies.

Estimated Total Annual Burden Hours: 13,121 hours.

Total Estimated Annual Other Cost Burden: $0.

Molly E. Conway,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2019–14185 Filed 7–2–19; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of April 1, 2019 through May 31, 2019. (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the

Federal Register under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,317	Harden Furniture LLC	McConnellsville, NY	November 7, 2017.
94,428	Nestle Waters North America, Inc., Red Boiling Springs Factory, Express Employment Professionals, etc.	Red Boiling Springs, TN	December 21, 2017.
94,491	Prince Manufacturing Corporation	Sioux City, IA	January 25, 2018.
94,560	Copland Fabrics, Inc., Hire Alternatives	Burlington, NC	February 22, 2018.
94,626	Nordson Xaloy, Nordson Corporation, Bright Services, Manpower, Aerotek.	Pulaski, VA	April 13, 2019.
94,720	Savox Communications Inc., Express Services Inc	Lincoln, NE	April 9, 2018.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,126	The Anthem Companies Inc., IT Application and Development, Commercial Claims, etc.	Norfolk, VA	September 13, 2017.
94,337	Integrated Medical Professionals PLLC, Prestige Employee Administrators, Inc.	Melville, NY	November 14, 2017.
94,402	Globe Metallurgical, Inc., Ferroglobe, Inc., Kelly Services	Selma, AL	December 13, 2017.
94,475	American Fasteners Co., Ltd., Baron HR, HROI	Jurupa Valley, CA	January 22, 2018.
94,488	IBM, Inc., Global Technology Services Division, CDI Corporation/Artech.	Endicott, NY	January 25, 2018.
94,499	Dignity Health dba Dominican Hospital, Medical Transcriptionists, Patient Services Technicians HIM.	Santa Cruz, CA	January 31, 2018.
94,510	ECi Macola/MAX, LLC, Development and Product Management, Manufacturing, Eclipse Midco, etc.	San Mateo, CA	February 4, 2018.
94,518	Sigma Design, Inc., HP Inc., Aerotek Inc	Vancouver, WA	February 4, 2018.
94,521	Xerox Corporation, Managed Document Services, Mindex Technologies Inc., Modis.	Webster, NY	January 23, 2018.
94,523	Dole Food Company, Dole Business Services, Information Technology Department.	Westlake Village, CA	February 7, 2018.
94,523A	Dole Food Company, Dole Business Services, Treasury Department	Westlake Village, CA	February 7, 2018.
94,523B	Dole Food Company, Dole Business Services, Finance and Accounting Department.	Westlake Village, CA	February 7, 2018.
94,526	ABB Inc., Transportation Management Center, ABB Group, ABB Ltd., Pontoon Solutions.	Memphis, TN	February 8, 2018.
94,528	HSBC Technology and Services, USA (HTSU), Cybersecurity Division, HSBC North American Holdings, Inc.	Arlington Heights, IL	February 8, 2018.
94,531	Park Ohio Products, Inc., Minute Men Staffing Services, Resource MFG, Champion Flexible Talent.	Cleveland, OH	February 8, 2018.
94,532	Adams Publishing Group, ECM Publishers, Inc. Division, Graphics Production Department.	Coon Rapids, MN	February 11, 2018.
94,533	Stream, NY, Digital Assistance Center, Concentrix CVG Corporation	Watertown, NY	February 11, 2018.
94,540	Schneider Electric, Volt	Peru, IN	June 23, 2019.
94,548	Omega Engineering, Inc., Electronics Division, Randstad US, Andek Staffing Services, Aerotek, etc.	Santa Ana, CA	February 12, 2018.
94,549	ArcelorMittal Tailored Blanks Americas Corporation, ArcelorMittal Tailored Blanks Luxembourg Holding Company.	Pioneer, OH	February 19, 2018.
94,551	Philips Respironics, Philips North America, Randstad	Kennesaw, GA	February 19, 2018.
94,565	Safran Electronics & Defense, Avionics USA, LLC, Mechanical Group (TCQ Project), Safran USA, Safran S.A., Aerotek, etc.	Grand Prairie, TX	February 25, 2018.
94,566	Ernst & Young LLP, Unemployment Insurance Claims	Dallas, TX	April 14, 2019.
94,570	Richmond Assembly Plant, Matthews Aurora Funeral Solutions, The York Group, Milso Industries, etc.	Richmond, IN	February 28, 2018.
94,584	Wireless Seismic, Inc., Martin Company, TEK Systems, Aerotek, Optimal Designs Inc, etc.	Sugar Land, TX	January 26, 2018.
94,588	Husqvarna Consumer Outdoor Products N.A., Inc	McRae, GA	March 4, 2018.
94,589	STARTEK, Inc	Lynchburg, VA	March 4, 2018.

TA–W No.	Subject firm	Location	Impact date
94,598	Dart Industries Inc. (Tupperware Brands), Product Development, Tupperware Brands Corporation, CDI Corporation.	Orlando, FL	March 6, 2018.
94,605	Ingersoll Rand, Compression Technology Service Division, Leona Backus, Armand Deban, etc.	Cheektowaga, NY	May 19, 2018.
94,607	State Street Corporation	Hadley, MA	March 8, 2018.
94,609	QBE Americas, Inc., QBE Holdings, Inc	Sun Prairie, WI	April 2, 2018.
94,614	Airespring, Inc	Van Nuys, CA	March 13, 2018.
94,617	Bose Corporation, Park Place Facility, etc	Framingham, MA	February 28, 2018.
94,617A	Bose Corporation, Global Development Engineering and Manufacturing, Randstad.	San Diego, CA	February 28, 2018.
94,623	Aptiv US Services General Partnership, Aptiv PLC, Barpellam, Accretive Solutions-Detroit, Acro Service, etc.	Warren, OH	March 15, 2018.
94,628	United Parcel Service, Inc., United Parcel Service of America, Adecco, American Cyber Systems, etc.	Visalia, CA	March 14, 2018.
94,629	Deluxe Media Inc., Deluxe Entertainment Services Group, Deluxe Shared Services, etc.	Burbank, CA	March 15, 2018.
94,632	Gigamedia Access Corporation, Quality Assurance Division	Herndon, VA	March 15, 2018.
94,633	Masonite Corporation, Residential Division, Masonite International Corporation, Target CW.	Denmark, SC	March 17, 2018.
94,643	Netflix Customer Service, Learning & Development Department, Netflix, Inc.	Los Gatos, CA	March 18, 2018.
94,645	Sensata Technologies, Inc., Aerospace, PEAK Technical Staffing USA, Triad Systems International, etc.	Thousand Oaks, CA	March 19, 2018.
94,647	Stearns Lending, LLC, Wholesale/Non-Delegated Client Approval Team, Stearns Holdings, LLC.	Santa Ana, CA	March 19, 2018.
94,653	BioMedica ADI Inc., BioMedica Diagnostics Inc., Aerotek	Stamford, CT	March 20, 2018.
94,657	Hanesbrands, Inc., Long-Fold Women's Hosiery	Clarksville, AR	March 25, 2018.
94,661	Winchester Interconnect Corporation, ATPIV Technologies Limited Division, Winchester Electronics Corporation.	Middlebury, CT	March 14, 2018.
94,663	Assurant Inc., Assurant IT Help Desk, Inter Financial Inc., Tek Systems.	Woodbury, MN	March 26, 2018.
94,664	The Goodyear Tire & Rubber Company, Gadsden Facility, Diversified Maintenance, InnoSource Inc., Securitas, etc.	Gadsden, AL	March 26, 2018.
94,666	Tahari ASL	New York, NY	February 28, 2018.
94,673	Liberty Mutual Insurance Company, Support Department, Liberty Mutual Group Inc.	Allentown, PA	March 28, 2018.
94,677	Dexcom Inc., Eastridge	Mesa, AZ	March 29, 2018.
94,688	Fargo Assembly Company, Electrical Components International Inc., Kelly Services, Inc.	Atchison, KS	April 3, 2018.
94,688A	Fargo Assembly Company, Electrical Components International Inc	Bethany, MO	April 3, 2018.
94,696	Industrial Harness Company, Inc., Electrical Components International, Inc., Axiom Staffing Group, etc.	Shippensburg, PA	April 4, 2018.
94,713	Performance Direct, Inc., Performance Bicycle, AE Bicycle Liquidation, Advance Sports Enterprise.	Sophia, WV	April 8, 2018.
94,721	Agfa US Corp., Agfa Healthcare Corporation, Agfa Global	Greenville, SC	April 10, 2018.
94,725	Hanesbrands, Inc., Mt. Airy Sock Facility	Mt. Airy, NC	April 10, 2018.
94,730	Partners HealthCare Systems, Inc., Partners Personalized Medicine-Healthcare Innovation Platform (HIP), etc.	Cambridge, MA	April 12, 2018.
94,733	EaglePicher Technologies LLC, Medical and Medical Power Division, Express Employment, Penmac.	Joplin, MO	April 15, 2018.
94,738	Thermo Fisher Scientific Inc., Chromatography & Mass Spectroscopy, Acara Solutions, Adecco USA, etc.	Bellefonte, PA	April 17, 2018.
94,740	Associated Spring, a Business of Barnes Group Inc., Syracuse, New York, First Choice Staffing, Remedy Intelligent Staffing, etc.	Syracuse, NY	April 18, 2018.
94,741	Globarket Tire Recycling	Vista, CA	April 18, 2018.
94,746	Concentrix CVG Customer Management Group Inc., Concentrix CVG Corporation.	Charlotte, NC	April 22, 2018.
94,748	The Bank of New York Mellon, Risk Credit Division, The Bank of New York Mellon Corporation.	Pittsburgh, PA	April 23, 2018.
94,748A	The Bank of New York Mellon, Risk Credit Division, The Bank of New York Mellon Corporation.	New York, NY	April 23, 2018.
94,753	Deluxe Media Inc., Deluxe Entertainment Services Group, Deluxe Shared Services, etc.	Burbank, CA	April 24, 2018.
94,755	LEDVANCE LLC, OSRAM Sylvania, LEDVANCE Gmbh, Manpower, Wortman Controls, etc.	Saint Mary's, PA	July 27, 2019.
94,755A	B & T Cleaning, Experis, and Beimel Transportation, LEDVANCE LLC, OSRAM Sylvania, Inc., LEDVANCE Gmbh.	Saint Mary's, PA	April 25, 2018.
94,756	Ethan Allen Operations, Inc., Ethan Allen Global, Inc	Passaic, NJ	April 25, 2018.
94,757	Evolent Health, LLC, Evolent Health, Inc	Arlington, VA	April 25, 2018.
94,758	Vertical Textiles, LLC	Miami, FL	April 25, 2018.
94,772	Watlow Electric Manufacturing Company, Manpower, Express Employment Professionals.	Columbia, MO	April 30, 2018.
94,774	Ethan Allen Operations, Inc., Ethan Allen Global, Talent Force, Catawba Valley Staffing, Manpower.	Old Fort, NC	April 25, 2018.

TA–W No.	Subject firm	Location	Impact date
94,776	Thomson Reuters, Contingent and Randstad Professional US, LLC, Randstad Sourceright.	Rochester, NY	May 1, 2018.
94,784	Monterey Mushrooms, Inc., Gourmet Division, Talentforce, Manpower	Bonne Terre, MO	May 3, 2018.
94,785	Quad Graphics Printing II LLC, Quad Graphics Inc., Express Employment Professionals.	Portland, OR	May 6, 2018.
94,788	Honeywell International Inc., Safety & Productivity Solutions Division, Co-Tech.	Galena, IL	May 6, 2018.
94,789	Kohler Co., Cast Process Group, Kitchen & Bath Americas Division	Brownwood, TX	May 7, 2018.
94,792	Cooper Standard, 308 Fedelon Trail	Goldsboro, NC	May 20, 2019.
94,792A	Cooper Standard, 280 Woodland Church Road	Goldsboro, NC	May 8, 2018.
94,794	American Technical Ceramics Corp., New York Division, AVX Corp	Huntington Station, NY	May 10, 2019.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,520	Pfizer Inc., Pfizer Global Supply, Atrium	Rouses Point, NY	April 14, 2019.
94,537	Source Providers, Inc., Comprehensive Logistics, Inc., Callos Temporary Service.	Austintown, OH	March 10, 2019.
94,537A	Office Team, Source Providers, Inc., Comprehensive Logistics, Inc	Austintown, OH	February 12, 2018.
94,630	Emerald Polymer Additives, AOA Resin-D Division, Emerald Performance Materials, LLC.	Akron, OH	March 11, 2018.
94,681	Bosal Industries-Georgia, Inc., Bosal Nederland BV, TAAL Technologies.	Ypsilanti, MI	March 22, 2018.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,410	Arrow Electronics, Inc., Global Components Division	Porterville, CA	December 19, 2017.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,545	Granges Americas, Inc., Newport Facility, Granges AB	Newport, AR	April 14, 2019.
94,545A	Leased Workers from Staffmark Reporting to Granges Americas, Inc., Newport Facility, Granges AB.	Newport, AR	February 5, 2018.
94,558	Arconic Davenport Works, Global Rolled Products Division, Arconic Inc	Bettendorf, IA	February 5, 2018.
94,575	Nucor Skyline Steel, LLC	Newton, IL	February 5, 2018.
94,586	EVRAZ Oregon Steel Mill/EVRAZ Oregon Steel Tubular, EVRAZ NA, Inc.	Portland, OR	February 5, 2018.
94,624	The Goodyear Tire & Rubber Company, Danville Facility, Diversified Maintenance, etc.	Danville, VA	February 19, 2018.
94,658	Reynolds Hot Springs, Reynolds Consumer Products, Staffmark	Malvern, AR	February 5, 2018.
94,724	Continental Tire the Americas, LLC, Continental AG, Acro Service Corporation.	Mt. Vernon, IL	February 19, 2018.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the requirements of Trade Act section 222 (a)(1) and (b)(1) (significant worker total/partial separation or threat of total/partial separation), or (e) (firms identified by the International Trade Commission), have not been met.

TA–W No.	Subject firm	Location	Impact date
94,470	Bushwacker, Inc., Lund International Holding Company (LIHC)	Portland, OR.	
94,510B	ECi Software Solutions, Inc., M1 Manufacturing "Support & Professional Services, Manufacturing Division.	Pomona, CA.	
94,569	Atlas Tube, Zekelman Industries	Chicago, IL.	

TA–W No.	Subject firm	Location	Impact date
94,599	Alliance Rubber Company	Salinas, CA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both), or (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,448	General Motors Company, Baltimore Operations Allison Transmissions, Allegis, PSMI, JLL, etc.	White Marsh, MD.	
94,456	Buffalo Weaver, Inc., LaMont Limited, QPS Employment Group	Waterloo, IA.	
94,506	Transamerica Life Insurance Company, Aerotek, Syntel, Inc., Teksystems, Orasi/Quialitest, CSC, Randstad.	Little Rock, AR.	
94,536	CSC Holdings, LLC, Human Resources-Talent Acquisitions, Altice USA, Inc.	Bethpage, NY.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,398	Mondi Bags USA, Arcadia Plant, Mondi Bags USA	Arcadia, LA.	
94,406	ZF Chassis Systems Chicago, LLC, ZF North America, Staff Source, Surge, Express Employment, ICR, DSJ, etc.	Chicago, IL.	
94,408	Smart Apparel (US), Inc., ADP TotalSource	Frisco, TX.	
94,424	Custom Wood Products LLC	Roanoke, VA.	
94,464	N.Y.C. Motorcycles Inc., Harley-Davidson of New York	Long Island City, NY.	
94,510A	ECi Macola/MAX, LLC, Sales and Customer Support, Manufacturing, Eclipse Midco (Delaware), etc.	San Mateo, CA.	
94,539	Jeld-Wen, Yakima Division	Yakima, WA.	
94,559	AT&T Technology Operations (ATO), Converged Access and Device Technology Group.	Mission, KS.	
94,559A	AT&T Technology Operations (ATO), Converged Access and Device Technology Group.	Wichita, KS.	
94,576	Optum Technology, Solution Engineering & Delivery-Customer Relationship Management Group, etc.	Eden Prairie, MN.	
94,711	Helmut Lang New York LLC, Patternmakers and Sewers, Fast Retailing USA, Inc.	New York, NY.	
94,726	Marshfield Clinic Health System, Inc., Transcription Services, MModal Services, Limited.	Marshfield, WI.	
94,732	Dimension Data North America, Inc., Managed Services Global Services Center, Engineering Workers Division, etc.	Santa Clara, CA.	
94,744	Optimas OE Solutions	Commerce, CA.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
94,512	Maxim Integrated Products, Inc., I.T. Department, Final Phase Systems, Systema USA Corporation, Compucom.	Beaverton, OR.	
94,562	Harsco Rail, Harsco Corporation, Manpower	Ludington, MI.	

The following determinations terminating investigations were issued in cases where the petition regarding the investigation has been deemed invalid.

TA–W No.	Subject firm	Location	Impact date
94,568	Xerox Corporation, Centralized Business Services, Tables Organization, etc.	Webster, NY.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
94,489	Loud Audio, LLC	Auburn, WA.	
94,604	Bear Island Paper WB LLC	Ashland, VA.	
94,622	Besi North America, Inc., Micron Technology, Inc	Boise, ID.	
94,736	Construction Equipment Company	Sheridan, OR.	
94,747	Xerox Corporation, Centralized Business Services, Tables Organization, etc.	Webster, NY.	
94,749	Deluxe Digital Distribution Inc. dba Deluxe on Demand, Deluxe Entertainment Services Group Inc., Deluxe Shared Services Inc.	Burbank, CA.	

The following determinations terminating investigations were issued because the petitioning group of workers is covered by an earlier petition that is the subject of an ongoing investigation for which a determination has not yet been issued.

TA–W No.	Subject firm	Location	Impact date
94,573	RCO Engineering, GM Technical Center	Warren, MI.	
94,679	Wells Fargo Vendor Financial LLC	Macon, GA.	
94,680	Wells Fargo Vendor Financial Services	Macon, GA.	
94,723	Cardone Industries, Inc., Tridonex	Philadelphia, PA.	

I hereby certify that the aforementioned determinations were issued during the period of *April 1, 2019 through May 31, 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 11th day of June 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–14186 Filed 7–2–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligiblity To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *April 1st 2019 through May 31st 2019.* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Notice of Revised Certifications of Eligibility

Revised certifications of eligibility have been issued with respect to cases where affirmative determinations and certificates of eligibility were issued initially, but a minor error was discovered after the certification was issued. The revised certifications are issued pursuant to the Secretary's authority under section 223 of the Act and 29 CFR 90.16. Revised Certifications of Eligibility are final determinations for purposes of judicial review pursuant to section 284 of the Act (19 U.S.C. 2395) and 29 CFR 90.19(a).

TA–W No.	Subject firm	Location	Impact date
94,491	Prince Manufacturing Corporation	Sioux City, IA	1/25/2018.

Affirmative/Negative Determinations Regarding Applications for Reconsideration

The certifying officer may grant an application for reconsideration under the following circumstances: (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous; (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or (3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the determination. See 29 CFR 90.18(c).

Affirmative Determinations Regarding Applications for Reconsideration

The following Applications for Reconsideration have been received and granted. See 29 CFR 90.18(d). The group of workers or other persons showing an interest in the proceedings may provide written submissions to show why the determination under reconsideration should or should not be modified. The submissions must be sent no later than ten days after publication in **Federal Register** to the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210. See 29 CFR 90.18(f).

TA–W No.	Subject firm	Location
94,444	Nestle USA Inc	Fort Worth, TX.
94,354	iMedX, Inc.	Atlanta, GA.

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)); AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**; AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
93,552	Penske Logistics	El Paso, TX	1/22/2017	Worker Group Clarification.
94,509	Bureau of National Affairs, Inc	Arlington, VA	2/4/2018	Worker Group Clarification.
94,086	Micron Technology, Inc	Boise, ID	12/14/2018	Worker Group Clarification.
94,086A	Besi North America, Inc	Boise, ID	8/22/2017	Worker Group Clarification.
94,248	Loud Audio, LLC	Woodinville, WA	10/16/2017	Worker Group Clarification.
94,248A	Loud Audio, LLC	Auburn, WA	10/16/2017	Worker Group Clarification.
93,708	MOL (America) Inc	Woodbridge, NJ	4/6/2017	Worker Group Clarification.
93,708A	MOL (America) Inc	Atlanta, GA	4/6/2017	Worker Group Clarification.
93,708B	MOL (America) Inc	Lombard, IL	4/6/2017	Worker Group Clarification.
93,708C	MOL (America) Inc	Concord, CA	4/6/2017	Worker Group Clarification.
93,708D	MOL (America) Inc	Gardena, CA	4/6/2017	Worker Group Clarification.
93,868	Smith & Nephew	Austin, TX	6/5/2017	Worker Group Clarification.
93,868A	Smith & Nephew	Mansfield, MA	6/5/2017	Worker Group Clarification.
93,868B	Smith & Nephew	Andover, MA	6/5/2017	Worker Group Clarification.
93,868C	Smith & Nephew	Austin, TX	6/5/2017	Worker Group Clarification.

Revised Determinations (After Affirmative Determination Regarding Application for Reconsideration)

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,064	Locke Insulators, Inc	Baltimore, MD	8/4/2016
94,132	REC Solar Grade Silicon LLC	Moses Lake, WA	10/19/2018
94,444	Nestle USA Inc	Fort Worth, TX	1/4/2018

The following revised determinations on reconsideration, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,521	PCI Nitrogen, LLC	Pasadena, TX	3/7/2016

Negative Determinations on Reconsideration (After Affirmative Determination Regarding Application for Reconsideration)

In the following cases, negative determinations on reconsideration have been issued because the eligibility criteria for TAA have not been met for the reason(s) specified.

The investigation revealed that the criteria under Trade Act section 222(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) have not been met.

TA–W No.	Subject firm	Location	Impact date
91,248	Exal Corporation	Youngstown, OH	

I hereby certify that the aforementioned determinations were issued during the period of *April 1st 2019 through May 31st 2019.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 11th day of June 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–14188 Filed 7–2–19; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Committee Management Renewals

The National Science Foundation (NSF) management officials having responsibility for the advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Advisory Committee for Biological Sciences, #1110
Advisory Committee for Cyberinfrastructure, #25150
Advisory Committee for Education and Human Resources, #1119
Advisory Committee for Engineering, #1170
Advisory Committee for Geosciences, #1755
Advisory Committee for Integrative Activities, #1373
Alan T. Waterman Award Committee, #1172
Proposal Review Panel for Atmospheric and Geospace Sciences, #10751
Proposal Review Panel for Behavioral and Cognitive Sciences, #10747
Proposal Review Panel for Biological Infrastructure, #10743
Proposal Review Panel for Earth Sciences, #1569
Proposal Review Panel for Emerging Frontiers in Biological Sciences, #44011
Proposal Review Panel for Environmental Biology, #10744
Proposal Review Panel for Geosciences, #1756
Proposal Review Panel for Integrative Organismal Systems, #10745
Proposal Review Panel for Molecular and Cellular Biosciences, #10746
Proposal Review Panel for Ocean Sciences, #10752
Proposal Review Panel for Research on Learning in Formal and Informal Settings, #59
Proposal Review Panel for Social, Behavioral and Economic Sciences, #1766
Proposal Review Panel for Social and Economic Sciences, #10748
Proposal Review Panel for Integrative Activities, #2469
Proposal Review Panel for International Science and Engineering, #10749

Effective date for renewal is June 28, 2019. For more information, please contact Crystal Robinson, NSF, at (703) 292–8687.

Dated: June 28, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–14216 Filed 7–2–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0109]

Letter to the Nuclear Energy Institute Entergy Services, Inc., and NextEra Energy Regarding the Clarification of Regulatory Path for Lead Test Assemblies

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a letter to the Nuclear Energy Institute (NEI), Entergy Services, Inc., and NextEra Energy to finalize the NRC staff's views on the regulatory positions regarding lead test assemblies (LTAs) previously discussed in the NRC's letter to NEI dated June 29, 2017.

DATES: July 3, 2019.

ADDRESSES: Please refer to Docket ID NRC–2018–0109 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0109. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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 ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the Availability of Documents section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kimberly Green, Office of Nuclear Reactor Regulation, telephone: 301–415–1627, email: *Kimberly.Green@nrc.gov,* or Reed Anzalone, Office of Nuclear Reactor Regulation, telephone: 301–415–2988, email: *Reed.Anzalone@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a letter to NEI, Entergy Services, Inc., and NextEra Energy to clarify the NRC staff's interpretation of Standard Technical Specification (STS) 4.2.1, ''Fuel Assemblies.'' The first part of STS 4.2.1 places limitations on the number of fuel assemblies in the reactor core, the type of fuel that can be used, the cladding material that can be used (*e.g.,* zircaloy or ZIRLO), and requires the use of NRC-approved codes and methods for the fuel assemblies. The last sentence of

STS 4.2.1 allows for the irradiation of a limited number of LTAs that have not completed representative testing if placed in nonlimiting regions of the reactor core.

In the past, licensees have taken different approaches when conducting LTA campaigns. Some licensees obtained prior NRC approval by license amendments approving changes to Technical Specification (TS) 4.2.1 or exemptions from § 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' of title 10 of the *Code of Federal Regulations* (10 CFR), or both, for their LTA campaigns. Other licensees conducted LTA campaigns under 10 CFR 50.59, ''Changes, tests, and experiments,'' without prior NRC approval.

This letter clarifies the NRC staff's views on the regulatory positions regarding LTAs previously discussed in the NRC's letter to NEI dated June 29, 2017. The letter provides: Clarification on the LTA provision in STS 4.2.1; clarification on the use of approved methods for LTA campaigns; a regulatory path for LTA campaigns; guidance on the use of NEI 96–07, Revision 1, ''Guidelines for 10 CFR 50.59 Implementation,'' regarding LTAs; and guidance on exemptions from the requirements in 10 CFR 50.46 for LTAs.

II. Opportunity for Public Participation

The NRC published a notice of the availability of a draft letter to NEI regarding the clarification of regulatory paths for lead test assemblies in the **Federal Register** on June 7, 2018 (83 FR 26503) for a 20-day public comment period. The public comment period closed on June 27, 2018. After consideration of comments requesting additional time to comment on the draft letter, the NRC reopened the public comment period for an additional 20 days on July 2, 2018. The additional comment period closed on July 23, 2018.

The NRC received 272 comment submissions on the draft guidance letter consisting of approximately 900 comments. Public comments on the draft letter and the staff responses to the public comments are available electronically in ADAMS under Accession No. ML19126A101 (the comment response document). A compilation of all comment submissions with annotated comments is also available.

Table 1, ''Commenters on Guidance Letter,'' in the comment response document contains a listing of persons or entities that provided comments. The name of the individual and affiliation, if provided, a unique identifier for the commenter, and the ADAMS accession number are listed. Some individuals are listed more than once because they provided more than one comment letter.

Each comment letter was segmented into individual comments, and each comment was then categorized by topic. The topics are provided in Table 2 of the comment response document. The comments are summarized and are followed by a response. If the NRC staff determined that a change to the letter was warranted, because of the comment, it is indicated in the response.

III. Congressional Review Act

This guidance letter is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

The letter provides additional clarification on previous staff preliminary statements and positions regarding the use of LTAs made in a letter to NEI dated June 29, 2017. Issuance of the letter does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC has no current intention to impose the positions described in the letter on holders of current operating licenses or combined licenses.

V. Availability of Documents

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

Document	ADAMS Accession No.
Letter from U.S. Nuclear Regulatory Commission to Nuclear Energy Institute, Entergy Services, Inc., and NextEra Energy, Subject: Clarification of Regulatory Path for Lead Test Assemblies, dated June 24, 2019.	ML18323A169
Letter from Mirela Gavrilas, U.S. NRC, to Mr. Andrew Mauer, Nuclear Energy Institute. Subject: Response to Nuclear Energy Institute Letter Concerning the Regulatory Path for Lead Test Assemblies. June 29, 2017.	ML17150A443
NUREG–1430, Standard Technical Specifications—Babcock and Wilcox Plants, Volume 1, Revision 4	ML12100A177
NUREG–1431, Standard Technical Specifications—Westinghouse Plants, Volume 1, Revision 4	ML12100A222
NUREG–1432, Standard Technical Specifications—Combustion Engineering Plants, Volume 1, Revision 4	ML12102A165
NUREG–1433, Standard Technical Specifications—General Electric Plants (BWR/4), Volume 1, Revision 4	ML12104A192
NUREG–1434, Standard Technical Specifications—General Electric Plants (BWR/6), Volume 1, Revision 4	ML12104A195
NEI 96–07, Revision 1, Guidelines for 10 CFR 50.59 Implementation	ML003771157
Draft letter from U.S. Nuclear Regulatory Commission to Nuclear Energy Institute. Subject: Clarification of Regulatory Paths for Lead Test Assemblies, dated May 31, 2018.	ML18100A045
Public comments on the draft letter and the staff responses to the public comments	ML19126A101
Compilation of comment submissions with annotated comments	ML19141A222

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–14132 Filed 7–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0233]

Information Collection: NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste

Manifest (Shipping Paper) and Continuation Page.''

DATES: Submit comments by September 3, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0233. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0233 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–2018–0233. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0233 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *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, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of NRC Forms 540 and 540A and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML18313A144, ML18313A145, and ML071870172, respectively. The supporting statement is available in ADAMS under Accession No. ML18337A413.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2018–0233 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page.''

2. *OMB approval number:* 3150–0164.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Forms 540 and 540A.

5. *How often the collection is required or requested:* Forms are used by shippers whenever radioactive waste is shipped. Quarterly or less frequent reporting is made to Agreement States depending on specific license conditions. No reporting is made to the NRC.

6. *Who will be required or asked to respond:* All NRC or Agreement State low-level waste facilities licensed pursuant to part 61 of title 10 of the *Code of Federal Regulations* (10 CFR) or equivalent Agreement State regulations. All generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility must complete the appropriate forms.

7. *The estimated number of annual responses:* 5,740.

8. *The estimated number of annual respondents:* 220.

Note that the NRC does not collect or retain data on manifest forms and the forms are not sent to or received by the NRC. The estimates provided in items seven and eight above are from the previous form renewal Notice. The NRC did not receive any public comment on the previous renewal suggesting that these estimates should be revised. NRC is requesting comment on the accuracy of these estimates in Section III of this document.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 4,305.

10. *Abstract:* NRC Forms 540 and 540A provide a set of standardized forms to meet Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low-level waste industry groups. The forms provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. The NRC Form 540 contains information needed to satisfy DOT shipping paper requirements in 49 CFR part 172, and the waste tracking requirements of the NRC in 10 CFR part 20.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to

properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14169 Filed 7–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0024]

Information Collection: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

DATES: Submit comments by August 2, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0209), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0024 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–2019–0024. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0024 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *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, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML18333A272 and ML18333A284. The supporting statement Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance is available in ADAMS under Accession No. ML19169A155.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on March 25, 2019 (84 FR 11139).

1. *The title of the information collection:* Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
2. *OMB approval number:* 3150–0209.
3. *Type of submission:* Extension.
4. *The form number if applicable:* NRC Form 781 and NRC Form 782.
5. *How often the collection is required or requested:* title 10 of the *Code of Federal Regulations* (10 CFR) part 5 follows provisions covered in 10 CFR 4.331. Compliance reviews, which indicates that the NRC may conduct compliance reviews and Pre-Award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the act and these regulations. The NRC may conduct these reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.
6. *Who will be required or asked to respond:* Recipients of federal financial assistance (FFA) provided by the NRC (including educational institutions, other nonprofit organizations receiving FFA, and Agreement States).
7. *The estimated number of annual responses:* 800.

8. *The estimated number of annual respondents:* 200.

9. *An estimate of the total number of hours needed to comply with the information collection requirement or request:* 3,600.

10. *Abstract:* The proposed collection of information is necessary to ensure nondiscrimination and compliance with Federal civil rights regulations in NRC's FFA programs and activities.

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14156 Filed 7–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0235]

Information Collection: NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest (Index and Regional Compact Tabulation) and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest (Index and Regional Compact Tabulation) and Continuation Page.''

DATES: Submit comments by September 3, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0235. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0235 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–2018–0235. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0235 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *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, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of NRC Forms 542 and 542A and related instructions may be obtained without charge by accessing ADAMS Accession Nos.: ML18313A148, ML18313A149, and ML071870172, respectively. The supporting statement is available in ADAMS under Accession No. ML18353B290.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2018–0235 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest (Index and Regional Compact Tabulation) and Continuation Page.''

2. *OMB approval number:* 3150–0165.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Forms 542 and 542A.

5. *How often the collection is required or requested:* Forms are used by shippers whenever radioactive waste is shipped. Quarterly or less frequent reporting is made to Agreement States depending on specific license conditions. No reporting is made to the NRC.

6. *Who will be required or asked to respond:* All NRC or Agreement State low-level waste facilities licensed pursuant to part 61 of title 10 of the *Code of Federal Regulations* (10 CFR) or equivalent Agreement State regulations. All generators, collectors, and processors of low-level waste intended

for disposal at a low-level waste facility must complete the appropriate forms.

7. *The estimated number of annual responses:* 756.

8. *The estimated number of annual respondents:* 22.

Note that the NRC does not collect or retain data on manifest forms and the forms are not sent to or received by the NRC. The estimates provided in items seven and eight above are from the previous form renewal Notice. The NRC did not receive any public comment on the previous renewal suggesting that these estimates should be revised. NRC is requesting comment on the accuracy of these estimates in Section III of this notice.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 567.

10. *Abstract:* NRC Forms 542 and 542A, provide a set of standardized forms to meet Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low-level waste industry groups. The forms provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. The NRC Form 542, completed by waste collectors or processors, contains information which facilitates tracking the identity of the waste generator. That tracking becomes more complicated when the waste forms, dimensions, or packaging are changed by the waste processor. Each container of waste shipped from a waste processor may contain waste from several different generators. The information provided on the NRC Form 542 permits the States and Compacts to know the original generators of low-level waste, as authorized by the Low-Level Radioactive Waste Policy Amendments Act of 1985, so they can ensure that waste is disposed of in the appropriate Compact.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14155 Filed 7–2–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0234]

Information Collection: NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description) and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description) and Continuation Page.''

DATES: Submit comments by September 3, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0234. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6–A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0234 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–2018–0234. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0234 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *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, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of NRC Forms 541 and 541A and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML18313A146, ML18313A147, and ML071870172, respectively. The supporting statement is available in ADAMS under Accession No. ML18353A737.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2018–0234 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste and Manifest (Container and Waste Description) and Continuation Page.''
2. *OMB approval number:* 3150–0166.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 541 and 541A.
5. *How often the collection is required or requested:* Forms are used by shippers Agreement States depending on specific license conditions. No reporting is made to the NRC.
6. *Who will be required or asked to respond:* All NRC or Agreement State low-level waste facilities licensed pursuant to part 61 of title 10 of the *Code of Federal Regulations* (10 CFR) or equivalent Agreement State regulations. All generators, collectors, and processors of low-level waste intended for disposal at a low-level waste facility must complete the appropriate forms.
7. *The estimated number of annual responses:* 5,600.
8. *The estimated number of annual respondents:* 220.

Note that the NRC does not collect or retain data on manifest forms and the forms are not sent to or received by the NRC. The estimates provided in items seven and eight above are from the previous form renewal Notice. The NRC did not receive any public comment on the previous renewal suggesting that these estimates should be revised. NRC is requesting comment on the accuracy of these estimates in Section III of this notice.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 18,480.
10. *Abstract:* NRC Forms 541 and 541A provide a set of standardized forms to meet U.S. Department of Transportation (DOT), NRC, and State requirements. The forms were developed by NRC at the request of low level waste industry groups. The forms provide uniformity and efficiency in the collection of information contained in manifests which are required to control transfers of low-level radioactive waste intended for disposal at a land disposal facility. The NRC Form 541 contains information needed by disposal site facilities to safely dispose of low-level waste and information to meet NRC and State requirements regulating these activities.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 27th day of June, 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–14168 Filed 7–2–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–178]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 8, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern

[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).

competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2019–178; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 27, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* July 8, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–14256 Filed 7–2–19; 8:45 am]

BILLING CODE 7710–FW–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:* August 5, 2019.

ADDRESSES: Responses may be submitted online at *https://www.research.va.gov/PREVENTS/* or via email to *RFIresearchresponse@va.gov.*

FOR FURTHER INFORMATION CONTACT: Tracie Lattimore 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 August 5, 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.

Stacy Murphy,

Operations Manager.

[FR Doc. 2019–14138 Filed 7–2–19; 8:45 am]

BILLING CODE 3270–F9–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86211; File No. SR–C2–2019–016]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Update Its Rules Related to Complex Orders and Trading Halts

June 27, 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 17, 2019, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') proposes to update its rules related to complex orders and trading halts. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[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. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change updates the Exchange's trading halt procedures as they relate to complex orders. The Exchange recently adopted a rule change (Rule 6.11) to eliminate the distinction between how the opening auction process applies to a User's simple orders following a Regulatory Halt and a non-Regulatory Halt.[5] This change will be implemented on June 17, 2019 and provides that the opening auction process following any trading halt will apply in the same manner (the manner in which Regulatory Halts functioned previously): The System will queue a User's orders and quotes resting on the book at the time of the trading halt for participation in the opening auction process following the trading halt, unless the User entered instructions to cancels its resting orders and quotes.

The Exchange now proposes to update the Complex Order Book (''COB'') re-opening process following a trading halt under Rule 6.13 to align with the proposed changes to the opening auction process following a halt for a User's simple orders. Currently, Rule 6.13(k)(1) provides that if a trading halt exists for the underlying security or a component of a complex strategy, trading in the complex strategy is suspended. The System queues a Trading Permit Holder's open orders during a Regulatory Halt, unless the Trading Permit Holder entered instructions to cancel its open complex orders upon a Regulatory Halt, for participation in the re-opening of the COB. A Trading Permit Holder's complex orders are cancelled unless the Trading Permit Holder instructed the Exchange not to cancel its orders. The System cancels a Trading Permit Holder's open complex orders upon a halt that is not a Regulatory Halt. The Exchange now proposes to update this process to mirror that of the process for simple orders. Specifically, the Exchange proposes to amend Rule 6.13(k)(1) by replacing references to ''Regulatory Halts'' with ''halts'', as well as removing language which states that a Trading Permit Holder's complex orders will be cancelled unless the Trading Permit Holder instructed the Exchange not to cancel its orders, and that the System cancels a Trading Permit Holder's open complex orders upon a halt that is not a Regulatory Halt. The Exchange also believes that in addition to harmonizing the complex order halt process with that of the simple order process, removing language that states that a Trading Permit Holder's complex orders are cancelled unless the Trading Permit Holder instructed the Exchange not to cancel its orders, serves to make its rules clearer and easier to understand. Currently, this language appears to be in conflict with the Rule language that states (as proposed) that the System will queue a User's open complex orders during a Regulatory Halt, unless the User entered instructions to cancel its open complex orders.

In addition to this, the Exchange proposes to make the same updates to Rule 6.32, which provides for trading halts generally, thereby aligning this rule with the trading halt process to be implemented on June 17, 2019. The Exchange also proposes non-substantive rule changes. It proposes to amend an inaccurate cross reference in Rule 6.13(c)(1) (which currently references Rule 6.11(a) (Definitions)) to reference Rule 6.11, thus accurately encompassing the times and manner set forth in the opening process as stated in Rule 6.13(c)(1). The Exchange adds proposed language that refers specifically to a User's open complex orders, as opposed to open orders, which provides additional clarity as to the type of orders covered by this Rule. The Exchange also makes reference changes from ''Trading Permit Holder'' to ''User'', as this is consistent with the terminology used throughout Rule 6.13.

The Exchange believes that this proposed change will provide Users with the ability to decide how their resting complex orders a should be handled in the event of a non-Regulatory Halt, as they are currently able to do in the event of a Regulatory Halt. The Exchange also believes elimination of this distinction will

[5] *See* Securities Exchange Act No. 85931 (May 23, 2019), 84 FR 25086 (May 30, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend Rule 6.11) (SR–C2–2019–011). The changes in SR–C2–2019–011 are currently effective but not yet operative; however, the proposed rule text in this rule filing assume operativeness of those effective changes. The Exchange notes that the distinction between the two trading halts was made throughout its rules in connection with Regulatory Halts under the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Plan''). During a Regulatory Halt an underlying security has halted trading across the industry, and during a non-Regulatory Halt the primary exchange has experienced a technical issue but the underlying security continues to trade on other equities platforms. However, the Exchange determined that there would be a Queuing Period following a non-Regulatory Halt, like that of a Regulatory Halt, in order eliminate potential investor confusion regarding how the System will handle orders and quotes in the event of any trading halt. This is consistent with the Plan.

eliminate potential investor confusion regarding how the System will handle complex orders in the event of a trading halt, as well as potential investor confusion regarding how the System will handle complex orders as compared to simple orders upon implementation of the changes to the trading halt process for simple orders on June 17, 2019.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change to harmonize the process for a User's complex orders during all types of trading halts will protect investors by eliminating potential confusion regarding how the System will handle their complex orders during a non-Regulatory Halt (as they are currently handled during a Regulatory Halt). The Exchange believes that the proposed rule change will serve to remove impediments to and perfect the mechanism of a free and open market and a national market system by harmonizing its various rules regarding trading halts, thereby protecting investors by providing them with consistent rules. Furthermore, the Exchange believes the proposed change eliminates conflicting language regarding a User's order instructions during halts, thereby protecting investors by providing rules that are clear and easy to understand. In addition to this, the proposed non-substantive changes will benefit investors by providing additional clarity to the Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Users will have the same flexibility regarding how the System will handle their complex orders during non-Regulatory Halts, which is the same flexibility currently available to Users during Regulatory Halts. If a User wants its complex orders to be handled during a non-Regulatory Halt in the manner they are today, that User may instruct the Exchange to do so (as they currently may do during a Regulatory Halt). The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended as a competitive change, but rather to provide Users with flexibility with respect to the handling of their complex orders during a non-Regulatory Halt, to provide consistent trading halt procedures under the Exchange's rules, as well as to provide clarity to investors by eliminating conflicting language. The Exchange also notes that the proposed non-substantive changes do not impact trading, and thus have no competitive impact; they merely provide additional clarity to the Rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to implement this proposed rule change simultaneously with the rule change to eliminate the trading halt distinctions following the opening auction process for a User's simple orders, which the Exchange intends to implement on June 17, 2019. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–C2–2019–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2019–016. 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–C2–2019–016 and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14157 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86221; File No. SR–BX–2019–023]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the BX Options Rules at Chapter IV, Securities Traded on BX

June 27, 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 19, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the BX Options Rules (''BX Options'') at Chapter IV (Securities Traded on BX Options) under the Options 4 title in the Exchange's rulebook's (''Rulebook'') shell structure.[3]

The proposal also amends the rules as relocated to conform primarily to the equivalent options rules in the Nasdaq ISE, LLC (''ISE'') rulebook, as well as in one instance to the equivalent options rule in the Nasdaq PHLX LLC (''Phlx'') rulebook.

The proposal also amends Section 1 of Chapter I of the BX Options Rules to add several definitions.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, The Nasdaq Stock Market LLC (''Nasdaq''); Nasdaq PHLX LLC; Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). The shell structure currently contains eight (8) General sections which, once complete, will apply a common set of rules to the Affiliated Exchanges. *See* Securities Exchange Act Release No. 82174 (November 29, 2017), 82 FR 57492 (December 5, 2017) (SR–BX–2017–054).

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 relocate the rule text in Chapter IV (Securities Traded on BX Options) to the Options 4 title in the Rulebook's shell structure. For ease of reference and the purposes of this filing, the relocated rules are herein described as the ''Options Listing Rules.''

The relocation of the Options Listing Rules is part of the Exchange's continued effort to promote efficiency and the conformity of its processes with those of the Affiliated Exchanges,[4] and its goal of harmonizing and uniformizing its rules.[5]

This proposed change is of a non-substantive nature. Moreover, the relocation of the Options Listing Rules will facilitate the use of the Rulebook by Members[6] of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general. The relocated rules will be amended to reflect the equivalent options rules in the ISE rulebook, but the changes are of a non-substantive nature.

The overarching goal is to align BX Options rules with those of the ISE. The Exchange is proposing to amend the rules for BX Options, most notably the rule text in the Options Listing Rules concerning securities traded on BX Options, but also adding several definitions to Section1 of Chapter I.

The vast majority of the changes are technical changes and made throughout the Options Listing Rules. These minor

[4] *Id.*

[5] This proposal is similar to the recent relocation of options rules at Chapter IV (Securities Traded on NOM) under the Options 4 title in the Nasdaq rulebook. *See* Securities Exchange Act Release No. 86022 (June 4, 2019), 84 FR 26912 (June 10, 2019) (SR–NASDAQ–2019–047).

[6] As defined by Exchange Rule 0120(i).

changes are designed to conform the BX Options rules to the equivalent ISE rules, as well as to increase the clarity of the rules. This includes some reorganization and renumbering within the Options Listing Rules' subsections to ensure they remain consistent.

The proposed changes that do not fit within the description above are listed below, beginning with changes to Chapter I General Provisions and followed by global changes to the Options Listing Rules. The changes are then broken down by section within the Options Listing Rules.

Proposed Changes to Chapter I

The Exchange is proposing to add definitions to ''Section 1 Definitions''. Specifically, the terms ''class'' ''series'' and ''underlying security'' will be added to Section 1(a) as (73), (74), and (75), respectively.[7] The Exchange believes that using the definitions for these terms as defined in the By-Laws of The Options Clearing Corporation (''OCC'') uniformly across Nasdaq, Inc.'s exchanges will help to align them. Providing uniform, clear and precise definitions for these terms will provide consistency, lessen potential confusion and add clarity for market participants.

Proposed Changes to the Options Listing Rules

Global Changes

As described above, the current Options Listing Rules will be amended throughout to change ''BX Options'' to ''the Exchange''. This proposed change will add consistency throughout the chapter. ''BX Regulation'' also will be changed to ''the Exchange'' throughout the Options Listing Rules to update the appropriate references. Additionally, there are a number of minor changes made throughout the chapter to increase the clarity of the language, as well as renumbering within the section to ensure it remains consistent.

Proposed Changes to Section 1 Designation of Securities

This section will be amended to clarify that the options contracts that are designated by reference to the issuer of the underlying security can also be designated by reference to the name of the underlying foreign currency. Additionally, it can be referenced by not only the expiration month, but also by the expiration date.

Proposed Changes to Section 2 Rights and Obligations of Holders and Writers

This section will be amended to clarify that option contracts of any class of options dealt in on the Exchange are subject to the provisions of Options 4 and as set forth in the rules of the Clearing Corporation. This change clarifies the rights and obligations of holders and writers of option contracts.

Proposed Changes to Section 3 Criteria for Underlying Securities

Section 3(i) of the Options Listing Rules is being replaced and updated by incorporating the ISE version of the Exchange-Traded Fund (''ETF'') option listing rule.[8] Most of the changes in Section 3 of the Options Listing Rules simply result from reorganization within the section done to mirror the ISE rule and for greater clarity.

Section 3(k)(ii) of the Options Listing Rules will be amended to delete the language stating that the Exchange will ''employ the same procedures to qualify underlying securities pursuant to this subsection (k) as it employs in qualifying underlying securities pursuant to other subsections of this Section 3.'' This deleted language is unnecessary since it is redundant given that each of the other subsections in Section 3 have procedures to qualify underlying securities plus it is also not reflected in the ISE rule version being adopted for this section.

Section 3(m) will be deleted since the definition of ''Partnership Unit'' is a remnant from the legacy Exchange ETF listing rule and is unnecessary since it has never been used. It also is not reflected in the ISE rule version being adopted for this section.

Proposed Changes to Section 4 Withdrawal of Approval of Underlying Securities

Section 4(a) of the Options Listing Rules will be amended to add flexibility for the Exchange to choose whether to decline new additional series of options on the underlying security previously approved.[9] Currently, this section restricts this, but flexibility is being added to give greater discretion about adding series and an exception also will be added that opening transactions by market makers executed to accommodate closing transactions of other market participants may be permitted. This will provide the public with greater protection since it will allow the Exchange to now decline new additional series of options on the underlying security previously approved that may not be in the best interests of the public.

Section 4(h)(ii) of the Options Listing Rules will be amended to change for options covering Exchange-Traded Fund Shares approved pursuant to Section 3(i)(iv)(2) of Options 4, following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as NMS stock under Rule 600 of Regulation NMS, that there were fewer than 50 record and/or beneficial holders of such Exchange-Traded Fund Shares for 30 or more consecutive trading days rather than as it is currently stated for 30 consecutive days. It is only on trading days that the information regarding 50 record and/or beneficial holders can be ascertained. Also, the change is consistent with the ISE rule.[10]

Proposed Changes to Section 6 Series of Options Contracts Open for Trading

Section 6(a) of the Options Listing Rules will be amended to add to note that exercise-price setting parameters adopted as part of the Options Listing Procedures Plan will be included in Supplementary Material .02 Select Provisions of Options Listing Procedures Plan.

In order to mirror the equivalent ISE rules,[11] Section 6(d)iv of the Options Listing Rules will be amended to incorporate, in large part, former Supplementary Material .03 within Section 6 itself. Also, Section 6(d)v of the Options Listing Rules will be relocated to .10 of the Supplementary Material to Section 6 of the Options Listing Rules.[12]

Supplementary Material .01(a) and (b) to Section 6 will detail the $1 Strike Price Interval Program and will replace .01 and .02 of the Supplementary Material to Section 6. Select Provisions of Options Listing Procedures Plan (''OLPP'') will be added as Supplementary Material .02 to Section 6.

Supplementary Material. 03 and .04 will detail the Short Term Option Series Program[13] and the Quarterly Options Series Program,[14] respectively, and each will be consistent with the equivalent ISE rule.

.05 of the Supplementary Material to Section 6 will be amended to cover the intervals between strike prices for Mini-

[7] *See* OCC By-Laws Article I–Definitions C.(11); S.(12); and U.(3), respectively.

[8] *See* ISE Rule 502(h).

[9] *See* ISE Rule 503(a).

[10] *See* ISE Rule 503(h)(2).

[11] *See* ISE Rule 504(g).

[12] *See* ISE Supplementary Material .09 to Rule 504.

[13] *See* ISE Supplementary Material .02 to Rule 504.

[14] *See* ISE Supplementary Material .03 to Rule 504.

Nasdaq 100 Index options series and will be consistent with the equivalent ISE rule.[15]

The first sentence of .06 Range Limitations for New Option Series of the Options Listing Rules has been deleted since it is covered in .02 of the Supplementary Material to Section 6, but the definition of OLPP has been moved to Section 6(a).

The introductory paragraph to .02 of the Supplementary Material to Section 6 of the Options Listing Rules details that the quote mitigation strategy and is codified in the OLPP. Subsection (a) states that the exercise price of each options series listed by the Exchange is fixed at a price per share that is reasonably close to the price of the underlying equity security, ETF or Trust Issued Receipt at or about the time the Exchange determines to list such series. Subsection (a)(ii) says that for new expiration months, the daily high and low of all prices reported by all national securities exchanges on the day the Exchange determines its preliminary notification of a new series. The amended language will say that the price of the underlying security is measured by, for new expiration months, the daily high and low of all prices reported by all national securities exchanges on the day the Exchange determines its preliminary notification of a new series rather than on the day the Exchange determines to list a new series. This change also mirrors the language in the ISE rules.[16]

Subsection (c) will be added to the Supplementary Material to Section 6 of the Options Listing Rules to make clear that subsection (a) of the Supplementary Material to Section 6 of the Options Listing Rules will not permit the listing of series that are otherwise prohibited by the rules of the Exchange or the OLPP. Additionally, to the extent the rules of the Exchange permit the listing of new series that are otherwise prohibited by the provisions of the OLPP, the provisions of the OLPP will govern. These changes are consistent with the ISE rules.[17]

Supplementary Material .16 U.S. Dollar-Settled Foreign Currency Options (formerly Supplementary Material .09) will be amended to reflect the language of the equivalent Phlx Rule since ISE does not have U.S. Dollar-Settled Foreign Currency Options.[18] Also, the references to the continuity rules here (formerly Supplementary Material .09(C)) and in Section 8. Long-Term Options Contracts have been deleted since quoting obligations for long term options has recently been updated and addressed in Phlx Rule 1081 and in BX Options Chapter VII Section 6.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5) of the Act,[20] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the relocation of its Options Listing Rules is a non-substantive change and is consistent with similar filings by the Exchange for the relocation of its rules.[21] As noted above, the relocation of the Options Listing Rules is part of the Exchange's continued effort to promote efficiency and the structural conformity of its processes with those of the Affiliated Exchanges,[22] and its goal of harmonizing and uniformizing its rules.[23] Additionally, the relocation of the Options Listing Rules will facilitate the use of the Rulebook by Members[24] of the Exchange, who are members of other Affiliated Exchanges; other market participants; and the public in general.

The majority of the changes are also consistent with the ISE rulebook and the overarching goal is to align the BX Options rules with those of the ISE. These changes include the change to subsection (a)(ii) of the Supplementary Material to Section 6 to say that the price of the underlying security is measured by, for new expiration months, the daily high and low of all prices reported by all national securities exchanges on the day the Exchange determines its preliminary notification of a new series rather than on the day the Exchange determines to list a new series.

Another such change is amending the Options Listing Rules to change for options covering Exchange-Traded Fund Shares approved pursuant to Section 3(i)(iv)(2) of Options 4, following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as NMS stock under Rule 600 of Regulation NMS, that there were fewer than 50 record and/or beneficial holders of such Exchange-Traded Fund Shares for 30 or more consecutive trading days rather than as it is currently stated for 30 consecutive days. It is only on trading days that the information regarding 50 record and/or beneficial holders can be ascertained. This change serves 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 amending Section 4(a) of the Options Listing Rules to add flexibility for the Exchange to choose whether to decline new additional series of options on the underlying security previously approved will serve 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 since it will allow the Exchange to now decline new additional series of options on the underlying security previously approved that may not be in the best interests of the public.

The Exchange believe that adding definitions for the terms ''class'', ''series'', and ''underlying security'' to the BX Options rulebook from the OCC By-Laws will help 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 through providing uniform, clear and precise definitions for these terms and increase consistency, lessen potential confusion and add clarity for market participants.[25]

As a result, the Exchange believes that the changes included in this filing serve 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 since the changes are intended to organize the Rulebook in a way that it will ease the Members', market participants', and the general public's navigation and reading of the rules.

With respect to the proposed technical corrections to the rules, the Exchange believes that these changes are consistent with the Act because they will prevent investor confusion that may be caused by including in the Rules incorrect rule citations and defunct rule text.

[15] *See* ISE Supplementary Material .04 to Rule 504.

[16] *See* ISE Rule 504A(b)(i)(2).

[17] *See* ISE Rule 504A(b)(v) and (vi).

[18] *See* Phlx Rule 1012(a)(iii).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See* footnote 3.

[22] *Id.*

[23] *See* footnote 5.

[24] As defined by Exchange Rule 0120(i).

[25] *See* footnote 7.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change does not impose a burden on competition because, as previously stated, it (i) is of a non-substantive nature, (ii) is intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) is intended to organize the Rulebook in a way that it will ease the Members', market participants', and the general public's navigation and reading of the rules.

Consequently, the Exchange does not believe that the proposed changes implicate competition at all.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [26] and subparagraph (f)(6) of Rule 19b–4 thereunder.[27]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[26] 15 U.S.C. 78s(b)(3)(A)(iii).

[27] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–BX–2019–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2019–023. 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–BX–2019–023, and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14163 Filed 7–2–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86224; File No. SR–CBOE–2019–030]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Use Cboe Exchange's Affiliate, Cboe Trading, as an Inbound and Outbound Router for Cboe Options

June 27, 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 25, 2019, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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 adopt rules related to the inbound and outbound router for Cboe Options, as well as seek approval from the Securities and Exchange Commission (''Commission'') for affiliate, [sic] Trading, Inc. (''Cboe Trading''), to become a Trading Permit Holder of the Exchange. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 (1) seek approval from the Commission pursuant to current Rule 3.32(b) for affiliate, Cboe Trading, to become a Trading Permit Holder of the Exchange; (2) relocate and amend Rule 3.32(b) related to exchange affiliations to Rule 3.11; (3) adopt Rule 3.12 to govern the Exchange's use of Cboe Trading as an outbound router; (4) adopt Rule 3.13 to govern the Exchange's receipt of inbound orders from Cboe Trading, on behalf of the Exchange's affiliate options exchanges, Cboe EDGX Exchange, Inc. (''EDGX''), Cboe BZX Exchange, Inc. (''BZX'') and Cboe C2 Exchange, Inc. (''C2''); and (5) make non-substantive changes to Rule 6.14B regarding non-affiliated routing brokers. The Exchange notes that proposed Rules 3.11, 3.12 and 3.13 and current Rule 6.14B are substantively identical in all material respects to EDGX Rules 2.10, 2.11, 2.12, and 21.9(e), as well as C2 Rules 3.16, 3.17, 3.18 and 6.15(e).

Commission Approval Under Current Rule 3.32(b)

Current Rule 3.32(b) provides that without prior Commission approval, no Trading Permit Holder may be or become affiliated with the Exchange. The Exchange seeks Commission approval for Exchange affiliate Cboe Trading to become a Trading Permit Holder of the Exchange pursuant to Rule 3.32(b). The Exchange also seeks Commission approval to transfer and amend current Rule 3.32(b) to proposed Rule 3.11, as described below.

Relocation and Amendment of Rule 3.32(b)

The Exchange seeks the Commission's approval to relocate Rule 3.32(b) [3] to proposed new Rule 3.11 and add to proposed Rule 3.11 similar exclusions from the affiliation prohibition contained in its affiliated options exchanges, EDGX Rule 2.10 and C2 Rule 3.16. Current Rule 3.32(b) prohibits the Exchange from acquiring or maintaining an ownership interest in a Trading Permit Holder, as well as prohibits Trading Permit Holder affiliations with the Exchange or an affiliate of the Exchange without prior Commission approval. Current exceptions include equity interests in CBSX LLC and the Exchange's parent company, Cboe Global Markets, Inc., and affiliations with OneChicago, LLC. EDGX Rule 2.10 and C2 Rule 3.16 contain similar restrictions on Exchange affiliations with EDGX Members and C2 Trading Permit Holders, but also contains additional exceptions, including (a) affiliations solely by reason of a Member (or any officer, director, manager, managing member, partner, or affiliate of such Member) becoming a director of the Exchange or Cboe Global Markets, Inc., or (b) affiliations with Cboe Trading or of Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe C2 Exchange, Inc., or Cboe Futures Exchange, LLC (each, a ''Cboe Exchange''). The Exchange proposes to include these two additional exceptions in proposed Rule 3.11 as the same affiliate restrictions apply to all three exchanges and are consistent with governing documents of Cboe Options and Cboe Global Markets, Inc., previously filed with the Commission.

Proposed Rule 3.12 (Cboe Trading as Outbound Router)

The proposed rule change also adopts Rule 3.12 to govern the Exchange's use of Cboe Trading as an outbound router. Proposed Rule 3.12 is based on EDGX Rule 2.11 and C2 Rule 3.17. As long as Cboe Trading is affiliated with Cboe Options and is providing outbound routing of orders from Cboe Options to other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers (''Trading Centers'' and, such function of Cboe Trading is referred to as the ''Outbound Router''), Cboe Trading's outbound routing services would be subject to the following conditions and limitations:

- Cboe Options will regulate the Outbound Router function of Cboe Trading as a facility (subject to Section 6 of the Act), and will, among other things, be responsible for filing with the Commission rule changes and fees relating to the Cboe Trading Outbound Router function and Cboe Trading will be subject to exchange non-discrimination requirements;
- FINRA, a self-regulatory organization unaffiliated with the Exchange or any of its affiliates, will carry out oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d–1 of the Act with the responsibility for examining Cboe Trading for compliance with applicable financial responsibility rules.
- A Trading Permit Holder's use of Cboe Trading to route orders to another Trading Center will be optional. Any Trading Permit Holder that does not want to use Cboe Trading may use other routers to route orders to other Trading Centers.
- Cboe Trading will not engage in any business other than (i) its Outbound Router function, (ii) its Inbound Router function as described in Rule 3.13, (iii) its usage of an error account in compliance with proposed paragraph (a)(7) (regarding Cboe Trading maintenance of an error account described below), and (iv) any other activities it may engage in as approved by the Commission.
- The Exchange will establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including Cboe Trading), and any other entity, including any affiliate of Cboe Trading, and, if Cboe Trading or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of Cboe Trading or its affiliate that provides the other business activities and the routing services.
- The Exchange or Cboe Trading may cancel orders as either deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, Cboe Trading, or a routing destination. The Exchange or Cboe Trading will provide notice of the cancellation to affected Trading Permit Holders as soon as practicable.
- Proposed Rule 3.12(a)(7) provides that Cboe Trading will maintain an error account for the purpose of addressing

[3] And, as a result, update the subsequent lettering under Rule 3.32.

positions that are the result of an execution or executions that are not clearly erroneous under Rule 6.25 and result from a technical or systems issue at Cboe Trading, the Exchange, a routing destination, or a non-affiliate third-party Routing Broker that affects one or more orders (''Error Positions'').

• For purposes of proposed Rule 3.12(a)(7), an Error Position will not include any position that results from an order submitted by a Trading Permit Holder to the Exchange that is executed on the Exchange and automatically processed for clearance and settlement on a locked-in basis.

• Except as provided in proposed subparagraph (7)(C) (described in the next bullet), Cboe Trading does not accept any positions in its error account of a Trading Permit Holder or permit any Trading Permit Holder to transfer any positions from the Trading Permit Holder's account to Cboe Trading's error account.

• If a technical or systems issue results in the Exchange not having valid clearing instructions for a Trading Permit Holder to a trade, Cboe Trading may assume the Trading Permit Holder's side of the trade so that the trade can be automatically processed for clearance and settlement on a locked-in basis.

• In connection with a particular technical or systems issue, Cboe Trading or the Exchange will either assign all resulting Error Positions to the Trading Permit Holders in accordance with proposed subparagraph (D)(i),[4] or have all resulting Error Positions liquidated in accordance with proposed subparagraph (D)(ii).[5] Any determination to assign or liquidate Error Positions, as well as any resulting assignments, will be made in a nondiscriminatory fashion.

• Cboe Trading and the Exchange will make and keep records to document all determinations to treat positions as Error Positions and all determinations for the assignment of Error Positions to Trading Permit Holders or the liquidation of Error Positions, as well as records associated with the liquidation of Error Positions through the third-party broker-dealer.

• The books, records, premises, officers, agents, directors, and employees of Cboe Trading as a facility of the Exchange are deemed to be the books, records, premises, officers, agents, directors, and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Exchange Act. The books and records of Cboe Trading as a facility of the Exchange are subject at all times to inspection and copying by the Exchange and the Commission. Nothing in the Rules precludes officers, agents, directors, or employees of the Exchange from also serving as officers, agents, directors, and employees of Cboe Trading.

The Exchange will comply with the above-listed conditions prior to offering outbound routing from Cboe Trading. In meeting the conditions, the Exchange will have mechanisms in place to protect the independence of the Exchange's regulatory responsibility with respect to Cboe Trading, as well as demonstrate the Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage. Current Rule 3.32(b) and proposed Rule 3.11 provide that without prior Commission approval, no Trading Permit Holder may be or become affiliated with the Exchange.

Proposed Rule 3.13 (Cboe Trading as Inbound Router)

The Exchange also proposes to adopt Rule 3.13, which is based on EDGX Rule 2.12 and C2 Rule 3.18. Pursuant to proposed Rule 3.13, Cboe Trading's inbound routing services from EDGX Options, BZX Options and C2 to the Exchange would be subject to the following conditions and limitations:

• The Exchange must enter into a plan pursuant to Rule 17d–2 under the Exchange Act with a non-affiliated self-regulatory organization and a regulatory services contract with a non-affiliated SRO to perform regulatory responsibilities for Cboe Trading for unique Exchange rules.

• The regulatory services contract must require the Exchange to provide the non-affiliated self-regulatory organization with information, in an easily accessible manner, regarding all exception reports, alerts, complaints, trading errors, cancellations, investigations, and enforcement matters (collectively, ''Exceptions'') in which Cboe Trading is identified as a participant that has potentially violated Exchange or Commission rules, and shall require that the non-affiliated self-regulatory organization provide a report to the Exchange quantifying all such exception reports, alerts, complaints, trading errors, cancellations, investigations and enforcement matters on not less than a quarterly basis.

• The Exchange, on behalf of its parent company, Cboe Global Markets, must establish and maintain procedures and internal controls reasonably designed to ensure that Cboe Trading does not develop or implement changes to its systems on the basis of nonpublic information obtained as a result of its affiliation with the Exchange until such information is available generally to similarly situated Trading Permit Holders of the Exchange.

If the Exchange complies with the above-listed conditions and if Cboe Trading operates as an Outbound Router on behalf of each Cboe Exchange in accordance with the rules of each Cboe Exchange, Cboe Trading may provide inbound routing services to the Exchange from each Cboe Exchange.

Proposed Change to Rule 6.14B

Additionally, the Exchange proposes to amend Rule 6.14B to account for its use of affiliate Cboe Trading as an outbound router, as proposed, by specifying that the rule applies to the Exchange's non-affiliated routing brokers. Current Rule 6.14B describes the procedures and requirements for routing brokers that automatically route intermarket sweep orders to other Exchanges (''Routing Services''). The introductory paragraph under Rule 6.14B states that the Exchange may automatically route intermarket sweep orders to other exchanges under certain circumstances, and that certain requirements (provided in subparagraphs (a) through (h)) apply in connection with such services. Current paragraph (a) states that Routing Services will be provided in conjunction with one or more routing

[4] Proposed subparagraph (a)(7)(D)(i) states Cboe Trading or the Exchange will assign all Error Positions resulting from a particular technical or systems issue to the Trading Permit Holders affected by that technical or systems issue if Cboe Trading or the Exchange (a) determines it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the Trading Permit Holders affected by that technical or systems issue; (b) determines it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the Trading Permit Holders affected by that technical or systems issue; and (c) has not determined to cancel all orders affected by that technical or systems issue in accordance with proposed subparagraph (a)(6).

[5] Proposed subparagraph (a)(7)(D)(ii) states if Cboe Trading or the Exchange is unable to assign all Error Positions resulting from a particular technical or systems issue to all of the affected Trading Permit Holders in accordance with proposed subparagraph (D), or if Cboe Trading or the Exchange determines to cancel all orders affected by the technical or systems issue in accordance with proposed subparagraph (a)(6), then Cboe Trading will liquidate any applicable Error Positions as soon as practicable. In liquidating such Error Positions, Cboe Trading will (a) provide complete time and price discretion for the trading to liquidate the Error Positions to a third-party broker-dealer and not attempt to exercise any influence or control over the timing or methods of such trading; and (b) establish and enforce policies and procedures that are reasonably designed to restrict the flow of confidential and proprietary information between the third-party broker-dealer and Cboe Trading/the Exchange associated with the liquidation of the Error Positions.

brokers that are not affiliated with the Exchange. Therefore, this rule is currently applicable to non-affiliated routing brokers and the Exchange now proposes to merely provide additional clarity regarding its application to non-affiliated routing brokers in light of proposed use of affiliate Cboe Trading as an outbound router. The Exchange proposes to move language in paragraph (a), stated above, to the introductory provision under 6.14B and amend such language to provide that Routing Services *may* be provided in conjunction with one or more routing brokers that are not affiliated with the Exchange. This proposed change accounts for proposed Rule 3.12 in which affiliate Cboe Trading may also provide outbound routing. The Exchange also proposes to specify in the introductory rule text under Rule 6.14B that the conditions in the following subparagraphs apply to non-affiliated routing brokers, as well as update the rule heading accordingly. The Exchange notes that this proposed change does not substantively alter any of the conditions listed which are already applicable to non-affiliated routing brokers and that C2 Rule 6.15(e) and EDGX Options Rule 21.9(e), provide the same conditions for their non-affiliated routing brokers.[6]

The Exchange also proposes to add the definition of ''Cboe Trading'' to mean Cboe Trading, Inc. to Rule 1.1.

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes proposed Rules 3.12 and 3.13 promote the maintenance of a fair and orderly market, the protection of investors and the public interest, and is in the best interests of the Exchange and its Trading Permit Holders as it will allow the routing of orders to and from Trading Centers (including affiliated exchanges BZX Options, EDGX Options and C2) and the Exchange in the same manner as each Cboe Exchange currently routes orders. Moreover, in meeting the requirements of Rule 3.13 (*i.e.,* the 17d–2 plan, the regulatory services contract, and procedures and internal controls) the Exchange believes it will have mechanisms in place that protect the independence of the Exchange's regulatory responsibility with respect to Cboe Trading, as well as demonstrates that Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage. Similarly, in meeting the requirements of Rule 3.12 (*i.e.,* regulation as a facility, FINRA acting as the designated examining authority, optional use of Cboe Trading as an outbound router, restrictions on business of Cboe Trading, procedures and internal controls, cancellation of orders, maintenance of error account), the Exchange believes it will have mechanisms in place that protect the independence of the Exchange's regulatory responsibility with respect to Cboe Trading. It also serves to ensure that Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage, thus preventing an unfair burden on competition and unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposed definition of Cboe Trading will provide additional clarity of its Rules for investors.

Additionally, proposed Rule 3.11 incorporates the provisions in current Rule 3.32(b) related to restrictions on Exchange affiliations with Trading Permit Holders. As noted above, the provisions related to Exchange affiliations with Trading Permit Holders (including exceptions to any restrictions in the Rules) are consistent with the governing documents of Cboe Options and Cboe Global Markets, Inc. Proposed Rule 3.11 also mirrors EDGX Rule 2.10 and C2 Rule 3.16.

Further, the Exchange believes that the proposed changes to Rule 6.14B provide additional clarity of its Rules for investors, particularly in connection with the proposed use of affiliate Cboe Trading as an outbound router. The Exchange notes that Rule 6.14B is currently applicable to non-affiliated routing brokers and the proposed change merely seeks to provide specificity regarding its application. The Exchange also notes that it does not alter any of the conditions already applicable to non-affiliated routing brokers under Rule 6.14B, therefore the proposed change does not present any new obligations or novel issues for non-affiliated routing brokers. The Exchange also notes that proposed Rules 3.11, 3.12, 3.13, and 6.14B are substantially similar to corresponding EDGX and C2 rules,[10] previously approved or filed with the Exchange. Therefore, the proposed rule will provide consistent rules and functionality with that of its affiliated options exchange, thereby benefiting participants across the affiliated exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of Act as the proposed rules are based on the corresponding rules of its affiliated exchanges which allow Cboe Trading to become a member of the Exchange. Additionally, the proposed rule change is based on EDGX Options Rule 2.12 and C2 Rule 3.18, which allow EDGX Options and C2 to receive options orders from affiliate Cboe Trading on behalf of affiliate exchanges. The Exchange notes that use of Cboe Trading as an outbound router is voluntary and available to all participants and also notes that the proposed changes to Rule 6.14B do not substantively alter any requirements for non-affiliated routing brokers. Further, the Exchange does not believe Cboe Trading as an inbound router will impose any burden on intramarket competition as it does not affect

[6] The Exchange notes that the corresponding rules on EDGX Options and C2 treat their non-affiliated routing brokers as ''back-up'' routing brokers to their affiliate, Cboe Trading. The Exchange, however, does not propose to add that its non-affiliated routing brokers will function as back-up routing brokers, as the Exchange currently has Routing Service agreements in place today with non-affiliated and such non-affiliated routing brokers will continue to function on the Exchange as they have prior to this proposed rule change.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 6.

incoming orders which will continue to be prioritized and allocated pursuant to Rule 6.45 (Order and Quote Priority Allocation). Moreover, the requirements of Rule 3.13 (*i.e.,* the 17d–2 plan, the regulatory services contract, and procedures and internal controls) help to prevent an unfair burden on competition and unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange does not believe that the proposed change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of Act as the Exchange's affiliated options exchanges have the same rules in place and already route orders using their affiliate, Cboe Trading, to and from Trading Centers. As stated above, the Exchange also notes that the proposed rule change ensures that Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage, thus preventing an unfair burden on competition.

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

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–CBOE–2019–030 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–2019–030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–030 and should be submitted on or before July 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14164 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86214; File No. SR–CboeEDGX–2019–040]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend the Trigger for Its Opening Rotation Process for Equity Options

June 27, 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 24, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the 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 EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend the trigger for its opening rotation process for equity options.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 26, 2019, the Exchange filed a rule filing, SR–CboeEDGX–2019–027, which, among other things, amended its opening auction process.[5] The Exchange notes that it intends to implement the proposed changes under SR–CboeEDGX–2019–027 on June 27, 2019.[6] Specifically, the filing amended the events that will trigger the opening rotation for equity options pursuant to Rule 21.7(d). Beginning June 27, 2019, Rule 21.7(d) will provide that after a time period (which the Exchange determines for all classes) following the System's observation after 9:30 a.m. of the first disseminated transaction price for the security underlying an equity the System will initiate the opening rotation for the series in that class.[7]

Prior to the amendment made pursuant to SR–CboeEDGX–2019–027, the System would initiate its opening rotation for a series following the first transaction in the security underlying an equity option disseminated by the primary market after 9:30 a.m. The Exchange now seeks to amend the opening rotation trigger for equity options to revert back to the trigger used prior to the SR–CboeEDGX–2019–027 amendment. The Exchange understands its opening rotation trigger event, as amended, is not consistent with general practice in the industry, which is to trigger an opening rotation based on disseminated transactions from the primary market rather than any market. The Exchange notes that the proposed change to reflect the prior opening trigger event is the same as the rule language that existed before the SR–CboeEDGX–2019–027 amendment, previously filed with the Commission, modified only to conform to other rule text under Rule 21.7(d) amended by SR–CboeEDGX–2019–027 that the Exchange does not intend to alter.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change will serve to remove impediments to and perfect the mechanism of a free and open market and national market system because it will realign the trigger for its opening rotation for equity options with the trigger used by most other options exchanges.[11] The proposed change will benefit investors, as it will create consistency throughout the industry and will implement an opening rotation trigger that was previously in place under the Exchange Rules and thus, previously filed with the Commission and already familiar to market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act, because the proposed opening trigger will apply in the same manner to all equity options. The proposed rule change impacts a System process that occurs prior to the opening of trading, and merely modifies when the System will initiate an opening rotation. The Exchange also does not believe that the proposed change will impose any burden on intermarket competition that is not necessary in furtherance of the purposes of the Act, because use of the first disseminated transaction price from the primary market as a trigger for the opening rotation is consistent with the rules of other options exchanges[12] and with the Exchange Rules in place prior to the amendment made pursuant to SR–CboeEDGX–2019–027.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of filing. However, pursuant to

[5] *See* Securities Exchange Act Release No. 85797 (May 7, 2019), 84 FR 20920.

(May 13, 2019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amend the Exchange's Opening Process and add a Global Trading Hours Session for XSP Options) (SR–CboeEDGX–2019–027). The rule filing is part of Feature Pack 7 in connection with the migration of Cboe Exchange, Inc. (''Cboe Options'') technology to the same trading platform used by the Exchange, Cboe EDGX Exchange, Inc. (''EDGX Options''), and Cboe BZX Exchange, Inc. (''BZX Options'') in the fourth quarter of 2019.

[6] *Id.* The Exchange notes that implementation of Feature Pack 7 was recently postponed via Exchange notice from a roll-out of June 24, 2019 to June 27, 2019. *See* Exchange Notice No. C2019062100 (Updated June 21, 2019).

[7] The Exchange circulated an Exchange notice in advance of the implementation of the rule changes pursuant to SR–CboeEDGX–2019–027 describing such rule changes. *See* Exchange Notice No. C2019050201 (May 2, 2019). The Exchange also circulated an Exchange notice as a reminder of the upcoming rule changes under SR–CboeEDGX–2019–027. *See* Exchange Notice No. C2019061200 (June 12, 2019).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

[11] *See* Rules of Nasdaq BX, Chapter VI, Sec. 8(b); and Nasdaq Stock Market Options Rules, Chapter VI, Sec. 8(b). *See also http://www.nasdaqtrader.com/Content/BXOptions/BXOptions_FAQs.pdf*; and *http://www.nasdaqtrader.com/content/ProductsServices/Trading/OptionsMarket/options_market_faqs.pdf.*

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

Rule 19b–4(f)(6)(iii) [16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change will implement functionality relating to the opening rotation trigger for equity options that was previously in place on the Exchange. As such, waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as the proposed rule change will implement an opening rotation trigger that was previously in place under an Exchange Rule that is already familiar to market participants. Thus, as represented by the Exchange, the proposed rule change does not introduce any new or novel issues. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGX–2019–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2019–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2019–040 and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14160 Filed 7–2–19; 8:45 am]

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[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86212; File No. SR–NYSEAMER–2019–25]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend the NYSE American Options Fee Schedule

June 27, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 12, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective June 12, 2019.[4] The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange filed to amend the Fee Schedule for effectiveness on June 3, 2019, (SR–NYSEAmer–2019–23) and withdrew such filing on June 12, 2019.

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 encourage ATP holders that are not currently NYSE American Options Market Makers (each a ''Market Maker'') to register as a Market Maker on the Exchange (each a ''Newly Enrolled MM''). The Exchange proposal would modify the Fee Schedule to reduce rates on certain fixed costs for a Newly Enrolled MM. The Exchange proposes to implement the fee change effective June 12, 2019.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [5]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[6] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[7] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Proposed Fee Change

The Exchange currently charges Market Makers certain fixed costs related to their market-making business on the Exchange, including monthly ATP Fees and Premium Product Fees. Monthly ATP Fees are charged to all ATP Holders and are differentiated based on the role of the ATP Holder on the Exchange. Market Makers are charged a range of monthly ATP Fees that are based on the number of ATPs that are required by a Market Maker in creating their appointment for those option classes for which they want to submit electronic quotations to the Exchange.[8]

The Exchange also charges a Premium Product Fee, which levies a monthly fee to any Market Maker in the ten options with the highest trading volume on the Exchange (*i.e.,* SPY, AAPL, IWM, QQQ, BABA, BAC, EEM, FB, USO, and VXX).[9] For purposes of this filing, the Exchange proposes to collectively refer to both the monthly ATP Fees applicable to Market Makers and the Premium Product Fee as the ''Covered Fees.''

The Exchange proposes to offer introductory, reduced pricing to a Newly Enrolled MM on its Covered Fees for up to six months. The proposed reduced fees would be available beginning the first month that a Newly Enrolled MM registers as such on the Exchange.

This proposed fee change is targeted at potential Market Makers and relates only to the Covered Fees, which are fixed monthly costs. Market Makers serve a crucial role in the options markets by providing liquidity to facilitate market efficiency and functioning. The Exchange's fees are constrained by intermarket competition, as Market Makers can register on any or all of the 16 options exchanges. Thus, ATP Holders that are also members of other exchanges have a choice of where they register as Market Makers.

An ATP Holder that seeks to become a Market Maker must incur a number of additional costs that are unique to their role as a Market Maker, including developing market-making trading strategies, risk monitoring, and surveillance programs to monitor their own compliance with applicable market-making requirements. When an ATP Holder first begins trading in the capacity of a Market Maker, the success of its strategies may not yet be known and it can take time before such strategies are fully realized.

The Exchange proposes to amend the Fee Schedule by adding the following note after both the chart describing ATP Fees (Section III.A) and the chart describing the Premium Products Fees (Section III.D). As proposed, the new text would provide:

> An ATP Holder that is not currently an NYSE American Options Market Maker (''Market Maker'') and enrolls to operate as a Market Maker on the Exchange may be entitled to introductory pricing on its [ATP Fees/Premium Products Fees] for up to six months, beginning the first month in which it registers (each a ''Newly Enrolled MM''). For the first three months (*i.e.,* months 1–3), the Exchange will waive the [ATP Fees/Premium Product Fees] for a Newly Enrolled MM. For latter three months (*i.e.,* months 4–6), the Exchange will discount such [ATP Fees/Premium Product Fees] by 50%, unless the Newly Enrolled MM achieves a monthly ADV [10] equal to at least 0.05% of TCADV, at which time the Exchange would charge the Newly Enrolled MM 100% of its [ATP Fees/Premium Product Fees] for the remaining months, regardless of the Newly Enrolled MM's monthly ADV in subsequent months. An ATP Holder may qualify for this introductory pricing only once in a 24-month period, which period begins in the first month the ATP Holder registers on the Exchange.

As described above, for the first three months (*i.e.,* months 1–3), the Exchange would waive the Covered Fees for a Newly Enrolled MM. For the latter three months (*i.e.,* months 4–6), the Exchange would discount the Covered Fees by 50%. However, if in any of the months 4–6, the Newly Enrolled MM is trading 0.05% or more a month of TCADV,[11] the Newly Enrolled MM would no longer be eligible for the 50% discount of the Covered Fees.[12] In such case, the Newly Enrolled MM would be charged the

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[6] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[7] Based on OCC data, *see id.,* the Exchange's market share in equity-based options declined from 9.82% for the month of January to 8.84% for the month of April.

[8] *See* Fee Schedule, III.A., Monthly Trading Permit, Rights, Floor Access and Premium Product Fees (describing monthly ATP Fees, which are priced based on a sliding scale where the cost per ATP decreases as the number of ATPs increases—*i.e.,* ranging from $8,000 for the first ATP down to $500 for the tenth ATP or ATP in excess of ten), *available here: https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[9] *See id.,* Fee Schedule, III.D., Monthly Trading Permit, Rights, Floor Access and Premium Product Fees (describing Premium Products Fees, which subjects each Market Maker that transact in these issues to a fee of $1,000 per product traded with a monthly cap of $7,000 for each Market Maker firm).

[10] The term ''ADV'' means average daily volume.

[11] The term ''TCADV'' refers to Total Industry Customer equity and ETF option average daily volume. TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options.

[12] Throughout the Fee Schedule, the Exchange uses percentage of TCADV as a proxy for measuring an ATP Holder's relative volume contribution to the Exchange.

applicable Covered Fees without a discount going forward, if its subsequent monthly volumes (*i.e.,* in months 5 and/or 6) fall below this threshold). In other words, once this threshold is achieved, the Newly Enrolled MM would no longer be eligible for the reduced fees even if subsequent monthly volumes fall below the 0.05% threshold. The Exchange believes that if a Newly Enrolled MM achieves trading volumes equal to 0.05% or more of TCADV, such Newly Enrolled MM would be trading at a level consistent with more established Market Makers and therefore has likely realized the potential of its market-making strategies and no longer merits a discount relative to longer established Market Makers.

An ATP Holder may qualify for this introductory pricing for its Covered Fees only once in a 24-month period, which period begins in the first month the ATP Holder registers on the Exchange. In other words, an ATP Holder may not be considered a Newly Enrolled MM more than once every 24 months. For example, if a Newly Enrolled MM registers in June 2019, that ATP Holder would not be eligible for the introductory pricing for a Newly Enrolled MM before June 2021. The Exchange has found that it is not uncommon for a trading team to separate from a particular firm or for a firm to cease a market making strategy and for the separated group or firm to seek to re-enter/re-enroll as Market Makers on the Exchange. Thus, the limit is designed to acknowledge that certain firms may cease operating as a Market Maker on the Exchange for legitimate reasons only to return at a later date, while at the same time reducing improper gaming of the discounted pricing by a single ATP Holder firm.

The Exchange believes the proposed reduced Covered Fees would benefit Newly Enrolled MMs by reducing (for a limited time) some of the fixed, start-up costs associated with establishing a market making strategy. By encouraging such new entrants, the Exchange would attract more liquidity to the Exchange. The Exchange does not believe Market Makers that are already operating on the Exchange would be disadvantaged by this proposal because the proposed fee discount is temporary and would end after three months if a Newly Enrolled MM meets specified volume thresholds.

In addition, existing Market Makers (as well as non-Market Makers) stand to benefit from an increase in liquidity on the Exchange that would result from additional Market Makers on the Exchange, which, in turn, facilitates tighter spreads and enhances price discovery, which may lead to a corresponding increase in order flow from other market participants. Market Makers add additional value beyond other market participants through continuous quoting and the commitment of capital. Because Market Makers have obligations and regulatory requirements that are not applicable to other market participants, the Exchange believes that offering the proposed reduced Covered Fees to each Newly Enrolled MM is equitable and not unfairly discriminatory in light of their obligations and the costs associated therewith.

The Exchange cannot predict with certainty whether any ATP Holder that is not currently a Market Maker is planning to register as a Market Maker and thus would avail themselves of this proposed fee change. Decisions about how to operate an ATP Holder are under the control of such ATP Holder. However, based on feedback from more than one ATP Holder that has expressed an interest in registering as a Market Maker on the Exchange, the Exchange believes that the proposed fee change would reduce the upfront financial risk for such ATP Holders as they work to develop profitable Market Making strategies on the Exchange.

The Exchange further notes that while the proposed fee change would result in different Covered Fees being charged to Newly Enrolled MMs as compared to existing Market Makers, the proposed fee change has been designed to mitigate any differences in treatment. As discussed above, if in the second three months, the Newly Enrolled MM meets specified thresholds, *i.e.,* functions as a Market Maker at levels similar to existing Market Makers, the proposed fee reductions would end. In addition, the proposed reduction in Covered Fees ends, at the latest, after the first six months of operation.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposal to offer the proposed discounts on Covered Fees for a period of up to six months to Newly Enrolled MMs provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. First, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[16] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[17] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees.

Second, the Exchange believes that the proposed rule change is an equitable allocation of reasonable dues and fees because the proposal to waive the Covered Fees for the first three months and to discount such fees in the latter three months is designed to reduce the initial cost of entry for ATP Holders to register as Market Makers on the Exchange. Market Makers serve a crucial role in financial markets by providing liquidity to facilitate market efficiency and price discovery.

The Exchange is constrained by intermarket competition, as Market Makers are free to register on any one of the 16 option exchanges. The

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[16] *See supra* note 6.

[17] Based on OCC data, *see supra* note 6, in 2019, the Exchange's market share in equity-based options declined from 9.82% for the month of January to 8.84% for the month of April.

Exchange believes that the proposed reduced Covered Fees, which are targeted at potential Market Makers not currently operating on the Exchange, would benefit Newly Enrolled MMs by reducing (for a limited time) some of the start-up costs associated with establishing a market making strategy. Specifically, the proposed fee change would provide Newly Enrolled MMs an opportunity to gather data as to whether their market making strategy is profitable. By encouraging such new entrants, the Exchange would attract more liquidity to the Exchange.

Third, the Exchange believes that the proposed rule change would be an equitable allocation of reasonable dues and fees. The proposed change is designed to attract potential Market Makers to become Newly Enrolled Market Makers by offering limited fees for a reduced time. The Exchange believes that this would be an equitable allocation of fees among Market Makers because the proposed fee reduction is temporary and designed to apply only to Newly Enrolled MMs that would be incurring costs to start a market-making business on the Exchange, including implementing new strategies and ensuring compliance with the Exchange's market making regulatory obligations. Accordingly, Market Makers already operating on the Exchange would not be disadvantaged by this allocation of fees. Based on the Exchange's experience with new entrants to the Exchange that have commenced business as Market Makers, the Exchange believes that it could take up to six months for a Newly Enrolled MM to begin functioning at the same level as established Market Makers. The Exchange proposes to begin charging discounted Covered Fees in months four-six of a Newly Enrolled MM in recognition that such market-making strategies should be implemented after three months of operations, but may not yet be fully realized in terms of profitability. However, if by the fourth, fifth, or sixth month of trading, a Newly Enrolled MM achieves a minimum threshold of trading volume (a monthly ADV equal to at least 0.05% of TCADV), the 50% discount on Covered Fees would no longer be available (even if subsequent monthly volumes fell below this threshold) because such Newly Enrolled MM would no longer be in the early/introductory build phase of their strategy and would be functioning on the same level as established Market Makers. The Exchange believes this temporary discount to Newly Enrolled Market Makers is equitable to encourage new entrants that would direct liquidity to the Exchange to the benefit of all market participants, including established Market Makers.

Further, the Exchange believes that the proposed rule change would not permit unfair discrimination between Market Makers. The Exchange does not believe that Market Makers that are already operating on the Exchange would be unfairly disadvantaged by this proposed disparate treatment because the proposed fee reduction is temporary and designed to apply only to Newly Enrolled MMs that would be incurring costs to start a market-making business on the Exchange, including implementing new strategies and ensuring compliance with the Exchange's market making regulatory obligations. Based on the Exchange's experience with new entrants to the Exchange that have commenced business as Market Makers, the Exchange believes that it could take up to six months for a Newly Enrolled MM to begin functioning at the same level as established Market Makers. The Exchange proposes to begin charging discounted Covered Fees in months four-six of a Newly Enrolled MM in recognition that such market-making strategies should be implemented after three months of operations, but may not yet be fully realized in terms of profitability. However, if by the fourth, fifth, or sixth month of trading, a Newly Enrolled MM achieves a minimum threshold of trading volume (a monthly ADV equal to at least 0.05% of TCADV), the 50% discount on Covered Fees would no longer be available (even if subsequent volumes fell below this threshold) because such Newly Enrolled MM would no longer be in the early/introductory build phase of their strategy and would be functioning on the same level as established Market Makers. The Exchange believes this temporary discount to Newly Enrolled Market Makers is equitable to encourage new entrants that would direct liquidity to the Exchange to the benefit of all market participants, including established Market Makers.

The Exchange believes that the proposed volume threshold for when Covered Fees would be charged in full to Newly Enrolled MMs is fair and reasonable because that volume level represents the median of percentage of TCADV currently achieved by existing Market Makers. The proposed reduced fees therefore would not be available if a Newly Enrolled MM begins functioning at the same level as an established Market Maker beginning in month four. While there are existing Market Makers that have monthly ADV equal to a lower percentage of TCADV than required for a Newly Enrolled MM to be subject the full Covered Fees, the Exchange believes that this proposed rule change would not permit unfair discrimination among Market Makers. There are a number of reasons why an established Market Maker may have a lower monthly ADV, including if such ATP Holder chooses to register as a Market Maker in a limited number of appointments. In addition, because the proposed 50% discount would be available for at most, three months, and a Newly Enrolled MM would be charged the full Covered Fees beginning in month seven regardless of how that Newly Enrolled MM is performing, any disparate treatment among Market Makers would by definition, be temporary. In addition, the proposed fee reduction would only be available once during a 24-month period, which is designed to reduce the potential for ATP Holders to game this fee change by continually dropping and then re-registering as a Market Maker.

The Exchange further notes that the proposal would benefit all Market Makers on the Exchange because additional Market Makers mean an increase in liquidity on the Exchange, which, in turn, facilitates tighter spreads and enhances price discovery, which may lead to a corresponding increase in order flow from other market participants that benefits all Market Makers. Market Makers, unlike other market participants, add additional value through continuous quoting and the commitment of capital and have specified obligations and regulatory requirements that are not required of other ATP Holders. The Exchange believes that offering the proposed reduced Covered Fees to each Newly Enrolled MM is equitable and not unfairly discriminatory in light of these unique obligations and related costs associated with operating as a Market Maker on the Exchange.

The Exchange also believes that its proposal would be an equitable allocation of reasonable fees that does not permit unfair discrimination because it would be uniformly applied to all Newly Enrolled MMs for the first three months and in months four through six and would apply equally to those Newly Enrolled MMs that achieve the minimum volume threshold, which is a uniform, objective, quantitative volume amount.

The Exchange notes that this proposal is similar in substance to the reduced pricing that is available to MIAX market makers that execute less volume than a

certain volume threshold in certain of MIAX's Trading Permit Tier levels.[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange does not believe that the proposed fee would place other market participants at the Exchange at a relative disadvantage compared to Newly Enrolled MMs, which are the only market participants eligible for the proposed discounted fees. The proposed pricing is designed to attract additional Market Makers (and by extension order flow) to the Exchange and provide them with an opportunity to temporarily reduce their costs while they are establishing their market-making strategies. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and attracting greater participation by Market Makers. Thus, the Exchange does not believe the proposed fee would disadvantage established Market Makers because an increase in the activity of these Market Makers inures to the benefit of all market participants as it increases liquidity on the Exchange, which in turn facilitates tighter spreads and enhances price discovery. The proposed pricing would be available to all similarly-situated participants, and, as such, the proposed change would not impose a disparate burden on competition among this class of market participants and may, in fact, encourage intramarket competition by encouraging ATP Holders to register as Market Makers.

In addition, the proposed disparate fees for Newly Enrolled MMs are designed to be temporary and would end either after the first six months of operating as a Market Maker or earlier if such Newly Enrolled MM achieves specified levels of trading. The Exchange therefore believes that the proposed fee change is designed to treat Newly Enrolled MMs differently only for the period when they are not functioning at the same level as established Market Makers and are still realizing their market-making strategies. After such temporary period, a Newly Enrolled MM would be subject to the same Covered Fees as all other Market Makers on the Exchange and the proposed disparity in fees would end.

The Exchange further notes that Market Makers, unlike other market participants, add additional value through continuous quoting and the commitment of capital and are subject to unique regulatory obligations. Because other market participants do not need to incur the same costs to begin trading on the Exchange, the Exchange believes that offering the proposed reduced Covered Fees only to Newly Enrolled MM would not create an undue burden on non-Market Makers.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[19] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[20] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes.

In addition, market participants are not required to register as a Market Maker, and if they do, they are not required to register on more than one exchange. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees (for a limited time) in a manner designed to encourage market participants to register as Market Makers on the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

The Exchange further believes that the proposed pricing changes would increase both intermarket and intramarket competition by attracting new entrants to the Exchange at a lower fee for a limited time. By offering the reduced Covered Fees, the Exchange believes that it would retain and attract Market Makers, which participants are an integral component of the option industry marketplace. Further, the incentive would be available to all similarly-situated participants, and, as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants and may, in fact, encourage intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[21] of the Act and subparagraph (f)(2) of Rule 19b–4[22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] of the Act to determine whether the proposed rule

[18] *See* MIAX Options fee schedule, Section 3(b), Monthly Trading Permit Fee, *available here, https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_05012019.pdf* (offering reduced fees of $15,500 (down from $17,000 or 22,000) to MIAX market makers that execute total monthly volume of less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month). *See also* Securities Exchange Act Release No. 82868 (February 28, 2018), 83 FR 12063 (March 19, 2018) (SR–MIAX–2018–08) (immediately effective fee filing introducing lower fees for MIAX market makers based on certain executed volume threshold). The Exchange notes that MIAX's program is not limited by time, but solely by level of volume executed by a market maker, which level would tend to favor smaller-sized market making operations. The Exchanges proposed pricing applies to Newly Enrolled MMs of every size for six months, however, those firms that are able to meet the requisite minimum volume after the first three months (whether they be large or small operations) will size out of the program.

[19] *See supra* note 6.

[20] *See supra* note 17.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–25 and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14158 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No 34–86213; File No. SR–CboeBZX–2019–058]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe BZX Exchange, Inc.

June 27, 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 14, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to its equities trading platform (''BZX Equities'') to replace the rebates applicable to Lead Market Makers (''LMMs'') in BZX-listed securities with daily incentives that are directly tied to meeting market quality metrics without regard to transactions executed.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fee schedule applicable to its equities trading platform (''BZX Equities'') to replace the rebates applicable to Lead Market Makers (''LMMs'') in BZX-listed securities with daily incentives that are directly tied to meeting market quality metrics without regard to transactions executed. The Exchange believes that these changes would encourage LMMs to maintain better market quality in BZX-listed securities, and, in particular, in lower volume securities where transaction-based compensation (*i.e.,* rebates) may not be sufficient.

The Exchange currently offers an LMM Incentive Program in which it provides LMMs in securities for which the LMM is a Qualified LMM [3] (''Qualified ETPs'') with enhanced rebates,[4] reduced fees,[5] and free transactions in closing auctions [6] in its Qualified ETPs. In addition, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in the fee schedule, the term ''Qualified LMM'' means an LMM that meets the Minimum Performance Standards, as defined in Rule 11.8(e)(1)(D). As defined in Rule 11.8(e)(1)(D), the term ''Minimum Performance Standards'' means a set of standards applicable to an LMM that may be determined from time to time by the Exchange. Such standards will vary between LMM Securities depending on the price, liquidity, and volatility of the LMM Security in which the LMM is registered. The performance measurements will include: (A) Percent of time at the NBBO; (B) percent of executions better than the NBBO; (C) average displayed size; and (D) average quoted spread. The Exchange will share the details of the Minimum Performance Standards with the Commission prior to implementation of the amendments proposed herein and further will provide the Commission with updates as any of the Minimum Performance Standards are changed.

[4] Currently, the Exchange's fee schedule provides that, unless an LMM otherwise qualifies for a higher rebate, they will receive the following rebates for securities in which they are a Qualified LMM, based on the ETP's consolidated average daily volume (''CADV''): where the CADV is less than 1 million, $0.0045 per share; where the CADV is 1 million to 5 million, $0.0040 per share; and where the CADV is greater than 5 million, $0.0035 per share.

[5] Currently, the Exchange's fee schedule provides that LMMs will pay $0.0025 per share to remove liquidity in securities for which they are a Qualified LMM.

[6] Currently, the Exchange's fee schedule provides that LMMs will receive free transactions in closing auctions in ETPs for which they are a Qualified LMM.

Exchange offers LMM Credit Tiers in which it provides LMMs that have at least 25 Qualified ETPs with enhanced rebates for all transactions in which the LMM adds liquidity to the Exchange. Such rebates gradually increase as the LMM's number of Qualified ETPs increases.[7] Both of these programs offer incentives to LMMs only on a transaction by transaction basis. The Exchange is proposing to eliminate both the LMM Incentive Program and the LMM Credit Tiers, although the Exchange notes that it is not proposing to eliminate free transactions in closing auctions to LMMs in each of their respective Qualified ETPs.

	Average aggregate daily auction volume in LMM securities					
	0–10,000	10,001–100,000	100,001–500,000	500,001–1,000,000	1,000,001–3,000,000	3,000,001 or greater
Daily Incentive for each Qualified ETP 1–5	$10	$25	$40	$50	$150	$200
Daily Incentive for each Qualified ETP 6–25	10	25	25	30	100	150
Daily Incentive for each Qualified ETP 26–50	10	10	20	25	75	100
Daily Incentive for each Qualified ETP 51–100	10	10	15	20	50	75
Daily Incentive for each Qualified ETP Greater Than 100	10	10	15	15	25	50

As described in the chart above, the Exchange is proposing to provide LMMs with a daily incentive per Qualified ETP which increases along with the average aggregate daily auction volume in the LMM's LMM Securities. For instance, if an LMM has 30 LMM Securities, each of which is a Qualified ETP, 10 of which each have an average daily auction volume of 5,000 shares (combined between the opening and closing auction), 10 of which each have an average daily auction volume of 50,000 shares (combined between the opening and closing auction), and 10 of which each have an average daily auction volume of 200,000 shares (combined between the opening and closing auction), then the LMM would fall into the fifth column (10 * 5,000 + 10 * 50,000 + 10 * 200,000 = 2,550,000 average aggregate daily auction volume). As such, the LMM would receive $150 each for five Qualified ETPs, $100 each for Qualified ETPs 6–25, and $75 each for Qualified ETPs 26–30. This would result in a daily payment of ($150 * 5) + ($100 * 20) + ($75 * 5) = $3,125 to the LMM.

The Exchange is also proposing to provide an additional daily incentive for LMMs based on the number of Qualified ETPs for which the LMM meets a more stringent set of Minimum Performance Standards (''Enhanced ETPs'') and the average aggregate daily auction volume in LMM Securities. The Exchange is proposing to provide such incentives as follows:

	Average aggregate daily auction volume in LMM securities					
	0–10,000	10,001–100,000	100,001–500,000	500,001–1,000,000	1,000,001–3,000,000	3,000,001 or greater
Daily Incentive for each Enhanced ETP 1–5	$2.50	$6.25	$10	$12.50	$37.50	$50
Daily Incentive for each Enhanced ETP 6–25	2.50	6.25	6.25	7.50	25	37.50
Daily Incentive for each Enhanced ETP 26–50	2.50	2.50	5	6.25	18.75	25
Daily Incentive for each Enhanced ETP 51–100	2.50	2.50	3.75	5	12.50	18.75
Daily Incentive for each Enhanced ETP Greater Than 100	2.50	2.50	3.75	3.75	6.25	12.50

Using the same example as above, where the LMM has 30 LMM Securities, 10 of which are Enhanced ETPs, which have 2,550,000 shares of average aggregate daily auction volume in LMM Securities, the issuer would fall into the fifth column. As such, the LMM would receive an additional $37.50 for each of its first five Enhanced ETPs and an additional $25 each for Enhanced ETPs 6–10. This would result in an additional daily payment of ($37.50 * 5) + ($25 * 5) = $312.50 to the LMM.

The Exchange is also proposing to provide LMMs with free transactions in closing auctions in ETPs for which they are the LMM instead of only those securities for which they are a Qualified LMM. This will eliminate the current disincentive for LMMs to provide liquidity in the closing auction for LMM Securities where they have not met the Minimum Performance Standards.

Policy Discussion

The Exchange submits this proposal because it believes that the LMM Liquidity Provision Rates will enhance market quality on all Exchange-listed ETPs by incentivizing LMMs to meet the Minimum Performance Standards across all of their LMM Securities instead of only those with higher trading volume. The proposal will accomplish this by: (i) Compensating LMMs for meeting Minimum Performance Standards instead of on a transaction by transaction basis; (ii) providing LMMs with a more predictable and reliable model for anticipating revenue and costs associated with meeting the Minimum Performance Standards; (iii) allowing the Exchange to increase the Minimum Performance Standards; and (iv) generally encouraging all

[7] Currently, LMMs in BZX-listed securities will receive the following additional rebates per share when adding displayed liquidity for adding liquidity, based on the Member's number of Qualified ETPs, capped at a total of $100,000 per month and not applied to the rebates set forth in the LMM Incentive Program:

Qualified ETPs	Tape A	Tape B	Tape C
25	$0.0001	$0.0002	$0.0001
50	$0.0002	$0.0004	$0.0002
75	$0.0003	$0.0006	$0.0003
125	$0.0004	$0.0008	$0.0004

The Exchange is now proposing to implement daily incentives for LMMs that are not dependent on the number of transactions in a particular security, but rather based on whether the LMM meets the Minimum Performance Standards. Specifically, the Exchange is proposing to provide each LMM with a daily incentive based on how many Qualified ETPs the LMM has and the average aggregate daily auction volume in the BZX-listed securities for which the Member is the LMM (the ''LMM Securities''). The Exchange is proposing to provide such incentives as follows:

participants to act as an LMM in Exchange-listed ETPs.

First, the proposal will allow the Exchange to compensate LMMs for providing enhanced market quality in ETPs listed on the Exchange instead of on a transaction by transaction basis. Historically, both on the Exchange and elsewhere LMMs have been compensated on a transaction by transaction basis as long as they meet the Minimum Performance Standards for that particular security. While rebates are an important tool used to incentivize liquidity provision, the proposed market quality incentives would allow the Exchange to provide more meaningful incentives in ETPs with lower trading volumes.

Further, for newly listed and other lower volume ETPs, the cost to a firm of making a market as an LMM, such as holding inventory in the security, is often not fully offset by the revenue provided through enhanced LMM rebates that it receives from the Exchange. In such cases, LMMs often take on the role as LMM despite the negative economics based on the hope, without guarantee, that the costs for acting as an LMM will eventually be reduced to a level lower than the enhanced LMM rebates. Without an LMM taking this risk to make markets in these new ETPs, the products would likely be significantly less liquid, to the detriment of investors.

Other LMMs may opt to operate at a loss in new and other lower volume ETPs in order to maintain relationships with issuers and hope that such losses are offset by the compensation for ETPs with higher trading volume. Even where an LMM may choose to provide enhanced market quality in a lower volume security, the current LMM rebate structure creates stronger financial incentives to be an LMM in higher trading volume securities than in lower trading volume securities. In reality, the ETPs that need an LMM creating a tight and deep market are the lower volume securities and higher volume securities generally already have tight spreads and inside depth.

As proposed, LMMs would be compensated on a per-ETP basis where they meet certain market quality metrics, regardless of the trading volume in the associated ETP. While the amount of compensation is dependent on average aggregate daily auction volume in the LMM's LMM Securities (which generally corresponds to the trading volume in a security), the payments are made on a security by security basis, so an LMM is incentivized to meet the Minimum Performance Standards across all ETPs for which they are an LMM and not just in those ETPs that have higher trading volume. As such, the economic benefits to LMMs that previously accrued almost exclusively to those products with greater trading volume will immediately be spread among all of the LMM's LMM Securities and the proposed liquidity provision payments would immediately eliminate the potential disincentives for LMMs to meet the Minimum Performance Standards for lower volume ETPs.

The Exchange also believes that the proposal will provide LMMs with a more predictable and reliable model for anticipating revenue and expenses associated with acting as an LMM and meeting the Minimum Performance Standards, which will both encourage existing LMMs to take on additional ETPs and encourage other market participants to register with the Exchange as an LMM. As described above, LMMs often take on LMM Securities based on the hope, without guarantee, that the costs for acting as an LMM will eventually be reduced to a level lower than the enhanced LMM rebates. By providing predictable revenue for each LMM Security for which an LMM meets the Minimum Performance Standards, both existing and new LMMs will be certain that they will receive a much more predictable payment for acting as an LMM and meeting the Minimum Performance Standards (as opposed to hoping that there is enough trading volume in the LMM Security to sufficiently offset costs). Further, the more LMM Securities that an LMM accumulates, the more auction volume they will have in their LMM Securities, providing the LMM with additional revenue potential. As such, the proposal will encourage firms to newly register with the Exchange as an LMM and existing LMMs to take on more LMM Securities on the Exchange. This will benefit all investors by both increasing competition among LMMs and encouraging greater market quality in securities listed on the Exchange.

The proposal will also allow the Exchange to increase the market quality requirements necessary to receive the daily payment. As noted above, the economics associated with acting as an LMM in new and lower volume ETPs can disincentivize LMMs from meeting the Minimum Performance Standards. By providing payouts on a per-product basis, the Exchange is able to increase the Minimum Performance Standards and LMMs are able to commit to providing better market quality in all LMM Securities. The Exchange believes that this will result in better market quality across all of its listed ETPs and enhanced competition among both LMMs and ETP issuers to the benefit of investors.

Simply stated, for new ETPs and other low volume ETPs, providing consistent payments based on LMMs meeting the Minimum Performance Standards will allow LMMs to more reliably anticipate their revenue for acting as an LMM and will both incentivize LMMs to meet the Minimum Performance Standards for their LMM Securities and encourage other market participants to participate in the Exchange's LMM program. Further, it will allow the Exchange to increase the Minimum Performance Standards and LMMs will be able to commit to providing better market quality in all LMM Securities. Because the Exchange makes the majority of its revenue from ETP listings based on the auction volume in its listed ETPs, basing these payments on the average aggregate daily auction volume in the LMM's LMM Securities will allow the Exchange to offer incentives to LMMs to meet the Minimum Performance Standards commensurate with the Exchange's revenue in a particular LMM's LMM Securities and provides a strong incentive for LMMs to meet the Minimum Performance Standards in all of their respective LMM Securities instead of only those with higher trading volume. While there will be a range of outcomes for LMMs, the Exchange generally expects that most LMMs will receive payments comparable to what they currently receive, with the potential for additional upside where they take on additional new ETPs and/or existing ETPs that transfer to the Exchange.

Tier Discussion

The daily payment amounts are based specifically on the Exchange's revenue model. For ETPs with greater auction volume, the Exchange generally makes more money and, thus, is able to offer LMMs with LMM Securities that have higher average aggregate daily auction volume higher payments. As designed, the Exchange has created six separate buckets based on auction volume and five buckets based on how many Qualified ETPs an LMM has. The buckets and payments are modeled based both on current revenue and product distribution among LMMs as well as expected revenue and product distribution in the future including organic growth among existing products, ETPs transferring to the Exchange, and additional participants in the LMM Program. The Exchange believes that it is fair and reasonable to offer different pricing between the

different auction volume tiers because those tiers and possible payments are specifically tailored to the Exchange's expected revenue from that auction volume.

Specifically, the proposed payment per Qualified ETP (and thus the total payment to an LMM) generally goes up as the CADV moves from left to right because as the average aggregate daily auction volume in LMM Securities increases, the Exchange will generate additional revenue and can thus support increased payments to LMMs. Similarly, the proposed payments per Qualified ETP generally go down as the number of Qualified ETPs goes up in order to ensure that the daily incentive payments do not exceed the Exchange's revenue for that LMM's LMM Securities while still providing incentives for LMMs to take on additional ETPs. The Exchange has designed this program to be sustainable over the long-term and generally expects that its expenditures under the proposed LMM Liquidity Provision Rates will be very similar to what it currently provides LMMs under existing LMM Pricing.

Implementation Date

The Exchange proposes to implement these amendments to its fee schedule on August 1, 2019.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4) and 6(b)(5),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that its ETP listing business operates in a highly-competitive market in which market participants, which includes both ETP issuers and LMMs, can readily transfer their listings or opt not to participate, respectively, if they deem fee levels, liquidity provision incentive programs, or any other factor at a particular venue to be insufficient or excessive. The proposed rule changes reflect a competitive pricing structure designed to incentivize issuers to list new products and transfer existing products to the Exchange and market participants to enroll and participate as LMMs on the Exchange, which the Exchange believes will enhance market quality in all ETPs listed on the Exchange.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4) and (5).

The Proposed Incentives Are Reasonable

The Exchange believes that the proposal to adopt market quality based incentives under the LMM Liquidity Provision Rates is a reasonable means to incentivize liquidity provision in ETPs listed on the Exchange. The marketplace for listings is extremely competitive and there are several other national securities exchanges that offer ETP listings. Transfers between listing venues occur frequently [10] for numerous reasons, including market quality. This proposal is intended to help the Exchange compete as an ETP listing venue. Further, the Exchange notes that the proposed incentives are not transaction fees, nor are they fees paid by participants to access the Exchange. Rather, the proposed payments are based on achieving certain objective market quality metrics. As stated above, providing consistent payments based on LMMs meeting the Minimum Performance Standards will allow LMMs to more reliably anticipate their revenue for acting as an LMM and will both incentivize LMMs to meet the Minimum Performance Standards for their LMM Securities and encourage other market participants to participate in the Exchange's LMM program. The Exchange expects the Minimum Performance Standards to include: (i) Registration as a market maker in good standing with the Exchange; (ii) time at the inside requirements (generally between 3% and 15% of Regular Trading Hours for Qualified ETPs and between 5% to 50% for Enhanced ETPs, depending on the average daily volume of the applicable LMM Security); (iii) auction participation requirements (generally requiring that the auction price is between 3% and 5% of the last Reference Price, as defined in Rule 11.23(a)(19), for a Qualified ETP and 1%–3% for an Enhanced ETP); (iv) market-wide NBB and NBO spread and size requirements (generally requiring between 200 and 750 shares at both the NBB and NBO for both Qualified ETPs and Enhanced ETPs with an NBBO spread between 1% and 10% for a Qualified ETP and .25% to 4% for Enhanced ETPs, depending on price of the ETP and underlying asset class); and (v) depth of book requirements (generally requiring between $25,000 and $250,000 of displayed posted liquidity for both Qualified ETPs and Enhanced ETPs within 1% to 10% of both the NBB and NBO for Qualified ETPs and 0.25% and 5% for Enhanced ETPs, depending on price of the ETP and underlying asset class). Before diverging significantly from the ranges described above, the Exchange will submit a rule filing to the Commission describing such proposed changes.

Further, it will allow the Exchange to increase the Minimum Performance Standards and LMMs will be able to commit to providing better market quality in all LMM Securities. Because the Exchange makes the majority of its revenue from ETP listings based on the auction volume in its listed ETPs, basing these payments on the average aggregate daily auction volume in the LMM's LMM Securities will allow the Exchange to offer incentives to LMMs to meet the Minimum Performance Standards commensurate with the Exchange's revenue in a particular LMM's LMM Securities and provides a strong incentive for LMMs to meet the Minimum Performance Standards in all of their respective LMM Securities instead of only those with higher trading volume. While there will be a range of outcomes for LMMs, the Exchange generally expects that most LMMs will receive payments comparable to what they currently receive, with the potential for additional upside where they take on additional new ETPs and/or existing ETPs that transfer to the Exchange.

The Exchange believes that eliminating the existing LMM Incentive Program and LMM Credit Tiers for Tape B is reasonable because the Exchange is not required to maintain the program and the Exchange is proposing to implement the new LMM Liquidity Provision Rates in its place, as discussed above.

The Exchange believes that offering LMMs free transactions in closing auctions in ETPs for which they are the LMM instead of only those securities for which they are a Qualified LMM is reasonable because it will eliminate the current disincentive for LMMs to provide liquidity in the closing auction for LMM Securities where they have not met the Minimum Performance Standards.[11]

The Proposed Incentives are an Equitable Allocation of Payments

The Exchange believes that the proposal represents an equitable

[10] For example, 16 ETPs transferred their listings to the Exchange on May 13, 2019. *See http://ir.cboe.com/~/media/Files/C/CBOE-IR-V2/press-release/2019/cboe-welcomes-16-barclays-etns.pdf.*

[11] The Exchange notes that, pursuant to Rule 11.8(e)(2)(C), where an LMM does not meet the Minimum Performance Standards for three out of four months, such LMM is subject to forfeiture of LMM status for that LMM Security. As such, an LMM generally must meet the Minimum Performance Standards with some regularity in order to receive such favorable pricing in the closing auction.

allocation of payments because, while the proposed payments apply only to LMMs, such LMMs must meet rigorous Minimum Performance Standards in order to receive the payments, as outlined above. Where an LMM does not meet the Minimum Performance Standards, they will not receive the payments. Further, registration as an LMM is available equally to all Members and allocation of listed ETPs between LMMs is governed by Exchange Rule 11.8(e)(2). If an LMM does not meet the Minimum Performance Standards for three out of the past four months, the LMM is subject to forfeiture of LMM status for that LMM Security, at the Exchange's discretion.

Further, the daily payment amounts are based specifically on the Exchange's revenue model. For ETPs with greater auction volume, the Exchange generally makes more money and, thus, is able to offer LMMs with LMM Securities that have higher average aggregate daily auction volume higher payments. As designed, the Exchange has created six separate buckets based on auction volume and five buckets based on how many Qualified ETPs an LMM has. The buckets and payments are modeled based both on current revenue and product distribution among LMMs as well as expected revenue and product distribution in the future including organic growth among existing products, ETPs transferring to the Exchange, and additional participants in the LMM Program. The Exchange believes that it is fair and reasonable to offer different pricing between the different auction volume tiers because those tiers and possible payments are specifically tailored to the Exchange's expected revenue from that auction volume.

Specifically, the proposed payment per Qualified ETP (and thus the total payment to an LMM) generally goes up as the CADV moves from left to right because as the average aggregate daily auction volume in LMM Securities increases, the Exchange will generate additional revenue and can thus support increased payments to LMMs. Similarly, the proposed payments per Qualified ETP generally go down as the number of Qualified ETPs goes up in order to ensure that the daily incentive payments do not exceed the Exchange's revenue for that LMM's LMM Securities while still providing incentives for LMMs to take on additional ETPs. The Exchange has designed this program to be sustainable over the long-term and generally expects that its expenditures under the proposed LMM Liquidity Provision Rates will be very similar to what it currently provides LMMs under existing LMM Pricing. As such, the Exchange believes that the proposal represents an equitable allocation of payments.

The Exchange believes that eliminating the existing LMM Incentive Program and LMM Credit Tiers for Tape B is equitable because the Exchange is not required to maintain the program and the Exchange is eliminating the program for all Members.

The Exchange believes that offering LMMs free transactions in closing auctions in ETPs for which they are the LMM instead of only those securities for which they are a Qualified LMM is equitable because it will eliminate the current disincentive for LMMs to provide liquidity in the closing auction for LMM Securities where they have not met the Minimum Performance Standards, which will benefit all participants by providing an incentive to enhance liquidity in all closing auctions for BZX-listed ETPs.[12]

The Proposed Incentives are not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because, while the proposed payments apply only to LMMs, such LMMs must meet rigorous Minimum Performance Standards in order to receive the payments, as described above. Where an LMM does not meet the Minimum Performance Standards, they will not receive the payments. Further, registration as an LMM is available equally to all Members and allocation of listed ETPs between LMMs is governed by Exchange Rule 11.8(e)(2). If an LMM does not meet the Minimum Performance Standards for three out of the past four months, the LMM is subject to forfeiture of LMM status for that LMM Security, at the Exchange's discretion.

Further, the daily payment amounts are based specifically on the Exchange's revenue model. For ETPs with greater auction volume, the Exchange generally makes more money and, thus, is able to offer LMMs with LMM Securities that have higher average aggregate daily auction volume higher payments. As designed, the Exchange has created six separate buckets based on auction volume and five buckets based on how many Qualified ETPs an LMM has. The buckets and payments are modeled based both on current revenue and product distribution among LMMs as well as expected revenue and product distribution in the future including organic growth among existing products, ETPs transferring to the Exchange, and additional participants in the LMM Program. The Exchange believes that it is fair and reasonable to offer different pricing between the different auction volume tiers because those tiers and possible payments are specifically tailored to the Exchange's expected revenue from that auction volume.

Specifically, the proposed payment per Qualified ETP (and thus the total payment to an LMM) generally goes up as the CADV moves from left to right because as the average aggregate daily auction volume in LMM Securities increases, the Exchange will generate additional revenue and can thus support increased payments to LMMs. Similarly, the proposed payments per Qualified ETP generally go down as the number of Qualified ETPs goes up in order to ensure that the daily incentive payments do not exceed the Exchange's revenue for that LMM's LMM Securities while still providing incentives for LMMs to take on additional ETPs. The Exchange has designed this program to be sustainable over the long-term and generally expects that its expenditures under the proposed LMM Liquidity Provision Rates will be very similar to what it currently provides LMMs under existing LMM Pricing. As such, the Exchange believes that the proposal is not unfairly discriminatory.

The Exchange believes that eliminating the existing LMM Incentive Program and LMM Credit Tiers for Tape B is not unreasonably discriminatory because the Exchange is not required to maintain the program and the Exchange is eliminating the program for all Members.

The Exchange believes that offering LMMs free transactions in closing auctions in ETPs for which they are the LMM instead of only those securities for which they are a Qualified LMM is reasonable because it will eliminate the current disincentive for LMMs to provide liquidity in the closing auction for LMM Securities where they have not met the Minimum Performance Standards, which will benefit all participants by providing an incentive to enhance liquidity in all closing auctions for BZX-listed ETPs.[13]

[12] As noted above, pursuant to Rule 11.8(e)(2)(C), where an LMM does not meet the Minimum Performance Standards for three out of four months, such LMM is subject to forfeiture of LMM status for that LMM Security. As such, an LMM generally must meet the Minimum Performance Standards with some regularity in order to receive such favorable pricing in the closing auction.

[13] As noted above, pursuant to Rule 11.8(e)(2)(C), where an LMM does not meet the Minimum Performance Standards for three out of four months, such LMM is subject to forfeiture of LMM status for that LMM Security. As such, an LMM generally

Continued

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed change burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of BZX both among Members by incentivizing Members to become LMMs in BZX-listed ETPs and as a listing venue by enhancing market quality in BZX-listed ETPs. The marketplace for listings is extremely competitive and there are several other national securities exchanges that offer ETP listings. Transfers between listing venues occur frequently [14] for numerous reasons, including market quality. This proposal is intended to help the Exchange compete as an ETP listing venue. Accordingly, the Exchange does not believe that the proposed change will impair the ability of issuers, LMMs, or competing ETP listing venues to maintain their competitive standing. The Exchange also notes that the proposed change is intended to enhance market quality in BZX-listed ETPs, to the benefit of all investors in BZX-listed ETPs. The Exchange does not believe the proposed amendment would burden intramarket competition as it would be available to all Members uniformly. Registration as an LMM is available equally to all Members and allocation of listed ETPs between LMMs is governed by Exchange Rule 11.8(e)(2). Further, if an LMM does not meet the Minimum Performance Standards for three out of the past four months, the LMM is subject to forfeiture of LMM status for that LMM Security, at the Exchange's discretion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act [15] and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings under Section 19(b)(2)(B) of the Act [17] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–058 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–2019–058. 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–2019–058, and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Deputy Secretary.

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must meet the Minimum Performance Standards with some regularity in order to receive such favorable pricing in the closing auction.

[14] For example, 16 ETPs transferred their listings to the Exchange on May 13, 2019. *See http://ir.cboe.com/~/media/Files/C/CBOE-IR-V2/press-release/2019/cboe-welcomes-16-barclays-etns.pdf.*

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No 34–86226; File No. SR–CFE–2019–001]

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Trading Conduct

June 27, 2019.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 18, 2019 Cboe Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') [2] on June 18, 2019.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to update, clarify, and amend certain CFE rule provisions primarily relating to trading conduct as well as to the use of Order

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

Entry Operator IDs (''OEO IDs''), to Market Participant records regarding activities in a reference market, and to Clearing Member requirements with regard to customer records concerning Exchange of Contract for Related Position (''ECRP'') transactions and Block Trades. The scope of this filing is limited solely to the application of the proposed rule amendments to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule changes update, clarify, and amend certain CFE rule provisions primarily relating to trading conduct as well as to the use of OEO IDs, to Market Participant records regarding activities in a reference market, and to Clearing Member requirements with regard to customer records concerning ECRP transactions and Block Trades.

First, CFE is proposing to clarify when an OEO ID must be used for a front-end trading system utilized by a natural person under CFE Rule 303A (Order Entry Operator ID) which governs the use of OEO IDs in connection with the submission of orders to CFE's trading system. Specifically, CFE is proposing to amend Rule 303A to clarify that if a natural person utilizes a front-end trading system with automated functionality (such as spreading functionality) and the use of that functionality is ancillary to the natural person's manual trading, an OEO ID is not required to be used for that front-end trading system. In that event, the natural person's OEO ID may be used for the submission of orders originating from that front-end trading system. If, however, the automated functionality of the front-end trading system generates a majority of the natural person's orders, that front-end trading system will be treated as an Automated Trading System for purposes of Rule 303A and an OEO ID for the front-end trading system must be included in each order generated by the front-end trading system in order to differentiate those orders from manual orders submitted by the natural person. CFE believes that this clarification will enhance CFE's rule provisions regarding OEO IDs by providing more explicit guidance with respect to when an OEO ID must be used for a front-end trading system utilized by a natural person.

Second, CFE is proposing to amend CFE Rule 308(d) to add CFE Rule 501(c) as a rule that is applicable to Market Participants to the same extent that it is applicable to CFE Trading Privilege Holders (''TPHs''). Rule 501(c) provides that if a contract listed on the Exchange is settled by reference to the price of a contract or commodity traded in another venue, including a price or index derived from prices on another designated contract market (''DCM''), TPHs are required to make available to the Exchange upon request in a form and manner prescribed by the Exchange and within the time frame designated by the Exchange information and their books and records regarding their activities in the reference market. The term ''Market Participant'' is a new defined term that CFE is implementing under CFE rules which means any Person subject to CFE Rule 308(c). Rule 308(c) provides that any Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange in relation to such transactions, including, but not limited to, rules requiring cooperation and participation in investigatory and disciplinary processes. CFE believes that making Rule 501(c) applicable to Market Participants will enhance CFE's ability to conduct regulatory investigations in relation to CFE's market that may involve activities by a Market Participant in a reference market.

Third, CFE is proposing to revise CFE Rule 414 (Exchange of Contract for Related Position) and CFE Rule 415 (Block Trades) to clarify certain recordkeeping and reporting requirements relating to ECRP transactions and Block Trades, respectively. Specifically, the Exchange is proposing to amend Rules 414(h) and 415(e) to clarify that each clearing member carrying a customer account for which an ECRP transaction or Block Trade is executed shall be responsible for obtaining and submitting to CFE in a timely and complete manner the records of its customer regarding the ECRP transactions or Block Trades, as applicable.

Fourth, CFE is proposing to amend CFE Rule 601 (Fraudulent Acts), CFE Rule 602 (Fictitious Transactions), CFE Rule 603 (Market Manipulation), CFE Rule 604 (Adherence to Law), CFE Rule 610 (Priority of Customers' Orders), CFE Rule 611 (Trading Against Customers' Orders), CFE Rule 612 (Withholding Orders), CFE Rule 613 (Disclosing Orders), CFE Rule 614 (Pre-Arranged Trades), CFE Rule 617 (Money Passes), CFE Rule 618 (Accommodation Trading), CFE Rule 619 (Front-Running), and CFE Rule 620 (Disruptive Practices) to specifically reference in those rules that they are applicable to Market Participants. CFE is proposing to revise the above-referenced rules to provide that they apply to Market Participants, consistent with the existing provisions of CFE Rule 308(d) which already provide that any Person subject to Rule 308(c) that is not a TPH or a Related Party of a TPH is bound by and required to comply with the above-referenced rules to the same extent that a TPH or Related Party is bound by and required to comply with those rules.

Fifth, CFE is proposing to amend Rule 601, Rule 603, Rule 619 as well as Policy and Procedure XVIII of the Policies and Procedures Section of the CFE Rulebook relating to Rule 620 to make clear that provisions of those rules prohibiting fraudulent acts, market manipulation, front-running, and disruptive practices in any contract traded on CFE also apply with respect to any commodity, security, index, or benchmark that underlies any CFE contract, regardless of the exchange on or market in which the underlying is transacted, when that activity has an impact upon or nexus in relation to a CFE contract. Fraudulent acts, market manipulation, front-running, and disruptive practices in the underlying for a CFE contract can also impact the market in the CFE contract or improperly benefit a Person holding that CFE contract. Accordingly, consistent with similar rules on other DCMs which encompass activity in the underlying cash market and underlying

commodities or securities,[3] it is important that CFE be able to bring disciplinary action for such activity by those subject to CFE disciplinary jurisdiction under CFE Rule 308 if warranted under the circumstances. In particular:

- CFE is proposing to amend Rule 601 to make clear that fraudulent acts and attempted fraudulent acts encompassed by Rule 601 may be committed in connection with or related to any CFE contract, either directly through activity in the market for that CFE contract, or indirectly through activity in the market of any commodity, security, index, or benchmark underlying that CFE contract, regardless of the exchange on or market in which the underlying is transacted.
- CFE is proposing to amend Rule 603 to make clear that no TPH, Related Party, or Market Participant shall (i) manipulate, or attempt to manipulate, the price of any CFE contract, either directly by engaging in activity in the market for that contract, or indirectly by engaging in activity in the market of any commodity, security, index, or benchmark underlying that contract, regardless of the exchange on or market in which the underlying is transacted; (ii) purchase or sell, or offer to purchase or sell, any CFE contract, or any commodity, security, index, or benchmark that underlies any CFE contract, regardless of the exchange on or market in which the underlying is transacted, for the purpose of creating a condition in which prices of the contract do not or will not reflect fair market values; or (iii) intentionally or recklessly use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud, relating to any CFE contract either directly by engaging in activity in the market for that contract, or indirectly by engaging in activity in the market of any commodity, security, index, or benchmark underlying that contract, regardless of the exchange on or market in which the underlying is transacted. The rules of other DCMs[4] and CFTC Regulation 180.1[5] also include a prohibition on the employment, or attempted employment, of manipulative and deceptive devices.
- CFE is proposing to amend Rule 619 to make clear that no TPH, Related Party, or Market Participant shall take a position in a CFE contract based upon non-public information regarding an impending transaction by another person in the same or a related CFE contract, or in any commodity, security, index, or benchmark underlying that CFE contract regardless of the exchange on or market in which the underlying is transacted, subject to certain existing exceptions enumerated in Rule 619. These existing enumerated exceptions include activity permitted under CFE Rule 407 (Crossing Trades), Rule 414, Rule 415, and Rule 611 or under any policies and procedures for pre-execution discussions from time to time adopted by the Exchange.
- CFE is proposing to amend Policy and Procedure XVIII to make clear that prohibited activity under Rule 620 may occur directly or indirectly. In particular, prohibited activity encompassed by Rule 620 in relation to any CFE contract may occur directly through any trading, practice, or conduct in the market for that contract that is prohibited by Rule 620. Additionally, the proposed rule change makes clear that prohibited activity encompassed by Rule 620 in relation to any CFE contract may also occur indirectly through any trading, practice, or conduct in the market of any commodity, security, index, or benchmark underlying that contract, regardless of the exchange on or market in which the underlying is transacted, that would be prohibited by Rule 620 if it were done in that contract and that has an impact in relation to that contract or the market in that contract.

Sixth, the Exchange proposes to amend Rule 610 to delete superfluous references to the qualifier that actions in violation of Rule 610 must be ''knowingly'' committed. Rule 610 describes various circumstances under which priority must be given to customer orders. Rule 610(d) already provides for more detailed safe harbors from those provisions making this qualifier unnecessary. In particular, Rule 610(a) currently prohibits knowingly buying (selling) a contract for a personal or proprietary account when holding an order to buy (sell) the same contract for any other person at the same price or at the market price. Rule 610(b) also currently prohibits knowingly executing a discretionary order for an immediate family member or for a personal or proprietary account when holding a customer market order for the same contract open as to time and price. The qualifier that these prohibitions be knowingly committed is already addressed by the safe harbors under Rule 610(d) that there is not a violation of these prohibitions when appropriate ''firewall'' or separation of function procedures are in place or an individual has no direct knowledge of the other relevant order.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(1)[7] and 6(b)(5)[8] in particular, in that it is designed:

- To enable the Exchange to enforce compliance by its TPHs and persons associated with its TPHs with the provisions of the rules of the Exchange,
- 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 the proposed rule change would strengthen CFE's ability to carry out its responsibilities as a self-regulatory organization by providing further clarity and guidance with regard to provisions of the Exchange's rules that relate to trading conduct by TPHs, their related parties, and Market Participants. In particular, the proposed rule change would update, clarify, and augment CFE rules that prohibit abusive trading practices on CFE's market by TPHs, their related parties, and Market Participants, including CFE rules that address fraudulent acts, fictitious transactions, market manipulation, adherence to law, priority of customer orders, trading ahead of customer orders, withholding orders, disclosing orders, pre-arranged trades, simultaneous buying and selling orders, money passes, accommodation trading, front-running, and disruptive practices.

The proposed rule change would also clarify the application of CFE requirements relating to the use of OEO IDs when a natural person utilizes a front-end trading system with automated functionality, which would contribute to the accuracy of CFE's audit trail. Additionally, the proposed rule change would contribute to CFE's ability to obtain information in connection with the regulation of CFE's market by requiring clearing members carrying customer accounts to obtain and submit to CFE customer records

[3] *See, e.g.,* Chicago Mercantile Exchange Inc. Rule 432H, The Board of Trade of the City of Chicago, Inc. Rule 432H, New York Mercantile Exchange, Inc. Rule 432H, and Commodity Exchange, Inc. Rule 432H.

[4] *See, e.g.,* ICE Futures U.S., Inc. Rule 4.02(d) and the rules cited in footnote 3 above.

[5] 17 CFR 180.1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(1).

[8] 15 U.S.C. 78f(b)(5).

regarding ECRP transactions and Block Trades by providing that Market Participants are required to make available to CFE upon request information and their books and records regarding their activities in a reference market.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE 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 that the proposed rule change will enhance CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that the rule amendments included in the proposed rule change would apply equally to all TPHs, their related parties, and Market Participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become operative on July 2, 2019. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[9]

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–CFE–2019–001 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–CFE–2019–001. 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 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–CFE–2019–001, and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14166 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(1).

[10] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86225; File No. SR–NYSEAMER–2019–15]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delete Provisions in Section 141 of the NYSE American Company Guide That Grant the Board Authority to Defer, Waive or Rebate Annual Fees for Listed Equity Securities and Bonds and To Eliminate Obsolete Provisions

June 27, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 18, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 141 of the NYSE American Company Guide (the ''Company Guide'') to delete: (i) Provisions granting the board of directors of the Exchange, or its designee, discretion to defer, waive or rebate all or any part of the applicable annual listing fee payable with respect to a listed class of equity securities or a listed series of bonds; and (ii) references to fee provisions that are no longer applicable, as those fees were superseded as of January 1, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

Section 141 of the Company Guide includes provisions granting the board of directors of the Exchange, or its designee, discretion to defer, waive or rebate all or any part of the applicable annual listing fee payable with respect to a listed class of equity securities or listed bonds under that section. The Exchange has not exercised this discretion since it was acquired by NYSE Euronext On October 1, 2008, and does not believe that it is possible to do so in a manner that would be transparent and fair to all listed companies. In the absence of this possible exercise of discretion, all similarly situated listed companies will be treated the same with respect to the annual listing fees they are charged. For these reasons, the Exchange proposes to delete these provisions from Section 141.

The Exchange also proposes to make non-substantive updates to the text of Section 141 to remove references to the annual fees for equity securities that were in effect prior to January 1, 2019, as those fees are no longer applicable.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4)[5] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it represents an equitable allocation of reasonable fees and is not unfairly discriminatory to eliminate its discretion to defer, waive or rebate all or any part of the applicable annual fee owed by an issuer under Section 141. In that regard, the Exchange does not believe that it is possible to utilize this discretion in a manner that would be transparent and fair to all listed companies.

The proposed removal of text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for listing services is extremely competitive. Each listing exchange has a different fee schedule that applies to issuers seeking to list securities on its exchange. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing. Because issuers have a choice to list their securities on a different national securities exchange, the Exchange does not believe that the proposed amendment imposes a burden on competition. Furthermore, removing the Exchange's authority to waive annual fees will ensure that the costs of listing on the Exchange will be transparent and consistent, which will facilitate price competition among listing venues and therefore will not impose any burden on competition.

The proposed removal of text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect and therefore imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(2)(B).

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–15 and should be submitted on or before July 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14165 Filed 7–2–19; 8:45 am]

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No 34–86219; File No. SR–MSRB–2019–07]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Proposed Amendments to MSRB Rule G–11 and MSRB Rule G–32 and Form G–32 Regarding a Collection of Data Elements Provided in Electronic Format to the EMMA Dataport System in Connection With Primary Offerings

June 27, 2019.

I. Introduction

On April 2, 2019, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of proposed amendments to MSRB Rule G–11 (''Primary Offering Practices''), MSRB Rule G–32 (''Disclosures in Connection With Primary Offerings), and Form G–32 regarding a collection of data elements provided in electric format to the Electronic Municipal Market Access Dataport (the ''EMMA Dataport'')[3] system in connection with primary offerings (the ''proposed rule change''). The proposed rule change was published for comment in the **Federal Register** on April 12, 2019.[4]

The Commission received three comment letters on the proposed rule change.[5] On June 6, 2019, the MSRB responded to those comments[6] and filed Amendment No. 1 to the proposed rule change (''Amendment No. 1'').[7] The Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change from interested parties and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of Proposed Rule Change

As described further below, the MSRB proposes to amend MSRB Rule G–11 and MSRB Rule G–32, as well as Form G–32 to update and enhance the general practices undertaken by underwriters and others, as applicable, in a primary offering of municipal securities.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The EMMA Dataport is the submission portal through which information is provided for display to the public on EMMA.

[4] Securities Exchange Act Release No. 85551 (Apr. 8, 2019) (the ''Notice of Filing''), 84 FR 14988 (Apr. 12, 2019).

[5] *See* Letter to Secretary, Commission, from Leslie M. Norwood, Managing Director and Associate General Counsel, and Bernard V. Canepa, Vice-President and Assistant General Counsel, the Securities Industry and Financial Market Association (''SIFMA'') dated May 2, 2019 (the ''SIFMA Letter''); Letter to Secretary, Commission, from Mike Nicholas, Chief Executive Officer, Bond Dealers of America (''BDA''), dated May 3, 2019 (the ''BDA Letter''); and Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors (''NAMA''), dated May 3, 2019 (the ''NAMA Letter'').

[6] *See* Letter to Secretary, Commission, from Margaret R. Blake, Associate Counsel, Municipal Securities Rulemaking Board (''MSRB''), dated Jun. 6, 2019 (the ''MSRB Response Letter'').

[7] *Id.* As discussed further below, in Amendment No. 1, the MSRB proposed to amend the proposed rule change with two technical amendments (to MSRB Rule G–11(g) and MSRB Rule G–11(k)).

[8] *See* Notice of Filing, 84 FR at 14988, and Amendment No. 1.

A. Proposed Rule Change to MSRB Rule G–11—Primary Offering Practices

1. Revisions to MSRB Rule G–11(f)

The proposed rule change would amend MSRB Rule G–11(f) to codify an existing obligation of selling group members to comply with the written communications they receive from the senior syndicate manager relating to, among other things, issuer requirements, priority provisions and order period requirements.[9]

MSRB Rule G–11(f) currently states that prior to the first offer of any securities by the syndicate, the senior syndicate manager is required to provide, in writing, to syndicate members and selling group members, if any, ''(i) a written statement of all terms and conditions required by the issuer, (ii) a written statement of all of the issuer's retail order period requirements, if any, [and] (iii) the priority provisions . . . [.]''[10] The senior syndicate manager must also promptly furnish, in writing, to the syndicate members and the selling group members any changes in the priority provisions or pricing information.[11]

Additionally, the MSRB has stated that the activities of all dealers should be viewed in light of the basic fair dealing principles of MSRB Rule G–17, on conduct of municipal securities and municipal advisor activities.[12] In 2013, the MSRB amended MSRB Rule G–11 to, among other things, address concerns related to retail order period practices and required expressly that the senior syndicate manager's written statement of all terms and conditions required by the issuer also be delivered to selling group members.[13] The amendment also added MSRB Rule G–11(k) to require that any dealer that submits an order designated as retail during a retail order period must provide certain information that would assist in determining if the order is a bona fide retail order.[14] The MSRB stated that the 2013 amendments to MSRB Rule G–11, coupled with the MSRB Rule G–17 guidance,[15] indicate that selling group members are subject

[9] *See* Notice of Filing, 84 FR at 14990.

[10] MSRB Rule G–11(f). *See also id.*

[11] Notice of Filing, 84 FR at 14990.

[12] *See* MSRB Notice 2009–42 (July 14, 2009).

[13] *See* Securities Exchange Act Release No. 70532 (Sept. 26, 2013), 78 FR 60956 (Oct. 2, 2013) (File No. SR–MSRB–2013–05).

[14] *Id.*

[15] *See* MSRB Notice 2009–42 (July 14, 2009).

to the issuer requirements in allocating securities to their investors.[16]

By codifying this existing obligation, the MSRB noted that the proposed rule change would highlight that selling group members must comply with the priority provisions and other issuer terms and conditions when they receive written notification of such from the syndicate manager.[17]

2. New MSRB Rule G–11(g)(ii)

The proposed rule change would also amend MSRB Rule G–11(g) to add new subsection (ii), which would require the senior syndicate manager to notify all members of the syndicate and selling group, at the same time via free-to-trade wire or electronically by other industry-accepted method of communication, that the offering is free to trade at a price other than the initial offering price.[18]

In a primary offering of municipal securities where a syndicate is formed (*i.e.,* not a sole-managed offering), a free-to-trade wire is sent by the senior syndicate manager to syndicate members once all of the municipal securities in the issue or a particular maturity (or maturities) are free to trade.[19] The free-to-trade wire communicates to members of the syndicate that they may trade the bonds in the secondary market at market prices which could be the same or different from the initial offering price.[20]

The MSRB stated that equal access to information is important to the fair and effective functioning of the market for primary offerings of municipal securities.[21] Accordingly, the proposed rule change would require the senior syndicate manager to notify all members of the syndicate and the selling group, at the same time via a free-to-trade wire or electronically by other industry-accepted method of communication, that the offering is free to trade at a price other than the initial offering. The MSRB noted that requiring dissemination of this information for receipt by all syndicate and selling group members at the same time would prevent preferential access to the free-to-trade information.[22] Specifically, the MSRB wrote that this dissemination would prevent access by some, while other syndicate and selling group members (who are unaware of the information) are delayed in knowing that they may transact at prices other than the initial offering price.[23]

The MSRB stated that, as methods of communication evolve, the dissemination of free-to-trade information eventually may be made by methods other than the traditional ''free-to-trade wire.'' [24] While the MSRB did not propose to dictate the timing of when, or the form of how, the free-to-trade communication should be sent, the MSRB stated that requiring dissemination of this information electronically (by an industry-accepted method that ensures all syndicate and selling group members receive the information simultaneously) would level the playing field.[25]

3. Revisions to MSRB Rule G–11(g)(ii) and MSRB Rule G–11(g)(iii) (new MSRB Rule G–11(g)(iii) and MSRB Rule G–11(g)(iv))

Currently, the senior syndicate manager is not required to provide information to issuers regarding designations and allocations of municipal securities in a primary offering.[26] The proposed rule change, as amended by Amendment No. 1, would amend MSRB Rule G–11(g)(ii) and MSRB Rule G–11(g)(iii) [27] to require the senior syndicate manager to comply with the information-dissemination provisions of this rule with respect to issuers, in addition to just syndicate members.[28]

MSRB Rule G–11(g)(ii) requires, in part, the senior syndicate manager, within two business days following the date of sale, to disclose to the syndicate, in writing, a summary by priority category, of all allocations of securities accorded priority over member orders.[29] MSRB Rule G–11(g)(iii) requires the senior syndicate manager to disclose, in writing and as set forth in the rule, to each member of the syndicate information on the designations paid to syndicate and non-syndicate members.[30]

The MSRB stated that providing this information to the issuer along with information on group net sales credits would better inform all issuers of the orders and allocations of their primary offerings.[31] The MSRB noted that this information would be valued particularly by those issuers who are not aware this information is available for their review.[32] The MSRB stated that an issuer who does not wish to receive or review this information could simply delete the communication at its discretion.[33]

4. Revisions to MSRB Rule G–11(j)

The proposed rule change would amend Rule G–11(j) to align the timeframe for the payment of group net sales credits with the timeframe for the payment of net designation sales credits as set forth therein.[34]

Currently, MSRB Rule G–11(i) states that the final settlement of a syndicate or similar account shall be made within 30 calendar days following the date the issuer delivers the securities to the syndicate.[35] Group net sales credits (*i.e.,* those sales credits for orders in which all syndicate members benefit according to their participation in the account) are paid out of the syndicate account when it settles pursuant to MSRB Rule G–11(i).[36] As a result, syndicate members may wait 30 calendar days following receipt of the securities by the syndicate before they receive their group net sales credits.[37] By contrast, MSRB Rule G–

[16] *See* Notice of Filing, 84 FR at 14990. *See also* MSRB Rule G–11(b) (requiring that every dealer that submits an order to a syndicate or to a member of a syndicate for the purchase of securities must disclose at the time of submission if the order is for its dealer account or a related account of the dealer).

[17] *See* Notice of Filing, 84 FR at 14990.

[18] *Id.* The other provisions of Rule G–11(g) would be renumbered accordingly to account for this addition.

[19] *Id.*

[20] For purposes of reporting transactions after the free-to-trade information has been disseminated, the MSRB has indicated that once a new issue has been released for trading (*i.e.,* is free to trade), normal transaction reporting rules will apply to the syndicate managers, syndicate members and selling group members. *See* Securities Exchange Act Release No. 49902 (Jun. 22, 2004), 69 FR 38925 (Jun. 29, 2004) (File No. SR–MSRB–2004–02).

[21] *See* Notice of Filing, 84 FR at 14990.

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.* ''Designation'' typically refers to the percentage of the takedown or spread that a buyer directs the senior syndicate manager to credit to a particular syndicate member (or members) in a net designated order. ''Allocation'' generally refers to the process of setting securities apart for the purpose of distribution to syndicate and selling group members. *See* MSRB Glossary of Municipal Securities Terms.

[27] Currently, these provisions are MSRB Rule G–11(g)(ii) and MSRB Rule G–11(g)(iii). However, with the proposed addition of MSRB Rule G–11(g)(ii) noted above, these provisions would become MSRB Rule G–11(g)(iii) and MSRB Rule G–11(g)(iv).

[28] *See* Notice of Filing, 84 FR at 14990; Amendment No. 1. The MSRB stated in Amendment No. 1 that it inadvertently deleted language in the Notice of Filing that was necessary to make the disclosure requirements of this rule operate properly and within the prescribed timeframes. Specifically, the MSRB noted that Amendment No. 1 amends the language of the Notice of Filing to correct the deletions and reinstate the timing distinction between: (i) The initial disclosure of all available information within 10 business days following the date of sale; and (ii) the disclosure of all available information with the sending of designation checks 10 calendar days following the date the issuer delivers the securities to the syndicate.

[29] MSRB Rule G–11(g)(ii).

[30] MSRB Rule G–11(g)(iii).

[31] *See* Notice of Filing, 84 FR at 14991.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.*

11(j) states that sales credits due to a syndicate member as designated by an investor in connection with the purchase of securities (''net designation payments'') shall be distributed within 10 calendar days following the date the issuer delivers the securities to the syndicate.[38]

The SEC approved amendments to MSRB Rule G–11(i) in 2009 to, among other things, shorten the timeframe for settlement of the syndicate account from 60 calendar days to 30 calendar days following the date the issuer delivers the securities to the syndicate.[39] The amendments also shortened the timeframe for the payment of net designation orders in Rule G–11(j) from 30 calendar days to 10 calendar days.[40] The MSRB noted that the shortened timeframes were intended to reduce the exposure of co-managers to the credit risk of the senior manager pending settlement of the accounts.[41]

The MSRB stated that the proposed amendments would not impact the timing of the settlement of the syndicate account, but rather would merely align the timeframe for the payment of group net and net designation sales credits.[42] The MSRB noted that aligning the time frames for the payment and receipt of sales credits would be a minor adjustment that would ensure uniform practice in making and receiving such payments in a timely manner. [43] In addition, the MSRB stated that this proposed rule change would reduce credit risk by decreasing the exposure of syndicate trading account members to the potential deterioration in the credit of the syndicate or account manager during the pendency of account settlements.[44] The MSRB also noted that the time period of 10 calendar days would provide balance between reducing risk of exposure of co-managers and the credit risk of the senior manager while still providing the senior syndicate manager with the time needed to process and pay the sales credits.[45]

As a result of the alignment of these payments, the MSRB stated that the information that is currently provided within 30 calendar days of delivery of securities to the syndicate under MSRB Rule G–11(h)(ii)(B) would now be provided within 10 business days following the date of sale under revised MSRB Rule G–11(g)(iv).[46] In addition, the MSRB noted that the proposed rule change would delete MSRB Rule G–11(h)(ii)(B), and would re-designate current MSRB Rule G–11(h)(ii)(C) as MSRB Rule G–11(h)(ii)(B).[47]

5. Revisions to MSRB Rule G–11(k)

As amended by Amendment No. 1, the proposed rule change would revise MSRB Rule G–11(k) to codify existing market practices with regard to retail order period representations and required disclosures.[48] Currently, MSRB Rule G–11(k) requires dealers that submit orders during a retail order period to provide certain representations and disclosures ''[f]rom the end of the retail order period but no later than the Time of Formal Award.'' [49]

The MSRB agreed with a proposed technical rule change to MSRB Rule G–11(k) suggested in the SIFMA Letter.[50] The MSRB stated that dealers using electronic order entry systems typically submit these representations and disclosures earlier than the end of the retail order period.[51] The MSRB also noted that the term ''end of the retail order period'' is not, technically, within the ''four corners'' of the timeframe specified in MSRB Rule G–11(k).[52] The proposed rule change, as amended by Amendment No. 1, would delete the term ''end of the retail order period'' from the current preamble to MSRB Rule G–11(k). The MSRB stated that this revision would align the rule with existing industry practice.[53]

B. Proposed Rule Change to MSRB Rule G–32

1. Revisions to MSRB Rule G–32(b)(ii)

The proposed rule change would amend MSRB Rule G–32(b)(ii) to require that in an advance refunding,[54] where advance refunding documents are prepared, the underwriter must provide access to the documents and certain related information to the entire market at the same time.[55]

The MSRB stated that this proposed change would mean underwriters would be precluded from disseminating advance refunding documents and information to any market participant, without first submitting such documents and information to the EMMA Dataport (provided that this restriction does not prohibit communication with anyone that may require such information for purposes of facilitating the completion of the transaction).[56] Currently, MSRB Rule G–32(b)(ii) requires the advance refunding documents and applicable Form G–32 information be submitted to the EMMA Dataport, no later than five business days after the closing date for the primary offering.[57]

The MSRB stated, however, that in some instances, some market participants may be informed of the advance refunding details before the information is submitted and made public on EMMA.[58] The MSRB noted that equal access to advance refunding information is important for the efficient functioning of the primary and secondary market for municipal securities.[59] The MSRB also stated that requiring underwriters to provide information to the market regarding CUSIP numbers advance refunded in a manner that allows access to the information by the entire market at the same time would support this effort.[60]

2. Revisions to MSRB Rule G–32(c)

The proposed rule change would repeal the current requirement under MSRB Rule G–32(c) that a dealer financial advisor that prepares an official statement (on behalf of an issuer with respect to a primary offering of municipal securities) make the official statement available to the managing underwriter or sole underwriter in a designated electronic format, promptly after the issuer approves its distribution.[61]

The MSRB stated that several participants in a primary offering may be responsible for preparing the official statement,[62] and while dealers acting as

[38] *Id.*

[39] *Id.*

[40] *See* Notice of Filing, 84 FR at 14991–92.

[41] *See* Notice of Filing, 84 FR at 14992. *See also* Securities Exchange Act Release No. 60725 (Sept. 28, 2009), 74 FR 50855 (Oct. 1, 2009) (File No. SR–MSRB–2009–12).

[42] *See* Notice of Filing, 84 FR at 14992.

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *See* Amendment No. 1 at 4.

[49] MSRB Rule G–11(k).

[50] *See* MSRB Response Letter at 2, Amendment No. 1 at 4.

[51] *See* Amendment No. 1 at 4.

[52] *Id.*

[53] *Id.* As discussed further below, the MSRB stated that it proposed this revision in response to the SIFMA Letter.

[54] In general, advance refunding issues are those municipal bonds issued more than 90 days before the redemption of the refunded bonds. *See* MSRB Interpretive Guidance—Current Refundings (Aug. 8, 1991).

[55] *See* Notice of Filing, 84 FR at 14992.

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] *Id.*

[60] *Id.*

[61] *Id.*

[62] For example, the MSRB stated that bond counsel or underwriter's counsel frequently prepares the official statement on behalf of the issuer and may seek input on various components from the underwriter or the municipal advisor. However, the MSRB noted that Rule G–32(c) does

Continued

financial advisors and non-dealer municipal advisors may be engaged to review and contribute to portions of the document, they are less frequently engaged to ''prepare'' the official statement as they might have been in the past.[63] The MSRB stated that, while the goal of MSRB Rule G–32(c) is consistent with the overall goal of MSRB Rule G–32 and Exchange Act Rule 15c2–12(b)(3) (that is, to facilitate the prompt distribution of the official statement to investors and other market participants), the MSRB noted that the section of the rule itself is limited in such a way that its usefulness in the current market is questionable.[64] The MSRB stated it understands that MSRB Rule G–32(c) requirements apply to a limited universe of market participants (*i.e.,* dealers acting as financial advisors that prepare the official statement).[65] The MSRB noted that this leaves a gap such that MSRB Rule G–32(c) does not extend to parties other than dealers acting as financial advisors who prepare the official statement.[66]

In reviewing MSRB Rule G–32(c) and considering whether to expand the section of the rule to include non-dealer municipal advisors, the MSRB stated that it considered whether the existing rule and/or the expansion thereof would resolve a harm in the market.[67] After discussions with various market participants, and consideration of the actual scope of the impact of the rule, the MSRB noted that any harm in the market related to the delivery of official statements would not be resolved by MSRB Rule G–32(c) regardless of whether dealers acting as financial advisors and non-dealer municipal advisors are required to comply.[68] The MSRB stated that it understands that the obligation under Exchange Act Rule 15c2–12(b)(3) for an underwriter to contract with the issuer or its agent to receive the official statement within a defined period of time already ensures that the underwriter would receive the official statement within a certain period of time regardless of the party preparing it.[69] The MSRB also stated that the scope of MSRB Rule G–32(c) may be too limited to have any significant impact on the official statement delivery requirements.[70]

C. Proposed Changes to Form G–32

1. Inclusion of 57 Additional Data Points Already Collected By NIIDS

The proposed rule change would amend Form G–32 to include 57 additional data fields that would be auto-populated with datapoints already required to be input into to the Depository Trust Company's (DTC) New Issue Information Dissemination Service (NIIDS), as applicable, for NIIDS-eligible offerings.[71] These data fields are currently available to regulators and certain other industry participants that have access to NIIDS.[72] The MSRB stated, however, that adding the data fields to Form G–32 would ensure the MSRB's continued access to important primary offering information, and enhance its ability to oversee the accuracy and distribution of the information provided.[73]

At this time, however, the MSRB stated that requiring the manual completion of all the above data fields for non-NIIDS-eligible issues such as private placements and other restricted offerings that are not intended for secondary market trading would be burdensome on underwriters.[74] Thus, for a non-NIIDS-eligible primary offering, the MSRB noted that an underwriter would continue to be required to manually complete the same data fields on Form G–32 that it currently completes with the addition of one of the 57 data fields discussed above.[75] The additional data field would indicate the original minimum denomination of the offering, as applicable.[76] As with the other data points currently required on Form G–32, once an underwriter provides the information, it would be available to regulators.[77] The MSRB stated that regulators could use this information to determine whether a new issue of municipal securities is trading at the appropriate minimum denomination in the secondary market.[78] Additionally, as with the other NIIDS data points discussed above, the MSRB noted that it may disseminate this information in the future.[79]

The MSRB stated that, at this time, requiring this additional information on Form G–32, as applicable, for NIIDS-eligible offerings, and requiring the single additional data point for non-NIIDS-eligible offerings would not only assist the MSRB in ensuring its continued access to new issue information but would enhance MSRB regulatory transparency initiatives.[80]

2. Inclusion of Nine Additional Data Fields Not Currently Collected by NIIDS

The proposed rule change would amend Form G–32 to include nine additional data fields, set forth below, for manual completion (*i.e.,* not auto-populated from NIIDS), as applicable, by underwriters in NIIDS-eligible primary offerings of municipal securities.[81] The MSRB stated that underwriters in non-NIIDS-eligible primary offerings would be required to manually complete two of these data fields: (i) The ''yes'' or ''no'' indicator regarding whether the original minimum denomination for a new issue has the ability to change; and (ii) the ''yes'' or ''no'' indicator regarding whether the new issue has any restrictions.[82] The MSRB noted that, however, underwriters in non-NIIDS-eligible offerings would not be required to complete the other seven data fields.[83]

The MSRB stated that the information collected by these data fields would enhance MSRB regulatory transparency initiatives as all of the additional data elements would be immediately available to regulators to perform regulatory oversight of primary offerings and subsequent secondary market trading practices to ensure a fair and efficient market.[84] Additionally, the MSRB noted that it may disseminate some or all of this information in the future.[85] The proposed rule change would amend Form G–32 to add the following data fields:

a. *Ability for original minimum denomination to change*—The MSRB stated it believes providing a ''yes'' or

not apply to bond counsel or underwriter's counsel, and the MSRB does not have jurisdiction over these parties in any event. Therefore, if these parties were engaged to prepare the official statement for the issuer, they would not be subject to the requirements of Rule G–32(c). *Id.*

[63] *See* Notice of Filing, 84 FR at 14992–93.

[64] *See* Notice of Filing, 84 FR at 14993.

[65] *Id.*

[66] *Id.*

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] The MSRB stated that non-NIIDS-eligible securities are less likely to trade in the secondary market because they typically are issued with trading restrictions and, therefore, less liquid. Notice of Filing, 84 FR at 14993 n.41. In the MSRB's view, such non-NIIDS eligible securities are different from NIIDS-eligible securities, which by their nature are DTC eligible, and are freely tradable in the market. *See id.; see also* Notice of Filing, 84 FR at 14993 n.8. The MSRB stated it will continue to monitor the need for specific information with respect to non-NIIDS-eligible offerings to determine whether any other additional data elements may be required at a later time. Notice of Filing, 84 FR at 14993 n.41.

[75] *See* Notice of Filing, 84 FR at 14993.

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *Id.*

[82] *Id.*

[83] *Id.*

[84] *Id.*

[85] *Id.*

''no'' indicator at the time of issuance as to whether the original minimum denomination for an issue can change would immediately enhance regulatory transparency and provide useful information to investors, should the MSRB disseminate this information in the future.[86] The MSRB stated that having this indicator would highlight the need to check relevant disclosure documents for developments that could trigger a change in the original minimum denominations.[87]

b. *Additional syndicate managers*—The MSRB stated that having a data field that indicates all the syndicate managers (senior and co-managers) on an underwriting would provide useful information for regulators.[88] Additionally, the MSRB stated that, should the MSRB disseminate this information in the future, it could be used to evaluate the experience of a syndicate manager for an upcoming offering.[89] The MSRB noted that the complete list of underwriters typically is known at or before the pricing of an issue and, therefore, senior and co-manager information is readily available to the senior underwriter before Form G–32 is due.[90]

c. *Call schedule*—The MSRB stated that requiring call schedule information on Form G–32 would include, for example, premium call dates and prices, and the par call date.[91] The MSRB stated that this information would immediately increase regulatory transparency, providing regulators with intermediate premium call dates and prices, and, where applicable, a means to differentiate between a call price represented in dollars as opposed to CAV.[92] Additionally, the MSRB noted that, if the MSRB disseminated this information in the future, access to all the relevant call information could help investors make more informed investment decisions.[93]

d. *Identity of obligated person(s), other than the issuer*—The MSRB stated that it believes that providing the name(s) of the obligated person(s) (other than the issuer) for a primary offering of municipal securities is important because such obligated person(s) generally will have continuing disclosure obligations associated with the issue, and the identity of such obligated person(s) is sometimes not easily identifiable for regulatory transparency purposes.[94] Also, the MSRB noted that having more ways of identifying those obligated to support payment of all or part of a primary offering would increase transparency (should it disseminate this information in the future).[95] The MSRB stated that there may be confusion in identifying other obligated persons in a consistent manner.[96] The MSRB noted that, as a result, the identity of the other obligated person(s) should be input on Form G–32 the same as it appears on the official statement, or if there is no official statement, in the manner it appears in the applicable offering documents for the issue.[97] The MSRB stated that this practice would ensure consistent identification of the obligated person(s), other than the issuer, with respect to that issue.[98]

e. *LEI*[99] *for credit enhancers and obligated person(s), other than the issuer, if readily available*—The MSRB stated that LEI provides a method to uniquely identify legally distinct entities that engage in financial transactions.[100] The MSRB noted that the goal of this global identification system is to precisely identify parties to a financial transaction to assist regulators, policymakers and financial market participants in identifying and better understanding risk exposure in the financial markets and to allow monitoring of areas of concern.[101] The MSRB stated that requiring this information for credit enhancers and obligated persons, other than the issuer, if readily available, would promote the value of obtaining LEIs and encourage industry participants to obtain them as a matter of course.[102] As stated by the MSRB, an LEI is ''readily available'' if it is easily obtainable via a general search on the internet (*e.g.,* web pages such as *https://www.gleif.org/en/lei/search*).[103] The MSRB also noted that obtaining this information, when readily available, on credit enhancers and other obligated persons would help advance the goal of having a global identification method for these parties and improve the quality of municipal market financial data and reporting.[104]

f. *Dollar amount of each CUSIP number advance refunded*—The MSRB stated that requiring information regarding the dollar amount of each CUSIP number advance refunded on Form G–32 would provide regulators important information regarding material changes to a bond's structure and value and should the MSRB disseminate this information in the future, may assist investors in making more informed investment determinations.[105] Upon review of comments and discussions with certain market participants, the MSRB stated that it believes requiring the dollar amount of each CUSIP number advance refunded instead of the percentage advance refunded would be more useful in understanding the value of the portion of an issue being advance refunded and would be less burdensome for underwriters to calculate.[106]

g. *Retail order period by CUSIP number*—Currently, primary offerings are flagged in the EMMA Dataport to indicate whether there is/was a retail order period.[107] The MSRB noted that, quite often, however, not every maturity related to the offering is subject to a retail order period.[108] The MSRB stated that requiring underwriters to mark a primary offering with a flag to indicate the existence of a retail order period for each CUSIP number would provide greater regulatory transparency as to the amount and types of bonds being offered in that retail order period.[109]

h. *Name of municipal advisor*—The MSRB stated that including this information would enhance regulatory transparency as key market participants would be more easily identifiable to regulators.[110] The MSRB also noted that, should the MSRB disseminate this information in the future, it could also assist certain market participants in evaluating the experience of the municipal advisor when reviewing

[86] *Id.*

[87] *Id.*

[88] *See* Notice of Filing, 84 FR at 14993–94.

[89] *See* Notice of Filing, 84 FR at 14994.

[90] *Id.*

[91] *Id.* As part of its discussion of call schedules in the Notice of Filing, the MSRB noted that, for primary offerings with call prices stated as a percentage of the compound accreted value (CAV), the underwriter would enter the premium call dates and percentage of CAV the new issue can be called at as well as the par call date.

[92] *Id.*

[93] *Id.*

[94] *Id.*

[95] *Id.*

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] An LEI is a 20-digit alpha-numeric code that connects to key reference information providing unique identification of legal entities participating in financial transactions. Only organizations duly accredited by GLEIF are authorized to issue LEIs. The MSRB believes that, at this time, except for credit enhancers and obligated person(s), other than the issuer, the LEI information being sought is not critical in evaluating the financial risks of an issuer, and because issuers typically do not obtain an LEI, the likely time and costs associated with having to conduct a search to determine if LEI information is readily available for an issuer, would exceed any potential benefits. *Id.*

[100] *Id.*

[101] *Id.*

[102] *Id.*

[103] *Id.*

[104] *Id.*

[105] *Id.*

[106] *Id.*

[107] *Id.*

[108] *Id.*

[109] *Id.*

[110] *Id.*

primary offerings, especially for similar credits and structures.[111] Finally, the MSRB stated that it intends to make this field autofill as the underwriter begins to input the name of the municipal advisor into the applicable text box.[112]

i. *Restrictions on the issue*—The MSRB stated that adding a ''yes'' or ''no'' flag to Form G–32 for an underwriter to indicate whether the primary offering is being made with restrictions would help regulators and, should the MSRB disseminate this information in the future, it could help certain other market participants more easily identify this information.[113]

III. Summary of Comments Received and MSRB's Responses to Comments

As noted previously, the Commission received three comment letters on the proposed rule change, as well as the MSRB Response Letter and Amendment No. 1.

A. Technical Correction to Rule G–11(k)

SIFMA requested that the MSRB make a technical correction to MSRB Rule G–11(k), which was not otherwise amended by the Proposed Rule Change.[114] SIFMA requested that the MSRB change the requirement that dealers provide certain representations and disclosures ''from the end of the retail order period but no later than the Time of Formal Award'' to ''by the time of the formal award.'' [115] In SIFMA's view, these disclosures are often made earlier than the end of the retail order period and there is no reason to discourage that practice.[116]

The MSRB stated that it agreed with SIFMA regarding MSRB Rule G–11(k), and made corresponding changes in Amendment No. 1.[117]

B. Additional Data Fields to be Required on Form G–32

1. Comments About Data Fields Generally

SIFMA, BDA, and NAMA commented on the requirement in the proposed rule change that underwriters complete additional fields on Form G–32.[118] Generally, both SIFMA and BDA stated that the MSRB has drastically underestimated the time and costs of compliance with these new requirements.[119] Further, SIFMA and BDA believe that the MSRB has overestimated the benefits of the additional fields in Form G–32, because this information is generally available in the Official Statement that is already accessible on the MSRB's EMMA system.[120] BDA suggested that additional burdens on dealers have, and could, continue to lead to contraction in the market.[121] SIFMA additionally requested that the specifications of the new fields should be available for comment prior to implementation, and that the MSRB provide a bulk data uploader such as those provided by FINRA and DTC.[122] SIFMA also noted that changes will need to be made to the MSRB's Form G–32 Manual, and offered to meet with MSRB staff to discuss.[123]

In the MSRB Response Letter, the MSRB responded to the general comments from SIFMA, BDA, and NAMA about the additional data fields. The MSRB stated that the nine data fields requiring manual completion (as applicable) for NIIDS-eligible offers are necessary to enhance the MSRB's regulatory transparency initiatives.[124] The MSRB also noted that the time and resources required for compliance with this requirement would not be unduly burdensome.[125] The MSRB acknowledged that commenters raised concerns with the MSRB's economic analysis, but responded that the commenters did not provide data to illustrate or support such concerns.[126] The MSRB stated that this data would enhance its ability to perform oversight of primary offerings and secondary market trading practices, as well as assist it in ensuring a fair and efficient market.[127] The MSRB noted that it plans to publish the data in the future to help investors with their investment decisions.[128]

The MSRB also stated that it appreciated the commenters' concerns about the need to assure the quality of the data they provide, but the MSRB concluded that the importance of such data outweighs any attendant burden.[129] The MSRB also noted that it appreciated commenters' willingness to meet to discuss suggestions to support technical aspects of implementing the proposed rule change, but that the MSRB does not believe meeting to discuss such suggestions should delay approval.[130]

2. Comments About Specific Data Fields

With respect to specific fields on proposed amended Form G–32:

a. *LEI:* Both SIFMA and BDA raised concerns about the requirement to include the LEI for Credit Enhancers and Obligated persons ''if readily available.'' [131] SIFMA suggested that only the names and LEIs of Obligated Persons would be useful to the market.[132] Both SIFMA and BDA expressed concerns about the vagueness of ''if readily available,'' and believe that this qualifier does not provide enough guidance to dealers as to where and how to search.[133] BDA further expressed concerns about errors in data entry.[134]

In the MSRB Response Letter, the MSRB responded to these comments about LEI data.[135] The MSRB stated that LEI information (when readily available) on credit enhancers and obligated persons (other than the issuer) would advance the goal of establishing a global identification method for these parties.[136] The MSRB noted that such LEI information could improve the quality of municipal market financial data reporting.[137] The MSRB stated that a LEI could be considered ''readily available'' if it were easily obtainable via a general search on the internet.[138] The MSRB also noted that, if, after searching via Form G–32's LEI search page, an LEI did not result for a particular credit enhancer or obligated person, the underwriter could conclude that the LEI was not ''readily available.'' [139]

b. *Dollar amount of CUSIPs refunded:* BDA expressed concern that the manual entry of this data could lead to a high risk of errors.[140]

The MSRB stated that it understands concerns about quality assurance regarding data input, but that the MSRB concluded that the importance of such data outweighs any associated burdens.[141]

c. *Restrictions on the Issue:* SIFMA requested clarifications on what types of restrictions would require a yes or no answer, and believes that restrictions

[111] *Id.*
[112] *Id.*
[113] *Id.*
[114] *See* SIFMA Letter at 2–3.
[115] *See* SIFMA Letter at 3.
[116] *Id.*
[117] *See* MSRB Response Letter.
[118] *See* SIFMA Letter; BDA Letter; NAMA Letter.
[119] *See* SIFMA Letter at 3; BDA Letter at 2.
[120] *See* SIFMA Letter at 3–4; BDA Letter at 2.
[121] *See* BDA Letter at 2–3.
[122] *See* SIFMA Letter at 4.
[123] *See* SIFMA Letter at 6.
[124] *See* MSRB Response Letter at 6.
[125] *See* MSRB Response Letter at 6–7.
[126] *See* MSRB Response Letter at 7.
[127] *Id.*
[128] *Id.*
[129] *Id.*
[130] *See* MSRB Response Letter at 9.
[131] *See* SIFMA Letter at 5; BDA Letter at 2.
[132] *See* SIFMA Letter at 5.
[133] *Id.;* BDA Letter at 2.
[134] *See* BDA Letter at 2.
[135] *See* MSRB Response Letter at 7.
[136] *Id.*
[137] *Id.*
[138] *Id.*
[139] *Id.*
[140] *See* BDA Letter at 2.
[141] *Id.*

should be limited to the types of investors.[142] Further, SIFMA requested that checkboxes be offered in the form instead of ''yes'' and ''no'' choices.[143]

In response, the MSRB stated its continued belief that the ''yes'' or ''no'' indicator for whether the offering is being made with a restriction would provide useful information to regulators, allowing regulators to identify transactions involving municipal securities more easily.[144] The MSRB also noted that if such information is made available via EMMA in the future, market participants could identify primary offerings with restrictions and make any inquiries deemed appropriate.[145] The MSRB stated that it is not necessary ''at this time'' to require an underwriter to provide additional information regarding the specific types of investors to which an offering is limited.[146]

d. *Municipal Advisor:* NAMA requested that a number of elements to the Municipal Advisor field be clarified, including:

i. Will the drop down box display the list of firms registered with the SEC, MSRB, or both? [147] NAMA believed this change is a good opportunity to reconcile any differences.[148]

ii. How will the underwriter determine who should be listed as the Municipal Advisor? [149]

iii. Will there be an option for ''No Municipal Advisor?'' [150]

iv. Will there be an ability to correct/revise the form? [151]

v. How will the MSRB handle DBA Names? [152]

The MSRB responded that it anticipates implementing a method for populating the ''municipal advisor'' data field that would cause the field to autofill or provide a drop-down of municipal advisors by name.[153] The MSRB added that the autofill or drop-down would include all municipal advisors registered with the SEC, as well as with the MSRB, and would include a ''no municipal advisor'' option.[154] The MSRB also noted that an underwriter would look to the municipal advisor named in the Official Statement, or if none is listed, the underwriter would rely on its knowledge of the municipal advisor's identity.[155] The MSRB stated that it anticipates Form G–32 would allow for an underwriter to add a municipal advisor, if more than one municipal advisor is known.[156]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letters received, the MSRB Response Letter, and Amendment No. 1. The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the provisions of Section 15B(b)(2)(C) of the Act, which provides in part that the MSRB's rules shall be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, and to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products.[157]

The Commission believes that the proposed rule change to MSRB Rule G–11(f) would promote just and equitable principles of trade by codifying the obligation of selling group members, in addition to syndicate members, to comply with the issuer's terms and conditions in a primary offering of municipal securities, particularly in light of the obligations of selling group members to comply with the priority provisions, as well as other issuer terms and conditions.

The Commission believes that the proposed rule changes to MSRB Rule G–11(g) also would promote just and equitable principles of trade by removing any unfair advantage in the secondary market of having advance knowledge of when an issue is free-to-trade, as well as by ensuring issuers in a primary offering have material information regarding the designations and allocations of their offerings. Additionally, the Commission believes that providing this information to issuers removes impediments to a free and open market in municipal securities by giving issuers valuable information they otherwise may not know is available. By reducing information asymmetry among market participants in primary offerings of municipal securities, this proposed rule change would reduce the potential for an unfair advantage in the secondary sales of municipal securities.

Similarly, the Commission believes that by requiring the underwriter in an advance refunding to disclose advance refunding information, the proposed rule change to MSRB Rule G–32(b)(ii) would remove impediments to and perfect the mechanism of a free and open market, by ensuring that all market participants have access to such information at the same time. The proposed rule change to MSRB Rule G–11(j) also would foster cooperation and coordination with persons engaged in processing information with respect to transactions in municipal securities and municipal financial products, by aligning the timing of payment of sales credits in net designation and group net sales transactions. Additionally, aligning these payments would remove impediments to a free and open market in municipal securities and municipal financial products by reducing credit risk in the market and allowing group net sales credit payments to be made to syndicate members on a shortened timeframe.

The Commission believes that the deletion of MSRB Rule G–32(c) in the proposed rule change would remove impediments to and perfect the mechanism of a free and open market in municipal securities. The Commission believes that, by eliminating a rule that no longer resolves a market harm, the proposed rule change will more appropriately reflect actual market practices, reduce regulatory burdens and thus encourage compliance with a more appropriate process by which the underwriter receives the official statement in a primary offering of municipal securities. Further, because Exchange Act Rule 15c2–12(b)(3) requires an underwriter to contract with the issuer or its agent to receive the official statement within a defined period of time, the Commission believes that the deletion of MSRB Rule G–32(c) will not adversely affect investors or the public interest.

The Commission believes that the inclusion on Form G–32 of additional data fields will foster cooperation with persons engaged in regulating and processing information with respect to transactions in municipal securities and municipal financial products, by providing more transparency with respect to municipal securities offerings.

[142] *See* SIFMA Letter at 5.

[143] *Id.*

[144] *See* MSRB Response Letter at 8.

[145] *Id.*

[146] *Id.*

[147] *See* NAMA Letter at 1.

[148] *Id.*

[149] *Id.*

[150] *Id.*

[151] *Id.*

[152] *Id.*

[153] *See* MSRB Response Letter at 8.

[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] 15 U.S.C. 78*o*–4(b)(2)(C).

For example, by obtaining this information, the MSRB and other regulators will have access to more fulsome and useful market data to help inform their regulation of the municipal securities markets.

In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation.[158] Section 15B(b)(2)(C) of the Act[159] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all dealers of new issues of municipal securities in primary offerings.

Furthermore, the Commission believes that the potential burdens created by the proposed rule change are likely to be outweighed by the benefits of increasing regulatory transparency in the primary offering process and secondary market trading. The Commission has reviewed the record for the proposed rule change and notes that the record does not contain any information to indicate that the proposed rule change would have a negative effect on capital formation. The Commission believes that the proposed rule change includes provisions that help promote efficiency. The amendments requiring that the senior syndicate manager to notify all members of the syndicate and selling group at the same time that the offering is free to trade, and requiring underwriters to provide access to advance refunding documents to the entire market at the same time, would promote efficiency in the market by reducing information asymmetry among market participants. Additionally, the amendments aligning the timeframes for the payment of group net sales credits and net designation sales credit would promote efficiency by reducing credit risk in the market.

As noted above, the Commission received three comment letters on the filing. The Commission believes that the MSRB, through its responses and through Amendment No. 1, has addressed commenters' concerns. For the reasons noted above, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

[158] 15 U.S.C. 78c(f).

[159] 15 U.S.C. 78*o*–4(b)(2)(C).

V. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use of 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–MSRB–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.

All submissions should refer to File Number SR–MSRB–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 MSRB. All comments received will be posted without change; the Commission does not 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–MSRB–2019–07 and should be submitted on or before July 24, 2019.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause for approving the proposed rule change, as amended by Amendment No. 1, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**. As noted by the MSRB, Amendment No. 1 does not raise any significant issues with respect to the proposed rule change and only provides minor technical changes. The proposed rule change to MSRB Rule G–11(g)(iv) corrects an inadvertent drafting error and the proposed rule change to MSRB Rule G–11(k) aligns the current rule to existing industry practice and is directly responsive to comments received.

For the foregoing reasons, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

VIII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[160] that the proposed rule change, as modified by Amendment No. 1 (SR–MSRB–2019–07) be, and hereby is, approved on an accelerated basis.

For the Commission, pursuant to delegated authority.[161]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14161 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[160] 15 U.S.C. 78s(b)(2).

[161] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86220; File No. SR–NYSEArca–2019–14]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to the Permitted Investments of the PGIM Ultra Short Bond ETF

June 27, 2019.

On March 13, 2019, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to the listing rule for shares (''Shares'') of the PGIM Ultra Short Bond ETF (''Fund''). The proposed rule change was published for comment in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Register on April 2, 2019.[3] On May 10, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposal. The Commission is publishing this order to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

I. Description of the Proposal

A. The Fund and the Shares

According to the Exchange, the investment objective of the Fund is to seek total return through a combination of current income and capital appreciation, consistent with preservation of capital. The Fund seeks to achieve its investment objective by investing primarily in a portfolio of U.S. dollar denominated short-term fixed, variable and floating rate debt instruments. Under normal market conditions,[7] the Fund invests at least 80% of its net assets (plus any borrowings for investment purposes) in a portfolio of financial instruments consisting of (1) the Principal Investment Instruments (as defined in the First Prior Order); and (2) derivatives (as described in the Prior Orders) that (a) provide exposure to such Principal Investment Instruments, or (b) are used to enhance returns, manage portfolio duration, or manage the risk of securities price fluctuations, as described in the Prior Orders.[8]

The Shares commenced trading on the Exchange on April 10, 2018, pursuant to the generic listing standards under Commentary .01 to NYSE Arca Rule 8.600–E (''Managed Fund Shares'').[9] Since then, the Exchange has proposed—and the Commission has approved—two proposed rule changes to expand the permitted investments of the Fund beyond what is permitted under the generic listing requirements.[10] By the instant proposed rule change, the Exchange proposes to again amend the listing rule applicable to the Shares.

B. The Proposed Modifications to the Shares' Listing Rule

The Exchange proposes to amend two requirements of the Shares' current listing rule as set forth in the First Prior Order, namely the requirements that: (1) The Fund's investments in non-U.S. Government, non-agency, non-GSE and other privately issued asset backed securities (including mortgage-backed securities) (''Private ABS/MBS'') are limited to 20% of the total assets of the Fund;[11] and (2) the Fund may invest only 10% of its total assets in fixed income securities that do not satisfy the criteria of Commentary .01(b)(4) to NYSE Arca Rule 8.600–E.[12]

The Exchange proposes to modify the Fund's current limit on Private ABS/MBS by removing collateralized debt obligations (''CDOs'')[13] from the definition of Private ABS/MBS and by allowing the Fund to invest up to 20% of its total assets in CDOs. Therefore, the Exchange is proposing to allow up to 40% of the Fund's portfolio to be composed of what had previously been defined as Private ABS/MBS. The Exchange asserts that ability to invest up to 20% of the Fund's portfolio CDOs would help the Fund maintain portfolio diversification and would reduce manipulation risk.[14] The Exchange argues that CDOs can be distinguished from asset backed securities (''ABS'') because CDOs are collateralized by bank loans or by corporate or government fixed income securities, while ABS are collateralized by consumer and other loans (including student loans) made by non-bank lenders.[15] Additionally, the Exchange states that the Fund's investments in CDOs would be subject to the Fund's liquidity procedures, and that the Fund's investment adviser does not expect that such investments would materially impact the liquidity of the Fund's investments.[16]

Additionally, with respect to the requirement the Fund may invest only up to 10% of its total assets in fixed income securities that do not satisfy the criteria of Commentary .01(b)(4), the Exchange proposes that the Fund's Private ABS/MBS (which may constitute up to 20% of the portfolio) and CDOs (which also may constitute up to 20% of the portfolio) would not count toward that 10% limit. As a result, up to 50% of the Fund's fixed income securities might not satisfy the criteria in Commentary .01(b)(4). The Exchange argues that this alternative limit is appropriate because the criteria in Commentary .01(b)(4) ''do not appear to be designed for structured finance vehicles such as Private ABS/MBS.''[17]

The Exchange proposes no other changes to the Shares' listing rule.

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[3] *See* Securities Exchange Act Release No. 85430 (Mar. 27, 2019), 84 FR 12646 (Apr. 2, 2019) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 85829 (May 10, 2019), 84 FR 22221 (May 16, 2019). The Commission designated July 1, 2019, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[8] The terms ''First Prior Order'' and ''Prior Orders'' are defined infra at note 10.

[9] A Managed Fund 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) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[10] *See* Securities Exchange Act Release Nos. 83319 (May 24, 2018), 83 FR 25097 (May 31, 2018) (SR–NYSEArca–2018–15) (''First Prior Order''); and 84818 (December 13, 2018) (SR–NYSEArca–2018–75) (together with the First Prior Order, ''Prior Orders'').

[11] At the time the proposed rule change was filed, Commentary .01(b)(5) to NYSE Arca Rule 8.600–E provided that non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities components of a portfolio may not account, in the aggregate, for more than 20% of the weight *of the fixed income portion* of the portfolio. Recently, however, the Exchange amended Commentary .01(b)(5) to NYSE Arca Rule 8.600–E, and it now provides that non-agency, non-government sponsored entity and privately issued mortgage-related and other asset-backed securities components of a portfolio may not account, in the aggregate, for more than 20% of the weight of the portfolio. *See* Securities Exchange Act Release No. 86017 (June 3, 2019), 84 FR 26711 (June 7, 2019) (SR–NYSEArca–2019–06).

[12] Commentary .01(b)(4) requires that at least 90% of *the fixed income weight* of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

[13] The Exchange defines CDOs as collateralized loan obligations (''CLOs'') and collateralized bond obligations (''CBOs''). The Exchange defines CLOs as securities issued by a trust or other special purpose entity that are collateralized by a pool of loans by U.S. banks and participations in loans by U.S. banks that are unsecured or secured by collateral other than real estate. The Exchange defines CBOs as securities issued by a trust or other special purpose entity that are backed by a diversified pool of fixed income securities issued by U.S. or foreign governmental entities or fixed income securities issued by U.S. or corporate issuers.

[14] *See* Notice, *supra* note 3, 84 FR at 12647–48.

[15] *See id.* at 12647, n.12.

[16] *See id.* at 12648.

[17] *Id.*

II. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2019–14 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [18] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[19] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [20]

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[21] in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on the following questions and asks commenters to submit data where appropriate to support their views.

If the listing rule for the Shares were amended as proposed, would the listing rule continue to ensure that a substantial portion of the Fund's portfolio consists of fixed income securities for which information is publicly available? If not, are there reasons why it may not be necessary that information be publicly available for Private ABS/MBS and CDOs (as distinguished from other types of fixed income securities)?

Would the proposed increased investment in Private ABS/MBS and CDOs by the Fund increase the susceptibility of the Shares to manipulation? If so, why; if not, why not? If the Fund's permitted investments were expanded to the extent proposed, would any other restrictions on the Fund's permitted investments be appropriate in order for the proposed rule change to be consistent with Section 6(b)(5) of the Act?

III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by July 24, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by August 7, 2019. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2019–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2019–14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–14 and should be submitted by July 24, 2019. Rebuttal comments should be submitted by August 7, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–14162 Filed 7–2–19; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(2)(B).

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] *See* Notice, *supra* note 3.

[22] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] 17 CFR 200.30–3(a)(57).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15982 and #5983; Arkansas Disaster Number AR–00104]

Presidential Declaration Amendment of a Major Disaster for the State of Arkansas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–4441–DR), dated 06/08/2019.

Incident: Severe Storms and Flooding.

Incident Period: 05/21/2019 through 06/14/2019.

DATES: Issued on 06/08/2019.

Physical Loan Application Deadline Date: 08/07/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/09/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Arkansas, dated 06/08/2019, is hereby amended to establish the incident period for this disaster as beginning 05/21/2019 through 06/14/2019.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–14150 Filed 7–2–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 16014 and # 16015; Ohio Disaster Number OH–00059]

Administrative Declaration of a Disaster for the State of Ohio

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Ohio dated 06/27/2019.

Incident: Heavy Rainfall and Flooding.

Incident Period: 05/17/2019.

DATES: Issued on 06/27/2019.

Physical Loan Application Deadline Date: 08/26/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/27/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Auglaize

Contiguous Counties:

Ohio: Allen, Darke, Hardin, Logan, Mercer, Shelby, Van Wert.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16014 6 and for economic injury is 16015 0.

The State which received an EIDL Declaration # is Ohio.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–14148 Filed 7–2–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15961 and #15962; California Disaster Number CA–00307]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of California

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA–4434–DR), dated 05/18/2019.

Incident: Severe Winter Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/24/2019 through 03/01/2019.

DATES: Issued on 05/18/2019.

Physical Loan Application Deadline Date: 07/17/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 02/18/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of California, dated 05/18/2019, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Yolo

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–14149 Filed 7–2–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15980 and #15981; South Dakota Disaster Number SD–00092]

Presidential Declaration Amendment of a Major Disaster for the State of South Dakota

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–4440–DR), dated 06/07/2019.

Incident: Severe Winter Storm, Snowstorm, and Flooding.

Incident Period: 03/13/2019 through 04/26/2019.

DATES: Issued on 06/07/2019.

Physical Loan Application Deadline Date: 08/06/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/09/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business

Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of South Dakota, dated 06/07/2019, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Turner

Contiguous Counties (Economic Injury Loans Only): None

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–14145 Filed 7–2–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16016 and #16017; North Carolina Disaster Number NC–00110]

Administrative Declaration of a Disaster for the State of North Carolina

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 06/27/2019.

Incident: Flooding and Heavy Winds.

Incident Period: 06/06/2019.

DATES: Issued on 06/27/2019.

Physical Loan Application Deadline Date: 08/26/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 03/27/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Catawba, Mecklenburg.

Contiguous Counties:

North Carolina: Alexander, Burke, Cabarrus, Caldwell, Gaston, Iredell, Lincoln, Union.

South Carolina: Lancaster, York.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16016 6 and for economic injury is 16017 0.

The States which received an EIDL Declaration # are North Carolina, South Carolina.

(Catalog of Federal Domestic Assistance Number 59008)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–14151 Filed 7–2–19; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2019–0026]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes extensions and revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2019–0026].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than September 3, 2019. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Application for Child's Insurance Benefits—20 CFR 404.350–404.368, 404.603, & 416.350—0960–0010. Title II of the Social Security Act (Act) provides for the payment of monthly benefits to children of an insured retired, disabled, or deceased worker. Section 202(d) of the Act discloses the conditions and requirements the applicant must meet when filing an application. SSA uses the information on Form SSA–4–BK to determine entitlement for children of living and deceased workers to monthly Social Security payments. Respondents are guardians completing the form on behalf of the children of living or deceased workers, or the children of living or deceased workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Application for Child's Insurance Benefits/Death Claim/Paper SSA–4–BK	1,204	1	12	241
Application for Child's Insurance Benefits/Death Claim/Modernized Claims System (MCS) and Preliminary Claims System (PCS)	204,777	1	11	37,542
Application for Child's Insurance Benefits/Life Claim/Paper SSA–4–BK	3,484	1	12	697
Application for Child's Insurance Benefits/Life Claim/MCS and PCS	422,267	1	11	77,416
Totals	631,732			115,896

2. *Request for Hearing by Administrative Law Judge—20 CFR 404.929, 404.933, 416.1429, 404.1433, 418.1350, and 42 CFR 405.722—0960–0269.* When SSA denies applicants', claimants', or beneficiaries' requests for new or continuing disability benefits or payments, the Act entitles those applicants, claimants, or beneficiaries to request a hearing to appeal the decision. To request a hearing, individuals complete Form HA–501; the associated Modernized Claims System (MCS) or Supplemental Security Income (SSI) Claims System interview; or the internet application (i501). SSA uses the information to determine if the individual: (1) Filed the request within the prescribed time; (2) is the proper party; and (3) took the steps necessary to obtain the right to a hearing. SSA also uses the information to determine: (1) The individual's reason(s) for disagreeing with SSA's prior determinations in the case; (2) if the individual has additional evidence to submit; (3) if the individual wants an oral hearing or a decision on the record; and (4) whether the individual has (or wants to appoint) a representative. The respondents are Social Security disability applicants and recipients who want to appeal SSA's denial of their request for new or continued benefits for disability and non-medical hearing requests; and Medicare Part B recipients who must pay the Medicare Part B Income-Related Monthly Adjustment Amount.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–501; MCS; SSI Claims System	10,325	1	10	1,721
i501 (Internet iAppeals)	653,318	1	5	54,443
Totals	663,643			56,164

3. *Travel Expense Reimbursement—20 CFR 404.999(d) and 416.1499—0960–0434.* The Act provides for travel expense reimbursement from Federal and State agencies for claimant travel incidental to medical examinations, and to parties, their representatives, and all reasonably necessary witnesses for travel exceeding 75 miles to attend medical examinations; reconsideration interviews; and proceedings before an administrative law judge. Reimbursement procedures require the claimant to provide: (1) A list of expenses incurred, and (2) receipts of such expenses. Federal and state personnel review the listings and receipts to verify the reimbursable amount to the requestor. The respondents are claimants for Title II benefits and Title XVI payments, their representatives, and witnesses.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
404.99(d) & 416.1499	60,000	1	10	10,000

4. *Certificate of Coverage Request—20 CFR 404.1913—0960–0554.* The United States (U.S.) has agreements with 30 foreign countries to eliminate double Social Security coverage and taxation where, except for the provisions of the agreement, a worker would be subject to coverage and taxes in both countries. These agreements contain rules for determining the country under whose laws the worker's period of employment is covered, and to which country the worker will pay taxes. The agreements further dictate that, upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information we collect assists us in determining a worker's coverage and in issuing a U.S. certificate of coverage as appropriate. Per our agreements, we ask a set number of questions to the workers and employers prior to issuing a certificate of coverage; however, our agreements with Denmark, Netherlands, Norway, and Sweden require us to ask more questions in those countries. Respondents are workers and employers wishing to establish exemption from foreign Social Security taxes.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Requests via Letter—Individuals (minus Denmark, Netherlands, Norway, Poland & Sweden)	5,833	1	40	3,889
Requests via Internet—Individuals (minus Denmark, Netherlands, Norway, Poland & Sweden)	9,761	1	40	6,507
Requests via Letter—Individuals in Denmark, Netherlands, Norway, & Sweden	284	1	44	208
Requests via Letter—Individuals in Poland	16	1	41	11
Requests via Internet—Individuals in Denmark, Netherlands, Norway, & Sweden	427	1	44	313
Requests via Internet—Individuals in Poland	25	1	41	17
Requests via Letter—Employers (minus Denmark, Netherlands, Norway, Poland & Sweden)	26,047	1	40	17,365
Requests via Internet—Employers (minus Denmark, Netherlands, Norway, Poland, & Sweden)	39,096	1	40	26,064
Requests via Letter—Employers in Denmark, Netherlands, Norway, & Sweden	1,137	1	44	834
Requests via Letter—Employers in Poland	57	1	41	39
Requests via Internet—Employers in Denmark, Netherlands, Norway, & Sweden	1,704	1	44	1,250
Requests via Internet—Employers in Poland	86	1	41	59
Totals	84,473			56,556

5. *Privacy and Disclosure of Official Records and Information; Availability of Information and Records to the Public—20 CFR 401.40(b)&(c), 401.55(b), 401.100(a), 402.130, 402.185—0960–0566.* SSA established methods for the public to: (1) Access their SSA records; (2) allow SSA to disclose records; (3) correct or amend their SSA records; (4) consent for release of their records; (5) request records under the Freedom of Information Act (FOIA); and (6) request access to an extract of their SSN record. SSA often collects the necessary information for these requests through a written letter, with the exception of the consent for release of records, for which we use Form SSA–3288. The respondents are individuals requesting access to, correction of, or disclosure of SSA records.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Access to Records	10,000	1	11	1,833
Designating a Representative for Disclosure of Records	3,000	1	120	6,000
Amendment of Records	100	1	10	17
Consent of Release of Records	3,000,760	1	3	150,038
FOIA Requests for Records	15,000	1	5	1,250
Respondents who request access to an extract of their SSN record	10	1	8.5	1
Totals	3,028,870			159,139

6. *Disability Report—Child—20 CFR 416.912—0960–0577*—Sections 223(d)(5)(A) and 1631(e)(1) of the Act require SSI claimants to furnish medical and other evidence to prove they are disabled. SSA uses Form SSA–3820 to collect various types of information about a child's condition from treating sources or other medical sources of evidence. The State Disability Determination Services evaluators use the information from Form SSA–3820 to develop medical and school evidence, and to assess the alleged disability. The information, together with medical evidence, forms the evidentiary basis upon which SSA makes its initial disability evaluation. The respondents are claimants seeking SSI childhood disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3820	177,572	1	90	266,358
EDCS	1,000	1	120	2,000
i3820	176,572	1	120	353,144
Totals	355,144			621,502

7. *Request for Reconsideration—20 CFR 404.907–404.921, 416.1407–416.1421, 408.1009, and 418.1325—0960–0622.* The Act states those individuals who are dissatisfied with the results of an initial determination regarding their Title II disability; Tile XVI disability (SSI); Title VIII (Special Veterans benefits); or Title XVIII (Medicare benefits), can request a reconsideration hearing. Individuals use Form SSA–561–U2; the associated MCS or SSI Claims System interview; or the internet application (i561) to initiate a request for reconsideration of a denied claim. SSA uses the information to document the request and to determine an individual's eligibility or entitlement to Social Security benefits (Title II); SSI payments (Title XVI); Special Veterans Benefits (Title VIII); Medicare (Title XVIII); and for initial determinations regarding Medicare Part B income-related premium subsidy reductions. The respondents are applicants, claimants, beneficiaries, or recipients filing for reconsideration of an initial determination.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–561 and Modernized Claims System (MCS)	330,370	1	8	40,049
I561 (Internet iAppeals)	1,161,300	1	5	96,775
Totals	1,491,670			136,824

8. *Request to Withdraw a Hearing Request; Request to Withdraw an Appeals Council Request for Review; and Administrative Review Process for Adjudicating Initial Disability Claims—20 CFR parts 404, 405, and 416—0960–0710.* Claimants have a statutory right under the Act and current regulations to apply for Social Security Disability Insurance (SSDI) benefits or SSI payments. SSA collects information at each step of the administrative process to adjudicate claims fairly and efficiently. SSA collects this information to establish a claimant's right to administrative review, and determine the severity of the claimant's alleged impairments. SSA uses the information we collect to determine entitlement or continuing eligibility to SSDI benefits or SSI payments, and to enable appeals of these determinations. In addition, SSA collects information on Forms HA–85 and HA–86 to allow claimants to withdraw a hearing request or an Appeals Council review request. The respondents are applicants for Title II SSDI or Title XVI SSI benefits; their appointed representatives; legal advocates; medical sources; and schools.

Type of Request: Revision of an OMB-approved information collection.

20 CFR section No.	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.961, 416.1461, 405.330, and 405.366	12,220	1	20	4,073
404.950, 416.1450, and 405.332	1,040	1	20	347
404.949 and 416.1449	2,868	1	60	2,868
405.334	20	1	60	20
404.957, 416.1457, and 405.380	21,041	1	10	3,507
405.381	37	1	30	19
405.401	5,310	1	10	885
404.971 and 416.1471				
(HA–85; HA–86)	1,606	1	10	268
404.982 and 416.1482	1,687	1	30	844
404.987 & 404.988 and 416.1487 & 416.1488 and 405.601	12,425	1	30	6,213
404.1740(b)(1)	150	1	2	5
416.1540(b)(1)	150	1	2	5
404.1512, 404.1740(c)(4), 416.912, and 416.1540(c)(4)	150	1	2	5
405.372(c)	5,310	1	10	885
405.1(b)(5)	833	1	30	417
405.372(b)				
405.505	833	1	30	417
405.1(c)(2)	5,310	1	10	885
405.20	5,310	1	10	885
Totals	76,300			22,548

9. *Request for Accommodation in Communication Method—0960–0777.* SSA allows disabled or impaired Social Security applicants, beneficiaries, recipients, and representative payees to choose one of seven alternative methods of communication they want SSA to use when we send them benefit notices and other related communications. The seven alternative methods we offer are: (1) Standard print notice by first-class mail; (2) standard print mail with a follow-up telephone call; (3) certified mail; (4) Braille; (5) Microsoft Word file on data CD; (6) large print (18-point font); or (7) audio CD. However, respondents who want to receive notices from SSA through a communication method other than the seven methods listed above must explain their request to us. Those respondents use Form SSA–9000 to: (1) Describe the type of accommodation they want; (2) disclose their condition necessitating the need for a different type of accommodation; and (3) explain why none of the seven methods

described above are sufficient for their needs. SSA uses Form SSA–9000 to determine, based on applicable law and regulation, whether to grant the respondents' requests for an accommodation based on their impairment or disability. SSA collects this information electronically through either an in-person interview or a telephone interview during which the SSA employee keys in the information on our iAccommodate Intranet screens. The respondents are disabled or impaired Social Security applicants, beneficiaries, recipients, and representative payees who ask SSA to send notices and other communications in an alternative method besides the seven modalities we currently offer.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–9000/iAccommodate	5,000	1	20	1,667

10. *Report of Adult Functioning-Employer—20 CFR 404.1512 and 416.912—0960–0805.* Section 205(a), 223(d)(5)(A), 1631(d)(1), and 1631(e)(1) of the Act require claimants' applying for SSDI benefits or SSI payments to provide SSA with medical and other evidence of their disability. 20 CFR 404.1512 and 20 CFR 416.912 of the Code of Federal Regulations provides detailed requirements of the types of evidence SSDI beneficiaries and SSI claimants must provide showing how their impairment(s) affect their ability to work (*e.g.,* evidence of age; education and training, work experience; daily activities; efforts to work; and any other evidence). Past employers familiar with the claimant's ability to perform work activities complete Form SSA–385–BK, Report of Adult Functioning-Employer to provide SSA with information about the employees day-to-day functioning in the work setting. SSA and Disability Determination Services use the information Form SSA–3385–BK collects as the basis to determine eligibility or continued eligibility for disability benefits. The respondents are claimants' past employers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3385–BK	3,601	1	20	1,200

Dated: June 27, 2019.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2019–14173 Filed 7–2–19; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36322]

Athens Transportation Partners, LLC—Acquisition Exemption—The Athens Line, LLC

Athens Transportation Partners, LLC (ATP) has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Athens Line, LLC (Athens Line) approximately 6.5 miles of rail line in Athens, Ga., extending between milepost F–98.8 and milepost F–105.3. (the Line).

ATP states that Athens Line recently discontinued service over the Line [1] and has agreed, subject to closing, to convey the Line and the appurtenant rights thereof to ATP pursuant to a Purchase and Sale Agreement. ATP states that it will assume the common carrier obligation for the Line and arrange for any common carrier service that may be required.

ATP certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. ATP further certifies that its acquisition of the Line does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after July 20, 2019, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than July 12, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36322, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on ATP's representative, Paul A. Cunningham, Harkins Cunningham, LLP, 1700 K Street NW, Suite 400, Washington, DC 20006.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 28, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–14260 Filed 7–2–19; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Athens Line—Discontinuance of Serv. Exemption—in Oconee & Clarke Ctys., Ga.,* AB 1274X (STB served Apr. 25, 2019).

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on August 1, 2019, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the **SUPPLEMENTARY INFORMATION** section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for September 6, 2019, which will be

noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is August 12, 2019.

DATES: The public hearing will convene on August 1, 2019, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is August 12, 2019.

ADDRESSES: The public hearing will be conducted at the Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423; fax: (717) 238–2436. Information concerning the applications for these projects is available at the Commission's Water Application and Approval Viewer at *https://www.srbc.net/waav.* Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.*

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Projects Scheduled for Action

1. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Eagle Rock Utilities Water System, North Union Township, Schuylkill County, Pa. Application for groundwater withdrawal of up to 0.163 mgd (30-day average) from Well ER–8.

2. Project Sponsor and Facility: Chester Water Authority, East Nottingham Township, Chester County, Pa. Application for consumptive use of up to 60.000 mgd (peak day).

3. Project Sponsor and Facility: Chief Oil & Gas LLC (Loyalsock Creek), Forksville Borough, Sullivan County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20150903).

4. Project Sponsor and Facility: Dillsburg Area Authority, Carroll Township, York County, Pa. Application for groundwater withdrawal of up to 0.220 mgd (30-day average) from Well 4.

5. Project Sponsor: Dover Township. Project Facility: Dover Township Water Department, Dover Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.350 mgd (30-day average) from Well 9 (Docket No. 19880205).

6. Project Sponsor and Facility: Duncannon Borough, Penn Township, Perry County, Pa. Application for groundwater withdrawal of up to 0.037 mgd (30-day average) from Well 7.

7. Project Sponsor and Facility: Elk Mountain Ski Resort, Inc. (Unnamed Tributary to East Branch Tunkhannock Creek), Herrick Township, Susquehanna County, Pa. Modification to change from peak day to 30-day average for surface water withdrawal and consumptive use limits (Docket No. 20031003).

8. Project Sponsor and Facility: Pennsylvania General Energy Company, L.L.C. (Loyalsock Creek), Plunketts Creek Township, Lycoming County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

9. Project Sponsor and Facility: Pennsylvania State University, College Township, Centre County, Pa. Application for renewal of consumptive use of up to 2.622 mgd (peak day) (Docket No. 19890106).

10. Project Sponsor and Facility: Pennsylvania State University, College Township, Centre County, Pa. Application for renewal of groundwater withdrawal of up to 1.728 mgd (30-day average) from Well UN–33 (Docket No. 19890106).

11. Project Sponsor and Facility: Pennsylvania State University, College Township, Centre County, Pa. Application for renewal of groundwater withdrawal of up to 1.678 mgd (30-day average) from Well UN–34 (Docket No. 19890106).

12. Project Sponsor and Facility: Pennsylvania State University, College Township, Centre County, Pa. Application for renewal of groundwater withdrawal of up to 1.728 mgd (30-day average) from Well UN–35 (Docket No. 19890106).

13. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Wappasening Creek), Windham Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 1.000 mgd (peak day) (Docket No. 20150910).

14. Project Sponsor and Facility: Rockdale Marcellus, LLC (Lycoming Creek), McIntyre Township, Lycoming County, Pa. Application for surface water withdrawal of up to 2.000 mgd (peak day).

15. Project Sponsor and Facility: Seneca Resources Company, LLC (Marsh Creek), Delmar Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20150908).

16. Project Sponsor and Facility: XTO Energy Inc. (West Branch Susquehanna River), Chapman Township, Clinton County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20150911).

Project Scheduled for Action Involving a Diversion

17. Project Sponsor and Facility: Chester Water Authority, East Nottingham Township, Chester County, Pa. Application for an out-of-basin diversion of up to 60.000 mgd (peak day) from the Susquehanna River and Octoraro Reservoir.

Opportunity To Appear and Comment

Interested parties may appear at the hearing to offer comments to the Commission on any business listed above required to be subject of a public hearing. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing room will begin at 2:00 p.m. and Commission staff will be available for questions prior to the commencement of the hearing. Guidelines for the public hearing are posted on the Commission's website, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *www.srbc.net/about/meetings-events/public-hearing.html.* Comments mailed or electronically submitted must be received by the Commission on or before August 12, 2019, to be considered.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: June 28, 2019.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2019–14208 Filed 7–2–19; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0159]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: B4UFLY Smartphone App; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2019. The collection involves the B4UFLY smartphone app that provides situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspace, and temporary flight restrictions—based on a user's current or planned flight location. In order to maintain NAS safety in proximity to airports, authorization is now required from recreational Unmanned Aircraft System (UAS) pilots to operate in controlled airspace The data collected will assist the FAA with determining the best processes to authorize recreational UAS pilots and inform air traffic control personnel of a UAS pilot's intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic. Issuing a corrected 30-day notice to provide a full 30 days for comment.

DATES: Written comments should be submitted by August 2, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Bonita K. Reichert by email at: *Bonnie.Reichert@faa.gov;* phone: 405–875–6301.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0764.

Title: B4UFLY Smartphone App.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2019 (84 FR 9411).

Public Law 112–95, Section 336 which requires model aircraft operators to notify the airport operator and air traffic control tower (if one is located at the airport) prior to operating within 5 miles of an airport. The FAA's B4UFLY smartphone app provides situational awareness of flight restrictions—including locations of airports, restricted airspace, special use airspaces, and temporary flight restrictions—based on a user's current or planned flight location. In order to maintain NAS safety in proximity to airports, air traffic control personnel would need certain basic information about a UAS operator's intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic. The data collected will assist the FAA with determining the best processes to authorize recreational UAS pilots and inform air traffic control personnel of a UAS pilot's intended flight in order to assess whether the UAS may disrupt or endanger manned air traffic.

Respondents: Approximately 640,060 users total with an average usage of 100,000 users.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Approximately 2 minutes.

Estimated Total Annual Burden: Approximately 100 minutes for light usage per user. Approximately 5 hours per user for heavier usage.

Issued in Oklahoma City, OK, on June 28, 2019.

Bonita K. Reichert,

Project Manager, UAS Program Office Division, Office of Information and Technology, Enterprise Program Management Services, AEM–210.

[FR Doc. 2019–14240 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2019–0013]

Renewal Package From the State of Texas to the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed MOU and request for comments.

SUMMARY: This notice announces that FHWA has received and reviewed a renewal package from the Texas Department of Transportation (TxDOT) requesting participation in the Surface Transportation Project Delivery Program (Program). This Program allows for FHWA to assign, and States to assume, responsibilities under the National Environmental Policy Act (NEPA), and all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal highway projects within the State. The FHWA has determined the renewal package to be complete, and developed a draft renewal MOU with TxDOT outlining how the State will implement the Program with FHWA oversight. The public is invited to comment on TxDOT's request, including its renewal package and the proposed renewed MOU, which includes the proposed assignments and assumptions of environmental review, consultation, and other activities.

DATES: Please submit comments by August 2, 2019.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Facsimile (Fax):* 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

For FHWA: Tom Bruechert by email at *tom.bruechert@dot.gov* or by telephone at 512–536–5948. The FHWA Texas Division Office's normal business hours are 8 a.m. to 4:30 p.m. (Central Time), Monday–Friday, except for Federal holidays. For the State of Texas: Sue Theiss by email at *Sue.Theiss@txdot.gov* or by telephone at 512–416–2591. State business hours are the same as above although State holidays may not completely coincide with Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may submit or retrieve comments online through the Federal eRulemaking portal at: *http://www.regulations.gov.* The website is available 24 hours each day, 365 days each year. Please follow the instructions. Electronic submission and retrieval help and guidelines are available under the help section of the website.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the U.S. Government Publishing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 327 of title 23, United States Code (23 U.S.C. 327), allows the Secretary of DOT to assign, and a State to assume, the responsibilities under the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and all or part of the responsibilities for environmental review, consultation, or other actions required under certain Federal environmental laws with respect to one or more Federal-aid highway projects within the State. The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

The TxDOT entered the Program on December 16, 2014, after submitting its application to FHWA, obtaining FHWA's approval, and entering into a MOU in accordance with 23 U.S.C. 327 and FHWA's application regulations for the pilot program (23 CFR part 773). On November 8, 2018, after coordination with FHWA, TxDOT submitted the renewal package in accordance with the renewal regulations in 23 CFR 773.115.

Under the proposed renewal MOU, FHWA would assign to the State, through TxDOT, the responsibility for making decisions on the following types of highway projects:

1. All Class I, or environmental impact statement projects, both on the State highway system (SHS) and local government projects off the SHS that are funded by FHWA or require FHWA approvals.

2. All Class II, or categorically excluded projects, both on the SHS and local government projects off the SHS that are funded by FHWA or require FHWA approvals.

3. All Class III, or environmental assessment projects, both on the SHS and local government projects off the SHS that are funded by FHWA or require FHWA approvals.

4. Projects funded by other Federal agencies (or projects without any Federal funding) of any Class that also include funding by FHWA or require FHWA approvals. For these projects, TxDOT would not assume the NEPA responsibilities of other Federal agencies.

Excluded from assignment are highway projects authorized under 23 U.S.C. 202 and 203, highway projects under 23 U.S.C. 204 unless the project will be designed and constructed by TxDOT, projects that cross State boundaries, and projects that cross or are adjacent to international boundaries.

The assignment also would give TxDOT the responsibility to conduct the following environmental review, consultation, and other related activities:

Air Quality

- Clean Air Act (CAA), 42 U.S.C. 7401–7671q, with the exception of any conformity determinations

Noise

- Noise Control Act of 1972, 42 U.S.C. 4901–4918
- Compliance with the noise regulations in 23 CFR part 772

Wildlife

- Endangered Species Act of 1973, 16 U.S.C. 1531–1544
- Marine Mammal Protection Act, 16 U.S.C. 1361–1423h
- Anadromous Fish Conservation Act, 16 U.S.C. 757a–757f
- Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d
- Migratory Bird Treaty Act, 16 U.S.C. 703–712
- Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 et seq., with Essential Fish Habitat requirements at 16 U.S.C. 1855(b)(1)(B)

Historic and Cultural Resources

- National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101, *et seq.*
- Archeological Resources Protection Act, 16 U.S.C. 470aa–mm
- Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469–469c
- Native American Grave Protection and Repatriation Act, 25 U.S.C. 3001–3013; 18 U.S.C. 1170

Social and Economic Impacts

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act, 7 U.S.C. 4201–4209

Water Resources and Wetlands

- Clean Water Act, 33 U.S.C. 1251–1387 (Section 401, 402, 404, 408, and Section 319)
- Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
- Coastal Zone Management Act, 16 U.S.C. 1451–1466
- Safe Drinking Water Act, 42 U.S.C. 300f—300j–26
- General Bridge Act of 1946, 33 U.S.C. 525–533
- Rivers and Harbors Act of 1899, 33 U.S.C. 401–406
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3921
- Wetlands Mitigation, 23 U.S.C. 119(g), 133(b)(14)
- Flood Disaster Protection Act, 42 U.S.C. 4001Z0–4130

Parklands and Other Special Land Uses

- 23 U.S.C. 138 and 49 U.S.C. 303 (Section 4(f)) and implementing regulations at 23 CFR 774
- Land and Water Conservation Fund Act, 16 U.S.C. 4601–4—4601–11

FHWA-Specific

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135.
- Programmatic Mitigation Plans, 23 U.S.C. 169 with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

Executive Orders (E.O.) Relating to Highway Projects

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management (except approving design standards and determinations that a significant encroachment is the only practicable alternative under 23 CFR 650.113 and 650.115)
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects (aka ''One Federal Decision'')
- E.O. 13112, Invasive Species

The proposed renewal MOU would allow TxDOT to continue to act in the place of FHWA in carrying out the environmental review-related functions described above, except with respect to government-to-government consultations with federally recognized Indian Tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian Tribes, which is required under some of the listed laws and executive orders. The TxDOT will continue to handle routine consultations with the Tribes and understands that a Tribe has the right to direct consultation with FHWA upon request. The TxDOT also may assist FHWA with formal consultations, with consent of a Tribe, but FHWA remains responsible for the consultation. The FHWA and TxDOT have received requests for formal consultations with several Tribes regarding the proposed renewal of the MOU and currently are engaged in ongoing consultations. The TxDOT also will not assume FHWA's responsibilities for conformity determinations required under Section 176 of the CAA (42 U.S.C. 7506) or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

The MOU content reflects TxDOT's desire to continue its participation in the Program without any changes (that is, no new responsibilities were requested). The FHWA and TxDOT have agreed to modify some of the provisions in the MOU to: Establish the monitoring process required by the permanent Program; accommodate changes specified in Section 1308 of the Fixing America's Surface Transportation Act; clarify the role of the U.S. Department of Justice and FHWA in settlements and appeals; and to make the renewed MOU notice and review time frames consistent with other States in this Program.

A copy of the proposed renewal MOU and renewal package may be viewed on the docket at *www.regulations.gov,* as described above, or may be obtained by contacting FHWA or the State at the **ADDRESSES** provided above. A copy also may be viewed on TxDOT's website at: *https://www.txdot.gov/inside-txdot/division/environmental/nepa-assignment.html.* The FHWA Texas Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final renewal MOU approved by FHWA may include changes based on comments and consultations relating to the proposed renewal MOU and will be made publicly available.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: June 25, 2019.

Nicole R. Nason,

Administrator, Federal Highway Administration.

[FR Doc. 2019–14198 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0101]

Agency Information Collection Activities; Information Collection Renewal: 391.41 CMV Driver Medication Form, OMB Control Number: 2126–0064

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the renewal Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. This Information Collection (IC) is voluntary and may be utilized by Medical Examiners (MEs) responsible for issuing Medical Examiner's Certificates (MECs) to commercial motor vehicle (CMV) drivers. MEs that choose to use this IC do so in an effort to communicate with treating healthcare professionals who are responsible for prescribing certain medications, so that the ME fully understands the reasons the medications have been prescribed. The information obtained by the ME when utilizing this IC assists the ME in determining if the driver is medically qualified under 49 CFR 391.41 and ensures that there are no disqualifying medical conditions or underlying medical conditions and prescribed medications that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. FMCSA requests approval to renew an ICR titled, ''391.41 CMV Driver Medication Form.''

DATES: We must receive your comments on or before September 3, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2019–0101 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL 14—FDMS), which can be reviewed at *www.transportation.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Horan III, Director, Office of Carrier, Driver, and Vehicle, Safety Standards, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–2362; email: *charles.horan@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The primary mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving large trucks and buses. The Secretary of Transportation has delegated to FMCSA its responsibility under 49 U.S.C. 31136 and 31502 to prescribe regulations that ensure CMVs are operated safely. As part of this mission, the Agency's Medical Programs Division works to ensure that CMV drivers engaged in interstate commerce are physically qualified and able to safely perform their work.

Information used to determine and certify that a driver meets the physical qualification standards must be collected in order for our highways to be safe. FMCSA is the Federal government agency authorized to require the collection of this information and the authorizing regulations are located at 49 CFR 390–399. FMCSA is required by statute to establish standards for the physical qualifications of drivers who operate CMVs in interstate commerce for non-excepted industries [49 U.S.C. 31136(a)(3) and 31502(b)]. The regulations discussing this collection are outlined in the Federal Motor Carrier Safety Regulations (FMCSRs) at 49 CFR 390–399. The FMCSRs at 49 CFR 391.41 set forth the physical qualification standards that interstate CMV drivers who are subject to part 391 must meet, with the exception of commercial driver's license/commercial learner's permit holders transporting migrant workers (who must meet the physical qualification standards set forth in 49 CFR 398.3). The FMCSRs covering driver physical qualification records are found at 49 CFR 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination must be recorded in accordance with the requirements set forth in that section.

The physical qualification standard regarding the use of drugs and substances in 49 CFR 391.41(b)(12) states that a person is physically qualified to drive a CMV if that person does not use any drug or substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or other habit-forming drug; and does not use any non-Schedule I drug or substance that is identified in the other Schedules in 21 part 1308 except when the use is prescribed by a licensed medical practitioner, as defined in 49 CFR 382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.

In 2006, FMCSA's Medical Review Board (MRB) deliberated on the topic of the use of Schedule II medications. The MRB considered information provided in a 2006 FMCSA sponsored Evidence Report and a subsequent Medical Expert Panel (MEP) to examine the relationship between the licit use of a Schedule II drug and the risk for a motor vehicle crash. In 2013, FMCSA tasked the MRB with updating the opinions and recommendations of the 2006 Evidence Report and MEP.

On September 10, 2013, the MRB and Motor Carrier Safety Advisory Committee (MCSAC) met jointly to hear presentations on the licit use of Schedule II medications and their regulation, and on U.S. Department of Transportation drug and alcohol testing protocols. Subsequently, the committees engaged in a discussion on the issue as it applies to CMV drivers. On September 11, 2013, the MRB discussed the issue in greater detail as its task to present a letter report to the Agency relating to CMV drivers and Schedule II medication use and to develop a form for MEs on the National Registry of Certified Medical Examiners (National Registry) to send to treating clinicians of CMV drivers to expound on the use of these medications by driver applicants. On October 22, 2013, the MRB submitted their recommendations to FMCSA.

A MEP convened to provide an updated opinion on ''Schedule II Opioids and Stimulants & CMV Crash Risk and Driver Performance.'' The FMCSA revised the task of the MRB instructing them to review an updated evidence report and the MEP opinion that was furnished subsequent to its deliberations on ''Schedule II Opioids and Stimulants & CMV Crash Risk and Driver Performance: Evidence Report and Systematic Review.'' FMCSA directed the MRB to consider this report's findings and confer with the MCSAC on this topic during a joint meeting in October 2014. The MRB met in public meetings on July 29–30, 2014, and developed Schedule II medication recommendations. The MRB presented these recommendations to the MCSAC in a joint public meeting on October 27, 2014, where they were deliberated by both committees. As a result, FMCSA's MRB and MCSAC provided joint recommendations related to the use of Schedule II medications by CMV drivers.

Because there is moderate evidence to support the contention that the licit use of opioids increases the risk of motor vehicle crashes and impacts indirect measures of driver performance negatively,[1] included was the recommendation that FMCSA develop a standardized medication questionnaire to assist the certified ME when reviewing prescription medications that have been disclosed during the history and physical examination for CMV driver certification. The two advisory groups recommended to FMCSA that the standardized CMV driver medication questionnaire be voluntary and include the following information and questions:

1. Questionnaire should be titled, ''391.41 CMV Driver Medication Questionnaire.''

2. Questionnaire should request the following information:

a. Identifying name and date of birth of the CMV driver.

b. Introductory paragraph stating purpose of the CMV Driver Medication Report.

c. Statements of 391.41(b)(12) (Physical Qualifications of Drivers relating to driver use of scheduled substances) and The Driver's Role, as found in the Medical Examination Report form found at the end of 49 CFR 391.43 (Medical Examination; Certificate of Physical Examination).

d. Name, state of licensure, signature, address, and contact information of the prescribing healthcare provider, as well as the date the form was completed.

e. Name, signature, date, address, and contact information of the certified ME.

[1] Schedule II Opioids and Stimulants & CMV Crash Risk and Driver Performance: Evidence Report and Systematic Review.

3. Report should include the following questions:

a. Question 1—List all medications and dosages that you have prescribed to the above named individual.

b. Question 2—List any other medications and dosages that you are aware have been prescribed to the above named individual by another treating healthcare provider.

c. Question 3—What medical conditions are being treated with these medications?

d. Question 4—It is my medical opinion that, considering the mental and physical requirements of operating a CMV and with awareness of a CMV driver's role (consistent with The Driver's Role statement on page 2 of the form), I believe my patient: (a) Has no medication side effects from medication(s) that I prescribe that would adversely affect the ability to operate a CMV safely; and (2) has no medical condition(s) that I am treating with the above medication(s) that would adversely affect the ability to operate a CMV safely.

The public interest in, and right to have, safe highways requires the assurance that drivers of CMVs can safely perform the increased physical and mental demands of their duties. FMCSA's physical qualification standards provide this assurance by requiring drivers to be examined and medically certified as physically and mentally qualified to drive.

The purpose for this voluntary collection of information is to assist the ME in determining if the driver is medically qualified under 49 CFR 391.41 and to ensure that there are no disqualifying medical conditions that could adversely affect their safe driving ability or cause incapacitation constituting a risk to the public. 49 CFR 391.41(b)(12) states that a person is physically qualified to drive a CMV if that person does not use any drug or substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or other habit-forming drug; and does not use any non-Schedule I drug or substance that is identified in the other Schedules in 21 part 1308 except when the use is prescribed by a licensed medical practitioner, as defined in 49 CFR 382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.

The use of this IC is at the discretion of the ME and facilitates communication with treating healthcare professionals who are responsible for prescribing certain medications so that the ME fully understands the reasons the medications have been prescribed. This information assists the ME in determining whether the underlying medical condition and the prescribed medication will impact the driver's safe operation of a CMV. Therefore, there is no required collection frequency.

The ''391.41 CMV Driver Medication Form, MCSA–5895'' may be downloaded from the FMCSA website. Prescribing healthcare providers are also able to fax or scan and email the report to the certified ME. Consistent with the OMB's commitment to minimizing respondents' recordkeeping and paperwork burdens and the increased use of secure electronic modes of communication, the Agency believes that approximately 50 percent of the ''391.41 CMV Driver Medication Forms, MCSA–5895'' are transmitted electronically.

The information collected from the ''391.41 CMV Driver Medication Form, MCSA–5895'' is used by the certified ME that requested the completion of the form and is attached to the ''Medical Examination Report Form, MCSA–5875'' which becomes part of the CMV driver's record maintained by the certified ME. Therefore, the information is not available to the public. The FMCSRs covering driver physical qualification records are found at 49 CFR 391.43, which specify that a medical examination be performed on CMV drivers subject to part 391 who operate in interstate commerce. The results of the examination must be recorded in accordance with the requirements set forth in that section. MEs are required to maintain records of the CMV driver medical examinations they conduct.

Title: 391.41 CMV Driver Medication Form.

OMB Control Number: 2126–0064.

Type of Request: Renewal of a currently approved collection.

Respondents: Prescribing healthcare professionals.

Estimated Number of Respondents: Up to 1,223,470 (total number of prescribing healthcare providers in the U.S.)

Estimated Number of Responses: Up to 1,967,006 (total number of CMV drivers that may be asked by a certified ME to have the ''391.41 CMV Driver Medication Form, MCSA–5895'' completed by a prescribing healthcare provider).

Estimated Time per Response: 8 minutes.

Expiration Date: January 31, 2020.

Frequency of Response: Voluntary.

Estimated Total Annual Burden: 262,267 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: June 25, 2019.

Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019–14228 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0157]

Agency Information Collection Activities; Revision of an Approved Information Collection: Training Certification for Entry-Level Commercial Motor Vehicle Operators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to revise an ICR titled ''Training Certification for Entry-Level Commercial Motor Vehicle Operators,'' which will now be used to register providers of entry-level driver training and to provide State Drivers' Licensing Agencies with information on individuals who have completed said training. If approved, this revision would obviate the need for FMCSA to seek renewal on the ICR.

DATES: We must receive your comments on or before September 3, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2019–0157 using any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
• *Fax:* 1–202–493–2251.
• *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
• *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT:

Pearlie Robinson, Driver and Carrier Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–4225; email: *pearlie.robinson@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*) established the commercial driver's license (CDL) program and directed the Federal Highway Administration (FHWA), FMCSA's predecessor agency, to establish minimum qualifications for issuance of a CDL. These standards were published by FHWA originally in 1985. On May 21, 2004, FMCSA prohibited a motor carrier from allowing an entry-level driver to operate a commercial motor vehicle until it received a written certificate that the driver received training in four specified subject areas (driver qualifications, hours-of-service of drivers, driver wellness, and whistleblower protection) (69 FR 29384). That final rule established the collection of information that is the subject of this request. The most recent renewal for this collection is set to expire on April 30, 2020.

On July 6, 2012, President Obama signed legislation titled the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21) (Pub. L. 112–141, 126 Stat. 405, 791). Section 32304 of MAP–21 directed FMCSA to develop and establish minimum driver training standards for applicants for a CDL and/or certain CDL endorsements. On December 8, 2016, FMCSA published a final rule revising entry-level driver training requirements (81 FR 88732), implementing Section 32304 of MAP–21. That final rule eliminated the existing driver training regulations under subpart E of part 380, established new minimum training standards for entry-level drivers, and in doing so established two separate information collection actions: (1) Training providers must submit information to FMCSA to ensure that they meet the new training provider eligibility requirements and can therefore be listed on a new Training Provider Registry (TPR); and (2) after an individual driver-trainee completes training administered by a training provider listed on the TPR, that training provider must submit training certification information regarding the driver-trainee to the TPR. However, because the compliance dates for that final rule were set as three years after its publication, FMCSA did not, at that time, revise the collection of information to reflect these two new provisions, opting to provide an update at the time of the next renewal for the collection. Subsequently, on March 6, 2019, FMSCA published a separate final rule titled ''Commercial Driver's License Upgrade from Class B to Class A'' (84 FR 8029), that amended the ELDT regulations that were published on December 8, 2016, by adopting a new Class A CDL theory instruction upgrade curriculum to reduce the training time and costs incurred by Class B CDL holders upgrading to a Class A CDL. This March 6, 2019, final rule does not substantively affect the paperwork collection burden associated with the ELDT regulations, therefore no action was taken to update the collection of information at that time.

For the purpose of developing and reporting the revised burden estimates for this ICR, the ''Training Provider Registration'' information collection activities and the ''Driver Training Certification Information'' information collection activities (described above) are each addressed below as a separate information collection (IC), IC–1 and IC–2, respectively. This is done because although training providers are the respondent in each case, the nature of the information for each activity is substantively different, with the ''Training Provider Registration'' IC focused on information pertaining to training providers, and the ''Driver Training Certification Information'' IC focused on information pertaining to individual entry-level drivers. Furthermore, a forthcoming proposed rule titled ''Partial Extension of Compliance Date for Entry-Level Driver Training'' (RIN 2126–AC25) would extend by two years, from February 7, 2020, to February 7, 2022, the compliance date for the requirement for training providers to submit training certification information to the TPR for each individual driver-trainee that completes training. The three-year period covered by this ICR is 2020 through 2022. Therefore, these two ICs would now also occur during different time frames of the three-year period covered by this ICR. IC–1 ''Training Provider Registration'' will occur during all three years 2020 through 2022, consistent with the February 7, 2020, compliance date of the training provider registration provision of the December 2016 ELDT final rule. IC–2 ''Driver Training Certification Information'' would now occur only during 2022, the final year covered by this ICR, consistent with the forthcoming proposed rule titled ''Partial Extension of Compliance Date for Entry-Level Driver Training'' (RIN 2126–AC25).

Title: Training Certification for Entry-Level Commercial Motor Vehicle Operators.

OMB Control Number: 2126–0028.

Type of Request: Revision of a currently-approved information collection.

IC–1 (Training Provider Registration)

Respondents: Training providers.
Estimated Number of Respondents (average per year): 15,805.
Estimated Time per Response (average): 1.24 hours.
Expiration Date: April 30, 2020.
Frequency of Response: All training providers will need to initially register once. Additionally, all registered training providers must update their information at least biennially. They are also required to provide an update if any key information (company name, address, phone number, types of training offered, etc.) changes prior to their biennial update.
Estimated Total Annual Burden: 21,629 hours.

IC–2 (Driver Training Certification)

Respondents: Training providers.
Estimated Number of Respondents (average per year): 6,837.
Estimated Time per Response: 5 minutes.
Expiration Date: April 30, 2020.
Frequency of Response: After an individual driver-trainee completes training administered by a training provider listed on the TPR, that training provider must submit training certification information regarding the driver-trainee to the TPR.
Estimated Total Annual Burden: 12,946 hours.
Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: June 24, 2019.

Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019–14227 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2019 Apportionments, Allocations and Program Information

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice provides priorities for programs in fiscal year (FY) 2019, announces the full-year apportionments and allocations for grant programs, provides contract authority, and describes plans for several competitive programs.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Kimberly Sledge, Director, Office of Transit Programs, at (202) 366–2053. Please contact the appropriate FTA Regional Office for any specific requests for information or technical assistance. FTA Regional Office contact information is available on FTA's website: *www.transit.dot.gov.* An FTA headquarters contact for each major program area is included in the discussion of that program in the text of this notice. FTA recommends stakeholders subscribe on FTA's website: *www.transit.dot.gov* to receive email notifications when new information is available.

SUPPLEMENTARY INFORMATION:

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I. Overview

This document provides notice to stakeholders that FTA is apportioning the full Fiscal Year (FY) 2019 authorized contract authority through September 30, 2019 for FTA formula and competitive programs pursuant to Division G of the Consolidated Appropriations Act, 2019 (Pub. L. 116–6). In addition, this document contains important information about FTA programs, statutory requirements, and policy priorities.

For each FTA program, FTA has provided information on the FY 2019 authorized funding levels, the basis for apportionment or allocation of funds, requirements specific to the program, the period of availability of funds, and other program information. A separate section provides information on pre-award authority as well as other requirements applicable to FTA programs and grant administration. Finally, the notice includes a reference to tables on FTA's website that show new contract authority apportioned and made available through September 30, 2019.

Information in this document includes references to existing FTA program guidance and circulars. Some information in FTA's guidance documents and circulars may have been superseded by new provisions in the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94), but these guidance documents and circulars remain a resource for program management in most areas.

II. FY 2019 Funding for FTA Programs

A. Funding Available Under Division G of the Consolidated Appropriations Act, 2019

Division G of the Consolidated Appropriations Act, 2019 (Pub. L. 116–6) (''Consolidated Appropriations Act,

2019'') makes $13.4 billion in funding available for FTA programs through September 30, 2019. The Consolidated Appropriations Act, 2019 provides funding from the Mass Transit Account at the amounts authorized by the FAST Act for FY 2019, along with an additional $700 million in general funds for transit infrastructure grants including: $350 million for Section 5339 Grants for Buses and Bus Facilities, $263 million for the Section 5337 State of Good Repair grants program, $40 million for the Section 5311 Formula Grants for Rural Areas, $40 million for the Section 5340 High Density States Apportionments, $1 million for the Section 5318 Bus Testing] Facility, and $6 million for low and no emission vehicle testing facilities. Current funding availability for each program is identified in section IV of this notice and in Table 1 located on FTA's FY 2019 Apportionment web page: *www.transit.dot.gov/funding/apportionments.*

B. Oversight Takedown

Section 5338(f) of title 49, United States Code (all subsequent statutory references are to title 49, United States Code unless otherwise noted) provides for the following oversight takedowns of FTA programs: 0.5 percent of Metropolitan and Statewide Planning funds, 0.75 percent of Urbanized Area Formula Grant funds, 1 percent of Fixed Guideway Capital Investment Grants funds, 0.5 percent of Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities funds, 0.5 percent of Formula Grants for Rural Areas funds, 1 percent of State of Good Repair Formula Grants funds, 0.75 percent of Grants for Buses and Bus Facilities funds, and 1 percent of funds for Capital and Preventive Maintenance Projects for grants to the Washington Metropolitan Area Transit Authority. FTA uses the funds to provide necessary oversight activities, such as oversight of the construction of any major capital project receiving Federal public transportation assistance; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification, and financial management reviews and audits; evaluations and analyses of grantee-specific problems and issues; and to generally provide technical assistance and correct deficiencies identified in compliance reviews and audits.

C. FY 2019 Formula Apportionments: Data and Methodology

1. Apportionment Tables

FTA publishes apportionment tables on its website for each program that reflects the funding level in the full-year appropriations act less oversight take-downs, as applicable. FTA has posted tables displaying the funds available to eligible states, tribes, and urbanized areas to *www.transit.dot.gov/funding/apportionments.* This website contains a page listing the apportionment and allocation tables for FY 2019, links to prior year formula apportionment notices and tables, and the National Transit Database (NTD) and Census data used to calculate the FY 2019 apportionments.

2. National Transit Database (NTD) and Census Data Used in the FY 2019 Apportionments

Consistent with past practices, the apportionments calculations for Sections 5307, 5311 (including 5311(j) (Tribal Transit)), 5329, 5337, and 5339 rely on the most-recent transit service data reported to the NTD, which for FY 2019 is the 2017 report year. In some cases, where an apportionment is based on the age of the system, the age is calculated as of September 30, 2018, the last day before FY 2019 began. Recipients or beneficiaries of either Section 5307 or 5311 funds are required to report to the NTD. Additionally, several transit operators report to the FTA's NTD on a voluntary basis. For the 2017 report year, the NTD includes data from 939 reporters in urbanized areas, 920 of which reported operating transit service. The NTD also includes data from 1,495 providers of rural transit service, which includes 131 Indian Tribes providing transit service.

The 2010 Census data is used to determine population and population density for Sections 5303, 5305, 5307 and 5339 as well as rural population and rural land area for the 5311 program. The formulas for Sections 5307, 5311, and 5311(j) include tiers where funding is allocated based on the number of persons living in poverty, and the Section 5310 formula program allocates funding based on the population of older adults and people with disabilities. The Census Bureau no longer publishes decennial census data on persons living in poverty and persons with disabilities. As a result, since FY 2013, FTA has used the data for these populations available via the Census' American Community Survey (ACS). The NTD and Census data that FTA used to calculate the apportionments associated with this notice can be found on FTA's website: *www.transit.dot.gov/funding/apportionments.*

The FY 2019 apportionments use data on low-income persons, persons with disabilities, and older adults from the 2012–2016 ACS five-year data set, which was published in August 2017. This data represents the most recent five-year ACS estimates that are available as of October 1 for the year being apportioned. As was the case in prior years, data on low-income persons comes from ACS Table B17024, ''Age by Ratio of Income to Poverty in the Last Twelve Months,'' and data on people with disabilities under 65 years old comes from ACS Table S1810, ''Disability Characteristics.'' Data on older adults (over 65 years old) comes from ACS Table B01001, ''Sex by Age.''

III. FY 2019 Program Highlights

A. Emergency Relief Docket

On March 7, 2019 FTA announced the establishment of an Emergency Relief Docket for calendar year 2019. See *https://federalregister.gov/d/2019-04110* for more information. After an emergency or major disaster, if FTA requirements impede a grantee or subgrantee's ability to respond to the emergency or major disaster, a grantee or subgrantee may submit a request for temporary relief from FTA administrative and statutory requirements. A grantee or subgrantee seeking relief must submit a petition for waiver of FTA requirements at *www.regulations.gov* for posting in the docket (FTA–2019–0001). For additional information on the Emergency Relief Docket, please contact the appropriate FTA Regional Office.

B. Policy Priorities

As FTA implements its programs, it is particularly focused on the following policy priority areas in FY 2019.

1. Random Drug Testing

FTA is required to annually publish random testing rates for public transportation employees subject to the requirements of the FTA's Drug and Alcohol Testing regulation (49 CFR part 655). As mandated by its regulation, effective January 1, 2019, FTA increased the required minimum rate of random drug testing from 25 percent to 50 percent of covered employees for recipients of financial assistance under 49 U.S.C. 5307, 5309, 5311, and 5339. The increase to the drug testing rate results from a recent rise in the proportion of violations identified through random drug testing. The

minimum random alcohol testing rate will remain at 10 percent.

For information related to drug and alcohol testing, please visit the FTA website: *https://www.transit.dot.gov/drug-alcohol-program.*

2. Public Transportation Agency Safety Plans

Federal public transportation law at 49 CFR part 673 requires public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53 to develop Public Transportation Agency Safety Plans by July 20, 2020. Specifically, recipients of Section 5307 Urbanized Area Formula Program funds and all rail fixed guideway public transportation systems that receive Federal financial assistance must develop a Public Transportation Agency Safety Plan that adopts and implements Safety Management System principles and methods. Recipients also must certify compliance with this regulation annually, update their Public Transportation Agency Safety Plan annually, set safety performance targets in their plans, and coordinate their Public Transportation Agency Safety Plan elements with other FTA programs and rules, as specified in 49 U.S.C. 5303, 5304, and 5329. For more information on the requirements, please visit the FTA website: *www.transit.dot.gov/PTASP.*

C. FY 2019 Competitive Program Funding

FTA's competitive grants programs and the FY 2019 appropriated funding levels are identified in the chart below. FTA selects projects for funding after issuance of a Notice of Funding Opportunity. Additional information about each competitive program is in Section III of this notice.

FY 2019 competitive programs	Statute 49 U.S.C.	2019 appropriated funding level (in millions)
Passenger Ferry Grant Program	5307(h)	$30.00
Innovative Coordinated Access and Mobility Grants Pilot Program	FAST Section 3006(b)	3.50
Tribal Transit	5311(c)(1)(A)	5.00
Grants for Buses and Bus Facilities Competitive Program	5339(b)	423.22
Low or No Emission Grants Competitive Program	5339(c)	85.00
TOD Planning Pilot Program	MAP–21 Section 20005(b)	10.00

IV. FY 2019 Program-Specific Information

A. Metropolitan Planning Program (49 U.S.C. 5303 and 5305(d))

Section 5305(d) authorizes Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and further explained in 23 CFR part 450, as incorporated by reference in 49 CFR part 613, Planning Assistance and Standards. The State DOTs are the designated recipients of Metropolitan Planning Programs (MPP) and State Planning and Research Program (SPRP) funds allocated by FTA, which are then sub-allocated to Metropolitan Planning Organizations (MPOs) for planning activities that support the economic vitality of the metropolitan area. The Secretary has the discretion to award MPP and SPRP assistance to States, authorities of States, MPOs, and local governmental authorities.

Each MPO must establish specific performance targets against system performance measures issued by U.S. DOT, and use these in tracking progress towards attaining critical outcomes. The MPO must coordinate with States and transit providers in setting these targets. MPOs must provide a system performance report that evaluates progress in meeting the performance targets in comparison with the system performance identified in prior reports.

MPP funding must support work resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. MPP funds may be used for studies relating to management, mobility management, planning, operations, capital requirements, economic feasibility, performance-based planning, safety, and transit asset management. Funds may be used to develop or update the metropolitan planning agreements, and to evaluate previously funded projects or to conduct peer reviews and exchanges of technical data, information, or assistance, among MPOs and other transportation planners. Funds may be used for planning for multimodal transportation access to transit facilities; system planning; scenario planning; corridor-level alternative analysis; development of federally required documents; safety, security and emergency transportation planning; coordinated public transit human services transportation planning; and public participation in the transportation planning, including the development of the Public Participation Plan. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1D, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 10, 2018.

For more information or questions on the Metropolitan Planning program, please contact Victor Austin at (202) 366–2996 or *victor.austin@dot.gov.*

1. Authorized Amounts

Federal public transportation law authorizes $139,087,757 to carry out section 5305. Of the amounts authorized for Section 5305, 82.72 percent, or $115,053,393, is made available to the Metropolitan Planning Program in FY 2019 to provide financial assistance for metropolitan planning needs under Section 5303.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $115,053,393 is available to the Metropolitan Planning Program (Section 5305(d)) to support metropolitan transportation planning activities set forth in Section 5303. The total amount apportioned for the Metropolitan Planning Program to States for use by MPOs in urbanized areas (UZAs) is $114,478,126 as shown in the table below, after the deduction for oversight (authorized by Section 5338).

METROPOLITAN PLANNING PROGRAM

Total Appropriation available	$115,053,393
Oversight Deductions	(575,267)
Total Apportioned	$114,478,126

3. Basis for Formula Apportionment

Of the amounts authorized for Section 5305, 82.72 percent is made available to the Metropolitan Planning Program. As a subset of the Metropolitan Planning Program funds, FTA apportions 80 percent to the states by statutory formula based on the most recent decennial Census for each State's UZA population. The remaining 20 percent is provided to the States based on an FTA administrative formula to address planning needs in larger, more complex UZAs. The amount published for each State includes this supplemental allocation.

4. Requirements

The States allocate Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for planning projects included in a one or two-year program of planning work activities (the Unified Planning Work Program, or UPWP) that includes multimodal systems planning activities spanning both highway and transit planning topics. Each State has either reaffirmed or developed, in consultation with its MPOs, an allocation formula among MPOs within the State, based on the 2010 Census. The allocation formula among MPOs in each State may be changed annually, but any change requires approval by the FTA Regional Office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1D, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 10, 2018.

5. Period of Availability

The Metropolitan Planning program funds apportioned in this notice are available for obligation during FY 2019 plus three additional fiscal years. Funds apportioned in FY 2019 must be obligated in grants by September 30, 2022. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2022, will revert to FTA for reapportionment under the Metropolitan Planning Program.

B. State Planning and Research Program (49 U.S.C. 5304 and 5305(e))

This program provides financial assistance to States for statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program and planning support for non-urbanized areas. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and further explained in 23 CFR part 450 as referenced in 49 CFR part 613, Planning Assistance and Standards. State DOTs are required to reference performance measures and performance targets within the Statewide Planning process. This funding must support work resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods and has the same eligibilities as MPP funds.

For more information or questions on the State Planning and Research program, please contact Victor Austin at (202) 366–2996 or victor.austin@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $24,034,364 in FY 2019, to provide financial assistance for statewide planning and other technical assistance activities under Section 5305. As specified in law, this represents the 17.28 percent of the amounts available for Section 5305 that are allocated to the Statewide Planning and Research program.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $24,034,364 is available for the State Planning and Research Program (Section 5305(e)). The total amount apportioned for the State Planning and Research Program (SPRP) is $23,914,193 as shown in the table below, after the deduction for oversight (authorized by Section 5338).

STATEWIDE TRANSPORTATION PLANNING PROGRAM

Total Appropriation available	$24,034,364
Oversight Deductions	(120,171)
Total Apportioned	23,914,193

States' apportionments for this program are displayed in Table 2.

3. Basis for Formula Apportionment

Of the amount authorized for Section 5305, 17.28 percent is allocated to the State Planning and Research program. FTA apportions funds to States by a statutory formula that is based on the most recent decennial Census data available, specifically, the State's UZA population as compared to the UZA population of all States.

4. Requirements

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, performance-based planning, demonstrations, and management training. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate.

Program guidance for the State Planning and Research program is found in FTA Circular 8100.1D, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants, dated September 10, 2018.

5. Period of Availability

The State Planning and Research program funds apportioned in this notice are available for obligation during FY 2019 plus three additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2022. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2022 will revert to FTA for reapportionment under the State Planning and Research program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

The Urbanized Area Formula Program provides financial assistance to designated recipients in urbanized areas (UZAs) for capital investments in public transportation systems, planning, job access and reverse commute projects, and, in some cases, operating assistance. FTA apportions funds for this program through a statutory formula. Of the amount authorized for Section 5307 each year, $30 million is set aside for the competitive Passenger Ferry Grant Program (Ferry program), as authorized under 49 U.S.C. 5307(h). The Ferry program offers financial assistance to public ferry systems in urbanized areas for capital projects. Projects are selected annually through a funding competition. Additionally, 0.5 percent will be apportioned to eligible States for State Safety Oversight (SSO) Program grants, and 0.75 percent will be set aside for program oversight. Further information on the 0.5 percent apportionment to States for the State Safety Oversight Program is provided in section IV.M. of this notice.

For more information or questions on the Urbanized Area Formula Program, contact Tara Clark at (202) 366–2623 or tara.clark@dot.gov. For more

information on the Ferry Program, contact Vanessa Williams at (202) 366–4818 or vanessa.williams@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $4,827,117,606 in FY 2019 to provide financial assistance for urbanized areas under Section 5307.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $5,262,516,268 is available for the Urbanized Area Formula program, which includes the addition of reapportioned funds and amounts apportioned to UZAs pursuant to the Section 5340 Growing States and High-Density States Formula factors. This amount to UZAs excludes the set-aside of $30 million for the Ferry program, apportionments under the State Safety Oversight Program, and oversight (authorized by Section 5338), as shown in the table below:

URBANIZED AREA FORMULA PROGRAM

Total Appropriation available	[a] $4,827,117,606
Oversight Deduction	−36,203,382
State Safety Oversight Program	−24,135,588
Ferry Discretionary Program	−30,000,000
5340 High Density States	308,004,054
5340 Growing States	209,758,739
Reapportioned Funds	7,974,839
Total Apportioned	$5,262,516,268

[a] Includes 1.5 percent set-aside for Small Transit Intensive Cities Formula Table 3 displays the amounts apportioned under the Urbanized Area Formula Program.

3. Basis for Formula Apportionment

FTA apportions Urbanized Area Formula Program funds based on statutory formulas. Congress established four separate formulas to apportion available funding: The Section 5307 Urbanized Area Formula Program formula, the Small Transit Intensive Cities (STIC) formula, the Growing States and High-Density States formula, and a formula based on low-income population.

Consistent with prior apportionment notices, Table 3 shows a total Section 5307 apportionment for each UZA, which includes amounts apportioned under each of these formulas. Detailed information about the formulas is provided in Table 4. For technical assistance purposes, the UZAs that receive STIC funds are listed in Table 6. FTA will provide breakouts of the funding allocated to each UZA under these formulas upon request to the FTA Regional Office.

FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year, based on all data used to calculate the apportionments, as well as the amount appropriated by Congress for the apportionment. The dollar unit values for FY 2019 are displayed in Table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (*i.e.,* the population, population × population density), and when applicable, data from the NTD (*i.e.,* route miles, vehicle revenue miles, passenger miles, and operating cost).

a. Section 5307—Urbanized Area Formula

For UZAs between 50,000 and 199,999 in population, the Urbanized Area Formula is primarily based on population and population density. For UZAs with populations of 200,000 or more, the formula is based on population and population density, as well as a combination of bus revenue vehicle miles, bus passenger miles, bus operating costs, fixed guideway vehicle revenue miles, and fixed guideway route miles, either within the UZA or attributable to the UZA. The Urbanized Area Formula is defined in 49 U.S.C. 5336. Consistent with Section 5336(b), FTA has included 27 percent of the fixed guideway directional route miles and vehicle revenue miles from eligible urbanized area transit systems, but which were attributable to rural areas outside of the urbanized areas from which the system receives funds.

b. Small Transit Intensive Cities Formula

Under the Small Transit Intensive Cities (STIC) formula, FTA apportions 2 percent of the funds made available for Section 5307 to UZAs that are under 200,000 in population and have public transportation service that operates at a level equal to or above the industry average for UZAs with a population of at least 200,000, but not more than 999,999. STIC funds are apportioned based on six performance categories: Passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita. In FY 2019, the STIC set aside increased from 1.5 percent to 2 percent. The data used to determine a UZA's eligibility under the STIC formula and to calculate the STIC apportionments was obtained from the NTD for the 2017 reporting year. Because performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. UZAs that received funding through the STIC formula for FY 2019 are listed in Table 6.

c. Section 5340—Growing States and High-Density States Formula

FTA also apportions funds to qualifying UZAs and States according to the Section 5340 Growing States and High-Density States formula, as shown in Table 3. More information on this program and its formula is found in Section IV.P. of this notice.

d. Low-Income Population

Of the amount authorized and appropriated for the Urbanized Area Formula Program in each year, 3.07 percent is apportioned based on the low-income population. As specified in statute, FTA apportions 75 percent of the available funds to UZAs with a population of 200,000 or more. Funds are apportioned based on the ratio of the number of low-income individuals in each UZA to the total number of low-income individuals in all urbanized areas of that size. FTA apportions the remainder of the funds (25 percent) to UZAs with populations of less than 200,000, per an equivalent formula. The low-income populations used for this calculation were based on the American Community Survey (ACS) data set for 2012–2016. This information is updated by the Census Bureau annually.

4. Requirements

To comply with or maintain compliance with the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA) of 1990, the maximum Federal share for the Urbanized Area Formula Program, including the Passenger Ferry Program, is 85 percent for the net project cost of acquiring vehicles (including clean-fuel or alternative fuel). The maximum Federal share is 90 percent of the net project cost for acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for complying with or maintaining compliance with the CAA or ADA.

Program guidance for the Urbanized Area Formula Program is provided in FTA Circular 9030.1E, Urbanized Area Formula Program: Program Guidance

and Application Instructions, dated January 16, 2014.

5. Period of Availability

Funds made available under the Urbanized Area Formula Program are available for obligation during the year of apportionment plus five additional years. Accordingly, funds apportioned in FY 2019 must be obligated by September 30, 2024. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2024 will revert to FTA for reapportionment under the Urbanized Area Formula Program. Funds allocated under the Passenger Ferry program have the same period of availability as Section 5307. Accordingly, funds allocated in FY 2019 must be obligated by September 30, 2024. Any of the funds allocated in FY 2019 that remain unobligated at the close of business on September 30, 2024 will revert to FTA for reallocation under the Passenger Ferry program.

D. Fixed Guideway Capital Investment Grants Program (49 U.S.C. 5309)

The Capital Investment Grants (CIG) Program includes four types of eligible projects: New Starts projects, Small Starts projects, Core Capacity Improvement projects, and Programs of Inter-related Projects. Funding is provided for construction of: (1) New fixed guideway systems or extensions to existing fixed guideway systems such as rapid rail (heavy rail), commuter rail, light rail, trolleybus (using overhead catenary), cable car, passenger ferries, and bus rapid transit operating on an exclusive transit lane for the majority of the corridor length during peak periods that also includes features that emulate the services provided by rail fixed guideway, including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional service for a substantial part of weekdays and weekends; (2) corridor-based bus rapid transit service that does not operate on an exclusive transit lane but includes features that emulate the services provided by rail fixed guideway, including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays; (3) projects that expand the capacity by at least 10 percent in an existing fixed guideway corridor that is at capacity today or will be in five years; and (4) programs of two or more interrelated projects as described above that have logical connectivity with one another and will all begin construction in a reasonable timeframe. FAST Act Section 3005(b) authorizes an Expedited Project Delivery for the CIG Pilot Program.

For more information about the Capital Investment Grant program contact Elizabeth Day, Office of Capital Project Development, at (202) 366–5159 or elizabeth.day@dot.gov. For information about published allocations contact Eric Hu, Office of Transit Programs, at (202) 366–0870 or eric.hu@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $2,301,785,760 in FY 2019, to provide financial assistance for Capital Investment Grants under Section 5309 and Section 3005(b) of the FAST Act.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $2,552,687,000 is available for Capital Investment Grants for the Fixed Guideway Capital Investment Grants Program and the FAST Act Section 3005(b) Expedited Project Delivery for CIG Pilot Program. The Consolidated Appropriations Act, 2019 requires that $2,169,783,950 of the amount available must be obligated by December 31, 2020. The funds are allocated in the following manner: $1,265,670,000 for New Starts projects; $635,000,000 for Core Capacity projects; $526,500,000 for Small Starts projects; $100,000,000 for FAST Act Section 3005(b) Expedited Project Delivery for CIG Pilot Program projects and $25,517,000 for Oversight. The total amount available for projects is $2,527,170,000 as shown in the table below, after the deduction for oversight (authorized by Section 5338).

CAPITAL INVESTMENT GRANTS PROGRAM

Total Appropriation available	$2,552,687,000
Oversight Deduction	(25,517,000)
* Total Apportioned	$2,527,170,000

* Of the total amount apportioned, $2,169,783,950 shall be obligated by December 31, 2020.

3. Basis for Allocation

Funds are allocated on a competitive basis and subject to program evaluation.

4. Requirements

Projects become candidates for funding under the Capital Investment Grants Program by successfully completing steps in the process defined in Section 5309 and obtaining a satisfactory rating under the statutorily defined criteria. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects, the steps in the process include project development and construction. For programs of interrelated projects, the steps in the process depend on the combination of project types included. FTA issued a Request for Expressions of Interest to Participate in the FAST Act Section 3005(b) Expedited Project Delivery Pilot Program in the **Federal Register** on September 12, 2018, with submissions due on November 13, 2018.

5. Period of Availability

Capital Investment Grant program funds apportioned in this notice are available for obligation during FY 2019 plus three additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2022, except $2,169,783,950 that must be obligated by December 31, 2020.

E. Formula Grants for the Enhanced Mobility of Seniors and Individuals With Disabilities Program (49 U.S.C. 5310)

The Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program provides formula funding to states and urbanized areas for meeting the transportation needs of older adults and people with disabilities when the public transportation service provided is unavailable, insufficient, or inappropriate to meet these needs. The program aims to improve mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options. The Pilot Program for Innovative Coordinated Access and Mobility Program (Pilot Program) was established by Section 3006(b) of the FAST Act. The purpose of the program is to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation (NEMT) services, including, for example, the deployment of coordination technology, and projects that create or increase access to community One-Call/One-Click Centers.

For more information or questions on the Enhanced Mobility of Seniors and Individuals with Disabilities program, please contact Kelly Tyler at (202) 366–3102 or kelly.tyler@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $279,646,188 in FY 2019 to provide formula funding to designated

recipients and states for meeting the transportation needs of older adults and people with disabilities. The law also authorizes $3.50 million for the competitive Pilot Program.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $279,646,188 is available for the Section 5310 formula program. The total amount apportioned is $281,247,957 after the oversight deduction of $1,398,231 as shown in the table below, and a total of $3,500,000 is available for the competitive Pilot Program.

FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM

Total Appropriation available	$279,646,188
Oversight Deduction	(1,398,231)
Total Apportioned	$278,247,957

3. Basis for Formula Apportionment

Sixty percent of the funds are apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals. Twenty percent of the funds are apportioned among the States for urbanized areas with a population of at least 50,000 but less than 200,000. Twenty percent of the funds are apportioned among the States for rural areas, defined as areas with a population less than 50,000. Census Data on Older Adults and People with Disabilities is used for the Section 5310 program apportionments. FY 2019 Apportionments Table 8 displays the amounts apportioned under the Enhanced Mobility of Seniors and Individuals with Disabilities Program. Under the Section 5310 formula, funds are allocated using Census data on older adults (*i.e.,* persons 65 and older) and people with disabilities. However, beginning in 2010, the Census Bureau stopped collecting this demographic information as part of its decennial census. Data on seniors and people with disabilities is now only available from the American Community Survey (ACS), which is conducted and published on a rolling basis. FTA's FY 2019 Section 5310 apportionments incorporate ACS data published in August 2017. Data on seniors comes from the ACS 2012–2016 five-year data set, Table B01001, ''Sex by Age.'' Data on persons with disabilities comes from the ACS 2012–2016 five-year data set, Table S1810, ''Disability Characteristics.''

4. Requirements

At least 55 percent of program funds must be used on traditional Section 5310 projects such as buses and vans; wheelchair lifts, ramps, and securement devices; or transit-related information technology systems including scheduling, routing, one-call systems. Mobility management programs are also defined as capital projects for purposes of this provision. The acquisition of transportation services under a contract, lease, or other arrangement is also eligible; both the capital and operating costs associated with contracted service are eligible capital expenses for purposes of this provision. The capital eligibility of acquisition of services is limited to the Section 5310 program. The remaining 45 percent of a recipient's 5310 funds may be used for capital expenses or operating assistance.

a. Eligible Recipients

Eligible recipients include States for rural and small urban areas and designated recipients for large urban areas; or a State or local governmental entity that operates a public transportation service. For urbanized areas, less than 200,000 in population and in the rural areas, the State is the designated recipient for Section 5310. Current Section 5310 designations remain in effect until changed by the Governor of a State by officially notifying the appropriate FTA Regional Administrator of re-designation. A State or local governmental entity that operates a public transportation service may be a direct recipient for Section 5310 funds.

For urbanized areas over 200,000 in population, the recipient charged with administering the Section 5310 Program must be officially designated in accordance with the planning process, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation prior to grant award (See the definition of designated recipient, 49 U.S.C. 5302(4)). Designated recipients are responsible for administering the program. Eligible subrecipients include State or local governmental authorities, private nonprofit agencies, and operators of public transportation that receive a grant indirectly through a recipient. For the 55 percent of funds that must be used for capital projects, eligible subrecipients include private nonprofit organizations as well as State or local governmental authorities that are either approved by the State to coordinate services for seniors and people with disabilities, or which certify to the Governor that no nonprofit organizations are readily available in the area to provide the service.

b. Local Match

Capital assistance is provided at 80 percent Federal share; 20 percent local share. Operating assistance requires a 50 percent local match. Funds provided under other Federal programs (other than those of the DOT, except for the Federal Lands Transportation Program) may be used as local match for funds provided under Section 5310, and revenue from service contracts may be used as local match.

c. Planning and Consultation

The coordinated planning provision requires that all projects be included in the local coordinated human service-public transportation plan. The plan must be developed and adopted with representation from seniors, individuals with disabilities, representatives of public, private, nonprofit transportation and human services providers, and other members of the public.

d. State and Project Management Plans

States, designated recipients, and State or local governmental entities that operate a public transportation service that are responsible for implementing the Section 5310 program are required to document their approach to managing the program. The Management Plans serve as the basis for FTA management reviews of the program, and provide public information on the administration of the programs.

e. Program of Projects (POP)

Designated recipients are required to develop a Program of Projects (POP) with the grant application and submit it to the FTA Regional Office. The POP should be developed with respect to the coordinated plan, long range plan, and the transportation improvement plan. For additional guidance in developing the required POP, see Chapter IV of the FTA Circular 9070.1G, *Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions,* dated July 7, 2014.

5. Period of Availability

The Enhanced Mobility of Seniors and Individuals with Disabilities program funds apportioned in this notice are available for obligation during FY 2019 plus two additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2021. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2021, will revert to FTA

for reapportionment among the States and urbanized areas.

6. Other Program Information

A State may transfer apportioned funds between small urbanized areas and rural areas if it can certify that the needs are being met in the area to which the funds were originally apportioned. The State can transfer the funds (rural and small urbanized area) to any area within the state if a statewide program for Section 5310 is established. Section 5310 funds may not be transferred to other FTA programs, and Section 5310 funds apportioned to large urbanized areas may not be transferred to other areas. Section 5310 program recipients may partner with meal delivery programs such as the Older Americans Act (OAA)-funded meal programs (to find local programs, visit: *www.Eldercare.gov*) and the USDA Summer Food Service Program *https://www.fns.usda.gov/sfsp/summer-food-service-program.* Transit service providers receiving 5310 funds may coordinate and assist in providing meal delivery services on a regular basis if this does not conflict with the provision of transit services.

Program Guidance is found in FTA Circular 9070.1G, *Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions,* dated July 7, 2014.

F. Formula Grants for Rural Areas Program (49 U.S.C. 5311)

The Formula Grants for Rural Areas program provides formula funding to States and Indian tribes for supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, planning, job access and reverse commute projects, and State administration expenses. Eligible subrecipients include State and local governmental authorities, Indian Tribes, private non-profit organizations, and private intercity bus companies. Indian Tribes are also eligible direct recipients under the Formula Grants for Rural Areas program, both for funds apportioned to the States and for projects apportioned or selected to be funded with funds set aside from the Tribal Transit Program.

For more information about the Formula Grants for Rural Areas program, please contact Élan Flippin at (202) 366–3800 or elan.flippin@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $659,322,031 to provide financial assistance for rural areas under the Formula Grants for Rural Areas program. This amount includes $35 million for the Tribal Transit program; $20 million for the Appalachian program; $13,186,441 for the Rural Transit Assistance program; and $591,135,590 for the Rural Formula program. This amount excludes funding for the Section 5340 Growing States Apportionments.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $630,335,590 is available for the Rural Area Programs. The total amount apportioned to the program is $716,416,160 as shown in the table below, after the addition of $6,024,853 in reapportioned funds and $83,552,327 for the Section 5340(c) Growing States, and the oversight deduction authorized by Section 5338.

GRANTS FOR RURAL AREAS FORMULA PROGRAM

Total Appropriation available	$630,335,590
Oversight Deduction	(3,496,610)
5340 Growing States	83,552,327
Reapportioned Funds	6,024,853
Total Apportioned	716,416,160

3. Basis for Formula Apportionment

FTA apportions the Formula Grants for Rural Areas program funds to states by a statutory formula using the latest available U.S. decennial census data. Most of the Formula Grants for Formula Grants for Rural Areas program funds (83.15 percent) are apportioned based on land area and population factors. In the first tier, no state may receive more than 5 percent of the amount apportioned based on land area. The remaining funds (16.85 percent) are apportioned based on land area, vehicle revenue miles, and the proportion of low-income individuals. In the second tier, no state may receive more than 5 percent of the amount apportioned based on land area, or more than 5 percent of the amounts apportioned for vehicle revenue miles. In addition to funds made available under Section 5311, FTA adds amounts apportioned based on rural population per the growing states formula factors of 49 U.S.C. 5340 to the amounts apportioned to the states under the Section 5311 formula. Before FTA apportions Section 5311 funds to the states, FTA subtracts funding from the total available amounts for the Appalachian Development Transportation Assistance Program, the Tribal Transit Program, the Rural Transportation Assistance Program (RTAP), and FTA oversight activities.

Data from the National Transit Database (NTD) 2017 Report Year was used for this apportionment, including data from directly-reporting Indian tribes. Data from public transportation systems that reported as urbanized area systems, but not attributable to an urbanized area, was also included. The Formula Grants for Rural Areas program includes three takedowns: The Appalachian Development Public Transportation Assistance Program; the Rural Transportation Assistance Program (RTAP); and the Tribal Transit Program. These separate programs are described in the sections that follow.

4. Requirements

The Formula Grants for Rural Areas program provides funding for capital, operating, planning, job access and reverse commute projects, and administration expenses for public transit service in rural areas under 50,000 in population. The planning activities undertaken with Formula Grants for Rural Areas program funds are in addition to those awarded to the State under Section 5305 and must be used specifically for the needs of rural areas.

a. Intercity Bus Transportation

Each State must spend no less than 15 percent of its annual Formula Grants for Rural Areas program apportionment for the development and support of intercity bus transportation, unless it can certify, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are adequately met. FTA encourages consultation with other stakeholders, such as communities affected by loss of intercity service. The cost of an unsubsidized portion of privately provided intercity bus service that connects feeder service, including all operating and capital costs of such service whether or not offset by revenue from such service, may be used as in-kind local match for the intercity bus projects.

b. State Administration

States may elect to use up to 10 percent of their apportionment at 100 percent Federal share to administer the Formula Grants for Rural Areas program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation to rural areas.

c. Other Requirements

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for Formula Grants for Rural Areas program capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects. Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the State, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

Additional program guidance for the Formula Grants for Rural Areas program is found in FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions,* dated November 24, 2014, and is supplemented by additional information that may be posted to FTA's website.

5. Period of Availability

The Formula Grants for Rural Areas program funds apportioned in this notice are available for obligation during FY 2019 plus two additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2021. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2021, will revert to FTA for reapportionment under the Formula Grants for Rural Areas program.

6. Other Program Information

Revenue from the sale of advertising and concessions may be used as local match.

G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program provides funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas.

For more information about Rural Transportation Assistance Program (RTAP), please contact Élan Flippin at (202) 366–3800 or elan.flippin@dot.gov.

1. Authorized Amounts

Federal public transportation law authorized $13,186,440, or two percent of the funds made available for the Formula Grants for Rural Areas program, to be made available for the Rural Transportation Assistance Program (RTAP). Of the two percent takedown, 15 percent is reserved for the National RTAP program. The remainder is available for allocation to the States.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $13,986,441 is available for the RTAP Program. The total amount apportioned for RTAP is $11,888,475 as shown in the table below, after the deduction for National RTAP.

RURAL TRANSPORTATION ASSISTANCE PROGRAM (RTAP)

Total Appropriation available	$13,986,441
National RTAP	(2,097,966)
Total Apportioned	11,888,475

3. Basis for Formula Apportionment

FTA allocates RTAP funds to the States by an administrative formula. First, FTA allocates $65,000 to each State and $10,000 to each territory, and then allocates the balance based on rural population in the 2010 census.

4. Requirements

Eligible RTAP expenses include the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas. States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in rural areas. These funds are to be used in conjunction with a State's administration of the Formula Grants for Rural Areas program, but also may support the rural components of the Section 5310 program.

5. Period of Availability

The RTAP funds apportioned in this notice are available for obligation during FY 2019 plus two additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2021.

6. Other Program Information

The National RTAP project is administered by cooperative agreement and re-competed at five-year intervals. In 2014, FTA awarded a cooperative agreement to the Neponset Valley Transportation Management Association to administer the National RTAP Program. The National RTAP projects are guided by a project review board that consists of managers of rural transit systems and State DOT RTAP programs. National RTAP resources also support the biennial Transportation Research Board National Conference on Rural Public and Intercity Bus Transportation and other research and technical assistance projects of a national scope. The National RTAP project will be recompeted in FY 2019.

H. Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))

This program is a take-down under the Formula Grants for Rural Areas program to provide additional funding to support public transportation in the Appalachian region. There are sixteen eligible States that receive an allocation under this provision. The State allocations are shown in the Formula Grants for Rural Areas program table posted on FTA's website on the FY 2019 Apportionments page.

For more information about the Appalachian Development Public Transportation Assistance Program, please contact Élan Flippin at (202) 366–3800 or *elan.flippin@dot.gov.*

1. Authorized Amounts

Federal public transportation law authorizes $20 million in each of FY 2016 through FY 2020 as a take-down under the Formula Grants for Rural Areas program to support public transportation in the Appalachian region.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $20 million is available.

APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM

Total Appropriation available	$20,000,000
Total Apportioned	20,000,000

3. Basis for Formula Apportionment

FTA apportions the funds using percentages established under Section 9.5(b) of the Appalachian Regional Commission Code (subtitle IV of title 40). Allocations are based in general on each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System as determined from the latest percentages of available cost estimates for completion of the System. Such cost estimates are produced at approximate five-year intervals. Allocations contain upper and lower limits in amounts determined by the Commission and are made in accordance with legislative instructions.

4. Requirements

Funds apportioned under this program may be used for purposes

consistent with the Formula Grants for Rural Areas program to support public transportation in the Appalachian region. Funds can be applied for in the State's annual Formula Grants for Rural Areas program grant.

Appalachian program funds that cannot be used for operating may be used for a highway project under certain circumstances. States should contact their regional office if they intend to request a transfer. Additional information about the requirements for this section can be found in Chapter VII of FTA Circular 9040.1G, *Formula Grants for Rural Areas: Program Guidance and Application Instructions,* dated November 24, 2014.

5. Period of Availability

The Appalachian program funds apportioned in this notice are available for obligation during FY 2019 plus two additional fiscal years, consistent with that established for the Formula Grants for Rural Areas program.

I. Formula Grants for Public Transportation on Indian Reservations Program (49 U.S.C. 5311(j))

The Public Transportation on Indian Reservations Program, or Tribal Transit Program (TTP), totals $35 million, of which $30 million is for a formula program and $5 million is for a competitive grant program. It is funded as a takedown from funds made available for the Formula Grants for Rural Areas program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands (defined as American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands). Eligible direct recipients are Federally recognized Indian tribes and Alaskan Native Villages providing public transportation in rural areas. The TTP funds are allocated for grants to eligible recipients for any purpose eligible under Formula Grants for Rural Areas program, which includes capital, operating, planning, and job access and reverse commute projects.

For more information about the Tribal Transit Program, contact Jasmine Clemons, Office of Transit Programs at (202) 366–2343 or jasmine.clemons@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $35 million in FY 2019 to provide assistance to the tribes.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $30 million is available for the formula program and $5 million for the competitive program.

FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAM

Total Appropriation available	$30,000,000
Total Apportioned	30,000,000

PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS PROGRAM COMPETITIVE GRANTS

Total Appropriation available	$5,000,000
Total Apportioned	5,000,000

3. Basis for Formula Apportionment

Funding is allocated by formula and distributed to eligible Indian tribes providing public transportation on tribal lands. The formula apportionment shown in Table 10 is based on a statutory formula which includes three tiers. Tiers 1 and 2 are based on data reported to NTD by Indian tribes; Tier 3 is based on 2012–2016 American Community Survey data. The three tiers for the formula are: Tier 1—50 percent based on vehicle revenue miles reported to the NTD; Tier 2—25 percent provided in equal shares to Indian tribes reporting at least 200,000 vehicle revenue miles to the NTD; Tier 3—25 percent based on Indian tribes providing public transportation on tribal lands (American Indian Areas, Alaska Native Areas, and Hawaiian Home Lands) on which more than 1,000 low income individuals reside. If more than one eligible tribe provides public transportation services on tribal lands in a single Tribal Statistical Area, and the tribes cannot determine how to allocate Tier 3 funds, FTA will allocate the funds based on the relative portion of transit (as defined by unlinked passenger trips) operated by each tribe, as reported to the NTD.

4. Requirements

Formula funds apportioned under this program can be used for purposes consistent with the Formula Grants for Rural Areas program to support public transportation on Indian Reservations in rural areas. Funds allocated under the competitive program must be used consistent with the tribe's proposal and the allocation notice published in the **Federal Register**, which is used to announce the selected projects. Eligible recipients under both the competitive and formula program include federally recognized Indian tribes or Alaska native villages, groups, or communities as identified by the U.S. Department of the Interior Bureau of Indian Affairs (BIA). A tribe must have the legal, financial, and technical capabilities to receive and administer Federal funds.

Section 5335 requires NTD reporting for all recipients of Section 5311 funds. This reporting requirement continues to apply to the Tribal Transit Program. Tribes that provide public transportation in rural areas are reminded to report annually so they are included in the TTP formula apportionments. To be considered in the FY 2019 formula apportionments, tribes should have submitted their reports to the NTD no later than April 30, 2017; voluntary reporting to the NTD is also encouraged. Additionally, to be considered for the FY 2020 formula apportionment funds, tribes would have submitted their reports to the NTD no later than April 30, 2018. Tribes needing assistance with reporting to the NTD should contact the NTD Helpline at 1–888–252–0936 or *NTDHelp@dot.gov.*

5. Period of Availability

The TTP formula program funds apportioned in this notice are available for obligation during FY 2019 plus two additional fiscal years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2021. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2021, will revert to FTA for reapportionment under the TTP formula program. Competitive TTP funds are available for obligation during the FY in which funds are awarded to projects plus two additional years.

6. Other Program Information

Section 207 of title 23, United States Code establishes a Tribal Transportation Self-Governance Program (Self Governance Program). The Self Governance Program will establish specific criteria for determining eligibility for a tribe to participate in the program. A Negotiated Rulemaking to implement this program in consultation with tribal representatives and other interested stakeholders is under development.

The funds set aside for the TTP are not meant to replace or reduce funds that Indian tribes receive from States through the Formula Grants for Rural Areas program but are to be used to enhance public transportation on Indian reservations and transit serving tribal communities. Funds allocated to Indian tribes by the States may be included in the State's Formula Grants for Rural Areas program application or may be awarded by FTA in a grant directly to the Indian tribe. FTA encourages Indian tribes intending to apply to FTA as

direct recipients to contact the appropriate FTA Regional Office at the earliest opportunity.

All TTP grantees must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. To assist tribes with understanding these requirements, FTA regularly conducts Tribal Transit Technical Assistance Workshops. FTA has also expanded its technical assistance to tribes receiving funds under this program by undertaking Tribal Transit Technical Assistance Assessments. Through these assessments, FTA collaborates with tribal transit leaders to review processes and identify areas in need of improvement and then assist with solutions to address these needs—all in a supportive and mutually beneficial manner. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. FTA will post information about upcoming workshops to its website and will disseminate information about the reviews through its Regional offices. FTA has regional tribal transit liaisons in each of the FTA Regional Offices that are available to assist tribes with applying for and managing FTA grants. Tribes are encouraged to work directly with their regional tribal transit liaison.

J. Public Transportation Innovation (49 U.S.C. 5312)

Public Transportation Innovation is FTA's research program with the overarching statutory goal to improve public transportation. The law specifies research focus areas, including providing more effective and efficient public transportation service; mobility management; system capacity; advanced vehicle design; asset maintenance; construction and project management; environment and energy efficiency; and safety improvements.

FTA may make grants, enter into contracts, cooperative agreements, and other agreements to carry out the research, development, demonstration, and deployment projects, including research and technology of national significance to public transportation.

Within this section are three distinct programs: (a) A Research, Development, Demonstration, Deployment, and Evaluation program (49 U.S.C. 5312(b–e)); (b) a Low or No Emission Vehicle Component Assessment Program (LoNo-CAP) (49 U.S.C. 5312(h)); and (c) a Transit Cooperative Research Program (49 U.S.C. 5312(i)). Eligible recipients can be departments, agencies, and governmental agencies, including Federal Laboratories; state and local entities; providers of public transportation; private or non-profit organizations; institutions of higher education; and technical community colleges. Each program area has specific requirements relating to the type of organization that may receive a grant or enter an agreement.

The types of research eligible for funding are broad and include: Opportunities to enhance public transportation operational effectiveness and efficiency; improve services; leverage new types of vehicle technologies; utilize transformative technologies to improve public transportation; field new mobility models; and support increased safety.

For more information about the Public Transportation Innovation program, contact Edwin Rodriguez, Office of Research, Demonstration and Innovation at (202) 366–0671 or edwin.rodriguez@dot.gov.

For more information on the LoNo-CAP program, please contact Sam Yimer at (202) 366–1321 or samuel.yimer@dot.gov or visit: www.transit.dot.gov/research-innovation/lonocap.

1. Authorized Amounts

Federal public transportation law authorizes $28 million in FY 2019 funding for the Public Transportation Innovation program.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $34 million is available for the Public Transportation Innovation program. The total amounts apportioned to each subcomponent of the program is shown below in the table.

PUBLIC TRANSPORTATION INNOVATION PROGRAM

Research, Development, Demonstration, Deployment, & Evaluation	$20,000,000
Low or No Emission Vehicle Component Testing	3,000,000
Transit Cooperative Research Program (TCRP)	5,000,000
Low or No Emission Bus Testing	6,000,000
Total Apportioned	34,000,000

3. Basis for Allocation

Public Transportation Innovation funds are allocated according to the authorized purposes and amounts described above. The Secretary may make grants and enter contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation. For FY 2019, FTA intends to fund projects and activities consistent with its research priorities of mobility innovation, infrastructure, and safety. Projects may be selected through Notices of Funding Opportunity (NOFO), or Requests for Proposals (RFPs), or sole-sourced. FTA awards to a diverse set of recipients and issues different types of research agreements, including grants, cooperative agreements, contracts, or interagency agreements. Potential recipients can register to receive notification of funding opportunities under this program on *Grants.gov*.

FTA awards an annual cooperative agreement to the National Academies of Sciences, Engineering, and Medicine to administer the TCRP. FTA solicited proposals for the LoNo-CAP in Fall 2016. Awards were made to Auburn University and The Ohio State University in September 2017. Both facilities are preparing to test Low and No emissions components and are expected to receive $6 million by the end of FY 2019.

4. Requirements

Eligible expenses include activities involving (a) research, innovation, development, demonstration, deployment, evaluation; (b) low or no emission vehicle component testing; and (c) transit cooperative research.

The Federal share for the Research, Innovation, Development, Deployment, and Demonstration program shall not exceed 80 percent unless there is substantial public interest or benefit or it is approved by the Secretary. The remaining 20 percent can be met with in-kind resources. In some cases, FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if the non-Federal share is an evaluation factor under a competitive selection process.

The Low or No Emission Vehicle Component Testing (LoNo-CAP) is a voluntary program in which FTA pays 50 percent of the testing fees and the entity requesting testing pays 50 percent of the fees.

Eligible activities under LoNo-CAP include testing and assessing voluntarily submitted LoNo components for transit buses, publishing the results

of these LoNo component assessments, and preparing an annual report to Congress summarizing the results of the component assessments. For more information on the LoNo-CAP program, visit *www.transit.dot.gov/research-innovation/lonocap.*

All research recipients are required to work with FTA to develop approved Statements of Work. Application instructions and program management guidelines are set forth in FTA Circular C 6100.1E, *Research, Technical Assistance and Training Program: Application Instructions and Program Management Guidelines* dated May 11, 2015.

5. Period of Availability

Funding is available until expended.

6. Other Program Information

FTA publishes annual research reports on projects, evaluations, and benefits of its research portfolio. The reports can be accessed on FTA's website at *www.transit.dot.gov/research-innovation/fta-reports-and-publications.* Section 6019(b) of the FAST Act establishes new requirements for annual modal research plans in 49 U.S.C. 6501.

TCRP is a cooperative effort of three organizations: FTA; the National Academies, acting through the Transportation Research Board (TRB); and the Transit Development Corporation, Inc. (TDC), a nonprofit educational and research organization established by the American Public Transportation Association (APTA). FTA funds the TCRP through a cooperative agreement. The TCRP is governed by an independent board, the TCRP Oversight and Project Selection (TOPS) Committee. The TOPS Committee sets priorities to decide what research studies will be undertaken and annually selects projects. The FY 2019 selected projects can be found at: *http://onlinepubs.trb.org/onlinepubs/tcrp/docs/finalannouncement2019.pdf.*

For more information about TCRP, please contact Faith Hall at (202) 366–9055 or faith.hall@dot.gov.

Pursuant to the Small Business Innovation Development Act, of 1982 (Pub. L. 97–219, amending 15 U.S.C. 638) and reauthorized through FY 2022 by the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328, 1834), 3.2 percent of the 5312 funds must be set aside for the Department's Small Business Innovation Research Program (SBIR) to address high priority research that will demonstrate innovative, economic, accurate, and durable technologies, devices, applications, or solutions to significantly improve current transit-related service, including transit vehicle operation, safety, infrastructure and environmental sustainability, mobility, rider experience, or broadband communication. Information on current and past SBIR projects can be found on the DOT SBIR website: *www.volpe.dot.gov/work-with-us/small-business-innovation-research.*

For more information about SBIR, please contact Kenneth Blacks at (202) 366–7106 or Kenneth.blacks@dot.gov.

K. Technical Assistance and Workforce Development (49 U.S.C. 5314)

The Technical Assistance and Workforce Development program, 49 U.S.C. 5314, has three types of programs: Technical assistance and standards development; human resources and training; and the National Transit Institute (NTI). FTA funds projects across these areas to achieve statutory goals to assist the public transportation industry to more effectively and efficiently provide public transportation service; develop standards and best practices; provide specific technical assistance in several areas, including complying with the Americans with Disabilities Act and human services transportation coordination as well as meeting the transportation needs of older adults. Key focus areas for human resources and training are employment training; outreach to aid in recruiting public transportation workers, especially to increase employment for certain targeted groups; frontline workforce development; and advanced training for new and emerging technology areas such as low and no emission bus maintenance. The NTI's goal is to develop and conduct training and educational programs for Federal, State, and local transportation employees and others engaged in public transportation work.

For more information or questions about the Technical Assistance and Workforce Development programs, please contact Betty Jackson, Office of Research, Demonstration, and Innovation at (202) 366–1730 or betty.jackson@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $9 million in contract authority for the Technical Assistance and Workforce Development Program, of which $4 million is authorized for NTI. An additional $5 million is authorized to be appropriated from the general fund.

2. FY 2019 Funding Availability

In FY 2019 under the Consolidated Appropriations Act, 2019, $14 million is available for the Technical Assistance and Workforce Development program, as shown in the table below. Of the available amounts $4 million is available for the NTI. The Consolidated Appropriations Act directs not less than $1.5 million be available for a cooperative agreement to assist small-urban, rural, and tribal public transit recipients and planning organizations with applied innovation and capacity-building that is not duplicative of the activities of National RTAP or other FTA research activities.

TECHNICAL ASSISTANCE AND WORKFORCE DEVELOPMENT

Total Appropriation available	$14,000,000
Total Apportioned	14,000,000

3. Basis for Allocation

Under the Technical Assistance and Workforce Development Program, $4 million is authorized for the NTI and the remaining funds are available to support the FTA and USDOT strategic plan for technical assistance, standards development, and workforce development. Projects may be selected through sole source, NOFOs, or RFPs. Potential recipients can register to receive notification of funding availability under this program on *Grants.gov*. Once selected, FTA enters cooperative agreements, grants, contracts, or other agreements to award funds and manage the projects carried out under this section.

4. Requirements

Eligible expenses include activities involving: (a) Technical assistance; (b) standards development; and (c) human resources and training, including workforce development programs and activities. Eligible technical assistance activities may include activities to support: (a) Compliance with the ADA; (b) compliance with coordinating planning and human services transportation; (c) meeting the transportation needs of elderly individuals; (d) increasing transit ridership in coordination with MPOs and other entities, particularly around transit-oriented development; (e) addressing transportation equity with regard to the effect that transportation planning, investment, and operations have for low-income and minority individuals; (f) facilitating best practices to promote bus driver safety; (g) compliance with Buy America requirements and pre- and post-award

audits; (h) assisting with the development and deployment of low and no emission vehicles or components for vehicles; and (i) other technical assistance activities that are necessary to advance the interests of public transportation.

Eligible standards development activities include the development of voluntary and consensus-based standards and best practices by the industry including those needed for safety, fare collection, intelligent transportation systems, accessibility, procurement, security, asset management, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

Eligible human resources and training activities include (a) employment training programs; (b) outreach programs to increase employment for veterans, females, individuals with disabilities, and minorities in public transportation; (c) research on public transportation personnel and training needs; (d) training and assistance for veteran and minority business opportunities; and (e) consensus-based national training standards and certifications in partnership with industry stakeholders. FTA funding directly allocated for these eligible purposes must be conducted through a competitive frontline workforce development program as required by Section 5314. Should FTA allocate funds for these purposes, it will advertise the available funding in a NOFO on *Grants.gov* and on its website. In addition, recipients of funds under Sections 5307, 5337, and 5339 may use 0.5 percent of their available funds to pay for workforce development activities (up to an 80 percent Federal share). There is a separate eligibility to use 0.5 percent of available funds under the sections above for training through the NTI.

The Federal share of the cost of a project carried out using a grant under this section shall not exceed 80 percent. However, for the human resources and training, including the Innovative Public Transportation Frontline Workforce Development Program, the Federal share cannot exceed 50 percent. The Federal share for other types of awards will be stated in the agreement. In some cases, FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if the non-Federal share is an evaluation factor under a competitive selection process.

The non-Federal share of the cost of a project carried out under these sections (Technical Assistance and Standards and Technical Assistance and Training) may be derived from in-kind contributions as defined in the most current version of FTA Circular 5010, ''Award Management Guidelines'' found on FTA's web page at *www.transit.dot.gov.* Application instructions and program management guidelines are set forth in FTA Circular 6100.1E, ''Research, Technical Assistance and Training Programs: Application Instructions and Program Management Guidelines'' dated May 11, 2015.

All recipients of Section 5314 funds are required to work with FTA to develop approved statements of work. There is no match requirement for the NTI.

5. Period of Availability

FTA establishes the period in which the funds must be obligated to each project. If the funds are not obligated within that time, they revert to FTA for reallocation under the program.

6. Other Program Information

FTA publishes an annual report to Congress on the technical assistance and standards activities that receive assistance under this section. Additionally, FTA must report annually on the Frontline Workforce Development Program. FTA reports can be found on FTA's website at *www.transit.dot.gov.*

L. Public Transportation Emergency Relief Program (49 U.S.C. 5324)

FTA's Emergency Relief (ER) Program is authorized to provide funding for public transportation expenses incurred because of an emergency or major disaster. Funds appropriated for this program are used to assist in responding to a declared emergency or disaster. Eligible expenses include emergency operating expenses, such as evacuations, rescue operations, and expenses incurred to protect assets in advance of a disaster, as well as capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system that the Secretary determines is in danger of suffering serious damage or has suffered serious damage because of an emergency.

Additionally, transit agencies in the affected areas may request relief from certain FTA administrative and regulatory requirements for costs incurred in support of evacuations, rescue efforts, and the efficient shut down and resumption of transit services during and after the storm. Requests for relief from these requirements may be submitted to FTA's Emergency Relief Docket at *https://www.regulations.gov/.* The docket number for calendar year 2019 is FTA–2019–0001.

FTA encourages transit agencies in affected areas to become familiar with FTA's Emergency Relief Program Manual as well as other resources and best practices, available at *www.transit.dot.gov/emergencyrelief.* When Congress appropriates funding for FTA's Emergency Relief Program, or at FEMA's direction, FTA will work with agencies to assess the impacts of the storm, including emergency operations and any potential damages to transit rolling stock or facilities.

Recipients of FTA funding affected by a declared emergency or disaster are also authorized to use funds apportioned under Sections 5307 and 5311 for emergency purposes under the provisions of FTA's Emergency Relief Program. Recipients are advised that formula funds disbursed to a grantee for emergency purposes will not be replaced or restored if funding is subsequently made available through FTA under the ER Program or by the Federal Emergency Management Agency (FEMA).

In the event of a disaster affecting a public transportation system, the affected recipient should contact its FTA Regional Office as soon as practicable to determine whether Emergency Relief Program funds are available, and to notify FTA that it plans to seek reimbursement for emergency operations and/or repairs that have already taken place or are in process. If Emergency Relief funds are unavailable, the recipient may seek reimbursement from FEMA. Properly documented costs for which the grantee has not received reimbursement from FEMA may later be reimbursed by grants made either from Emergency Relief Program funding (if appropriated) or from Sections 5307 and 5311 program funding, once the eligible recipient formally applies to FTA for reimbursement and FTA determines that the expenses are eligible for emergency relief.

More information on the Emergency Relief Program and FTA's response to disasters are available on the FTA website at *www.transit.dot.gov/emergencyrelief.*

For more information or questions on this program, please contact John Bodnar at (202) 366–9091 or john.bodnar@dot.gov.

M. State Safety Oversight Formula Program (49 U.S.C. 5329)

The State Safety Oversight Formula Program provides funding to support States with rail fixed guideway public transportation systems (rail transit

systems) to develop and carry out State Safety Oversight (SSO) Programs consistent with the requirements of 49 U.S.C. 5329.

For more information or questions on the Public Transportation Safety program, please contact Kimberly Burtch at (202) 366–0816 or kimberly.burtch@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $24,135,588 in FY 2019 to provide funding to support States in developing and carrying out the SSO Program.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $24,135,588 is available for the State Safety Oversight (SSO) Formula program as shown in the table below.

STATE SAFETY OVERSIGHT FORMULA PROGRAM

Total Appropriation available	$24,135,588
Total Apportioned	24,135,588

3. Basis for Formula Apportionment

FTA will continue to allocate funds to the States by an administrative formula, which is detailed in the **Federal Register** notice apportioning SSO Formula Grant Program FY 2013 and FY 2014 funds (79 FR 13380, March 10, 2014). Grant funds for the SSO program are apportioned to eligible States using a three-tier formula based on statutory requirements, which apportion sixty percent (60 percent) of available funds based on rail transit system passenger miles traveled (PMT), vehicle revenue miles (VRM), and directional route miles (DRM); twenty percent (20 percent) of available funds equally to each eligible State; and twenty percent (20 percent) based on the number of rail transit systems in each state.

4. Requirements

FTA requires each applicant to demonstrate in its grant application that its proposed grant activities will develop, lead to, or carry out a SSO program that meets the requirements under 49 U.S.C. 5329(e). Grant funds may be used for program operational and administrative expenses, including employee training activities. Please see the **Federal Register** notice which apportioned SSO Formula Grant Program FY 2013 and FY 2014 funds (79 FR 13380, March 10, 2014) for more information.

5. Period of Availability

SSO Formula Grant Program funds are available for the year of apportionment plus, two additional years. Any FY 2019 funds that remain unobligated at the close of business on September 30, 2021 will revert to FTA for reapportionment under the SSO Formula Grant Program.

N. State of Good Repair Program (49 U.S.C. 5337)

The State of Good Repair Program provides financial assistance to designated recipients in Urbanized Areas (UZAs) with fixed guideway and high-intensity motorbus systems for capital investments that maintain, rehabilitate, and replace aging transit assets and bring fixed guideway and high intensity motorbus systems into a state of good repair. FTA apportions funds for this program through a statutory formula using data reported to the National Transit Database (NTD).

For more information or questions on the State of Good Repair program, please contact Eric Hu at (202) 366–0870 or eric.hu@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $2,638,366,859 in FY 2019 for the State of Good Repair Program.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $2,901,366,859 is available for the State of Good Repair Program. The total amount apportioned is $2,872,353,190 after the deduction for oversight as shown in the table below.

STATE OF GOOD REPAIR PROGRAM

Total Appropriation available	$2,901,366,859
Oversight Deduction	(29,013,669)
Total Apportioned	2,872,353,190

3. Basis for Formula Apportionment

FTA apportions State of Good Repair Program funds per a statutory formula. Funds are apportioned to urbanized areas with fixed guideway or high-intensity motorbus systems that have been in operation for at least seven years. This means that only segments of fixed guideway and high-intensity motorbus systems that entered revenue service on or before September 30, 2011 are included in the formula, as identified in the NTD. Funds apportioned to urbanized areas with fixed guideway are determined by two equal elements: (1) A fixed proportion, based on the proportion an urbanized area would have received in FY 2011 to the total amount apportioned to all urbanized areas in the FY 2011 Fixed Guideway Modernization program using the fixed guideway definition defined in prior law; and (2) a variable proportion, based on the proportion of vehicle revenue miles and directional route miles attributed to an urbanized area relative to all urbanized areas, with revenue miles weighted for 60 percent of this element and directional miles weighted for 40 percent of this element. Funds apportioned to urbanized areas with motorbus systems are 60 percent based on revenue miles and 40 percent based on route miles that attributed to an urbanized area relative to all urbanized areas. The fixed guideway tier is apportioned 97.15 percent of the total appropriation, and the remaining 2.85 percent is apportioned to the high-intensity motorbus tier.

4. Requirements

In addition to the program guidance found in the FTA Circular 5300.1, ''State of Good Repair Grants Program: Guidance and application Instructions,'' all recipients must comply with the regulation at 49 CFR part 625, issued under the authority of Section 5326 for the Transit Asset Management plan (TAM).

5. Period of Availability

The State of Good Repair Program funds apportioned in this notice are available for obligation during FY 2019 plus three additional years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2022. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2022 will revert to FTA for reappointment under the State of Good Repair Program.

6. Other Program Information

In July 2016, FTA published a Final Rule (49 CFR part 625) for Transit Asset Management (81 FR 48890, July 26, 2016). Each grantee had to have a TAM plan in place by October 1, 2018 unless FTA granted it an extension. Beginning in FY 2019, all projects funded under the State of Good Repair Program must appear in the investment prioritization of the grantee's TAM plan.

O. Grants for Buses and Bus Facilities Program (49 U.S.C. 5339)

The Grants for Buses and Bus Facilities Program provides financial assistance to states, local governmental entities that operate fixed route bus service, and designated recipients for capital investments in public transportation systems to replace,

rehabilitate, lease, and purchase buses and related equipment and to construct bus-related facilities, including technological changes or innovations to modify low or no emission vehicles or facilities. Funding is provided through Section 5339(a) formula allocations, Section 5339(b) competitive grants, and Section 5339(c) low or no emission grants.

For more information or questions on the Grants for Buses and Bus Facilities Formula Program, please contact John Bodnar at (202) 366–9091 or john.bodnar@dot.gov. For information or questions regarding the competitive Buses and Bus Facilities Infrastructure Investment Program please contact Mark G. Bathrick at (202) 366–9955 or mark.bathrick@dot.gov. For information or questions regarding the competitive Low or No Emissions Grant Program, contact Tara Clark at (202) 366–2623 or tara.clark@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $454,964,489 for the Grants for Buses and Bus Facilities Formula program and $322,059,980 for the Grants for Buses and Bus Facilities Competitive program, of which $55,000,000 is available for the Low or No Emissions program in FY 2019 to provide financial assistance for the Grants for Buses and Bus Facilities Program.

2. Funding Availability

Under the Consolidated Appropriations Act, 2019, $614,964,489 is available for the Grants for Buses and Bus Facilities Formula Program, $512,059,980 is available for the Grants for Buses and Bus Facilities Competitive Program of which $85,000,000 is available for the Low or No Emission Grants Program.

After the 0.75 percent take-down for oversight, $610,352,255 is available for the Grants for Buses and Bus Facilities Formula Program, $423,219,530 is available for the Grants for Buses and Bus Facilities Competitive Program, and $85,000,000 is available for the Low or No Emission Grants Program. The amounts are shown in the table below.

Formula Grants for Buses and Bus Facilities	
Total Formula Appropriation available	$614,964,489
Oversight Deduction	(4,612,234)
Total Formula Apportioned	$610,352,255

Low or No Emission Grants for Buses and Bus Facilities	
Total Appropriation available	$85,000,000
Total Low or No Apportioned	$85,000,000

Competitive Grants for Buses and Bus Facilities	
Total Competitive Appropriation available	512,059,980
Oversight Deduction	(3,840,450)
Low or No Emission Grants	(85,500,000)
Total Bus Competition Apportioned	$423,219,530

3. Basis for Formula Apportionment

Section 5339(a) Buses and Bus Facilities Program formula funds are apportioned to States, territories, and designated recipients based on a statutory formula. Under the national distribution, each State is allocated $3.5 million and each territory is allocated $1 million for use anywhere in the State or territory for FY 2019. The remainder of the available funding is then apportioned to UZAs based on population, vehicle revenue miles, and passenger miles using the same apportionment formula and allocation process as the Urbanized Area Formula Program. Funds for UZAs under 200,000 in population are apportioned to the State for allocation to eligible recipients within such areas of the State at the Governor's discretion. Funds for UZAs with populations of 200,000 or more are apportioned directly to one or more designated recipient(s) within each UZA for allocation to eligible projects and recipients within the UZA.

FTA allocates funds under the competitive Section 5339(b) and 5339(c) programs on an annual basis based on a notice of funding opportunity, which contains detailed guidance on applicant eligibility, project eligibility, evaluation criteria, and application requirements.

4. Requirements

Eligible recipients for Section 5339(a) formula grants include: (1) Designated recipients that allocate funds to fixed route bus operators, and (2) States and local governmental entities that operate fixed route bus service. Eligible subrecipients include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public as defined by age, disability, or low income. The definition of eligible recipients applies to funding apportioned in previous fiscal years that remain available for obligation. The requirements of the Urbanized Area Formula Program apply to recipients of Section 5339 funds within an urbanized area. The requirements of Formula Grants for Rural Areas program apply to recipients of Section 5339 funds within rural areas.

Under prior law, only designated recipients were eligible direct recipients of Section 5339(a) funds. Given that State and local government entities that operate fixed route service are now eligible direct recipients of Section 5339(a) funds, FTA does not require designated recipients to maintain program management plans (PMPs) if they do not manage any sub-awards of Section 5339 funds.

For additional program requirements, refer to FTA Circular 5100, ''Buses and Bus Facilities Formula Program: Guidance and Application Instructions.''

5. Period of Availability

The Bus and Bus Facilities Program formula funds apportioned in this notice are available for obligation during FY 2019 plus three additional years. Accordingly, funds apportioned in FY 2019 must be obligated in grants by September 30, 2022. Any FY 2019 apportioned funds that remain unobligated at the close of business on September 30, 2022 will revert to FTA for reapportionment under the Buses and Bus Facilities Formula Program. Competitive program funds authorized under Sections 5339(b) and 5339(c) follow the same period of availability and reapportionment policy based on the selection date.

P. Growing States and High-Density States Formula Factors (49 U.S.C. 5340)

Federal public transportation law authorizes the use of formula factors to distribute additional funds to the Section 5307 Urbanized Area Formula program and Section 5311 Formula Grants for Rural Areas program for growing states and high-density states. FTA will continue to publish single urbanized and rural apportionments that show the total amount for Section 5307 and 5311 programs that includes Section 5340 apportionments for these programs.

For more information or questions on this program, please contact Tara Clark at (202) 366–2623 or tara.clark@dot.gov.

1. Authorized Amounts

Federal public transportation law authorizes $561,315,120 for apportionment in FY 2019 for the Growing States and High-Density States Formula factors.

2. FY 2019 Funding Availability

Under the Consolidated Appropriations Act, 2019, $601,315,120

is available for the Growing States and High-Density States formula.

GROWING STATES AND HIGH-DENSITY STATES FORMULA FACTORS

Growing States	$293,311,066
High-Density States	308,004,054
Total Apportioned	601,315,120

3. Basis for Formula Apportionment

Under the Growing States portion of the Section 5340 formula, FTA projects each State's 2025 population by comparing each State's apportionment year population (as determined by the Census Bureau) to the State's 2010 Census population and extrapolating to 2025 based on each State's rate of population growth between 2010 and the apportionment year. Each State receives a share of Growing States funds based on its projected 2025 population relative to the nationwide projected 2025 population.

Once each State's share is calculated, funds attributable to that State are divided into an urbanized area allocation and a non-urbanized area allocation based on the percentage of each State's 2010 Census population that resides in urbanized and non-urbanized areas. Urbanized Areas receive portions of their State's urbanized area allocation based on the 2010 Census population in that urbanized area relative to the total 2010 Census population in all urbanized areas in the State. These amounts are added to the Urbanized Area's Section 5307 apportionment.

The States' rural area allocation is added to the allocation that each State receives under the Formula Grants for Rural Areas program.

The High-Density States portion of the Section 5340 formula are allocated to urbanized areas in States with a population density equal to or greater than 370 persons per square mile. Based on this threshold and 2010 Census data, the States that qualify are Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey. The amount of funds provided to each of these seven States is allocated based on the population density of the individual State relative to the population density of all seven States. Once funds are allocated to each State, funds are then allocated to urbanized areas within the States based on an individual urbanized area's population relative to the population of all urbanized areas in that State.

Q. Washington Metropolitan Area Transit Authority Grants

Section 601 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) authorized an aggregate amount of $1.5 billion to be available in increments over 10 fiscal years beginning in fiscal year 2009 to assist the Washington Metropolitan Transit Authority (WMATA) in implementing its Capital Improvement Program and preventive maintenance projects. Although authorized in FY 2009, funding was appropriated beginning in FY 2010. Therefore, the incremental funding spans FY 2010 thru FY 2019.

For more information or questions on the Washington Metropolitan Area Transit Authority Grants program, please contact Eric Hu at (202) 366–0870 or eric.hu@dot.gov or Timothy Steinitz at (215) 656–7253 or timothy.steinitz@dot.gov.

1. Authorized Amounts

Section 601 of PRIIA authorizes $150,000,000.

2. FY 2109 Funding Availability

Under the Consolidated Appropriations Act, 2019, $150,000,000 is available. The total amount available is $148,500,000 after the deduction for oversight as shown in the table below.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY GRANTS

Total Appropriation available	$150,000,000
Oversight Deduction	(1,500,000)
Total Apportioned	148,500,000

3. Basis for Allocation

The funding is authorized under Section 601, Authorization for Capital and Preventive Maintenance Projects for Washington Metropolitan Area Transit Authority, of the Passenger Rail Investment and Improvement Act of 2008, (Pub. L. 110–432) Division B, Title VI.

4. Requirements

Grants may be provided for capital and preventive maintenance expenditures for WMATA after it has been determined that WMATA has placed the highest priority on investments that will improve the safety of the system, including, but not limited, to fixing the track signal system, replacing 1000 series railcars, installing guarded turnouts, buying equipment for wayside worker protection, and installing rollback protection on cars that are not equipped with the safety feature. FTA will communicate further program requirements directly to WMATA. The maximum Federal share for each project shall be for 50 percent of the net project cost of the project, and matching funds shall be provided in cash from sources other than Federal funds or revenues from the operation of public transportation systems.

5. Period of Availability

Funds appropriated for WMATA under Section 601 of PRIIA shall remain available until expended.

V. FTA Policy and Procedures for FY 2019 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

1. Caution to New Grantees

While FTA provides pre-award authority to incur expenses before grant award for formula programs, it recommends that first-time grant recipients NOT utilize this automatic pre-award authority without verifying with the appropriate FTA Regional Office that all pre-requisite requirements have been met. Commonly, a new grantee may misunderstand pre-award authority conditions and be unaware of all the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, or for an eligible activity but at an inappropriate time (*e.g.,* prior to NEPA completion), FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This pre-award spending authority permits an eligible grantee to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In this notice, FTA provides

pre-award authority through the authorization period of the FAST Act (October 1, 2015 through September 30, 2020) for capital assistance under all formula programs, so long as the conditions described below are met. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. All pre-award authority is subject to conditions and triggers stated below:

a. Operating, Planning, or Administrative Assistance

FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Grantees may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements, would have been allowable if incurred after the date of award, and the grantee is otherwise eligible to receive the funding. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. For example, a State of Good Repair Formula Grants project on or after October 1, 2018 must be included in the grantee's certified TAM Plan, a planning project must be included in a Unified Planning Work Program (UPWP); a Section 5310 project be included in a coordinated public transit-human services transportation plan (coordinated plan) and selected by the designated recipient before incurring expenses, and expenditures on State Administration expenses under State Administered programs must be consistent with the State Management Plan (as defined in FTA Circular 9040.1G, Chapter 6). Designated recipients for Section 5310 have pre-award authority for the ten percent of the apportionment they may use for program administration.

b. Transit Capital Projects

For transit capital projects, the date that costs may be incurred varies depending on the type of activity and its potential to have a significant impact on the human and natural environment as described under conditions in section 3 below. Before an applicant may incur costs when pre-award authority has not been granted, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in section 4 below.

c. Public Transportation Innovation, Technical Assistance and Workforce Development

Unless provided for in an announcement of project selections, pre-award authority does not apply to Section 5312 Public Transportation Innovation projects or Section 5314 Technical Assistance and Workforce Development projects. Before an applicant may incur costs for activities under these programs, it must first obtain a written LONP from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA headquarters office. Information about LONP procedures may be obtained from the appropriate headquarters office.

3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

a. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

b. All FTA statutory, procedural, and contractual requirements must be met.

c. No action will be taken by the grantee that prejudices the legal and administrative findings that FTA must make in order to approve a project.

d. Local funds expended by the grantee after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the grantee before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or the undertaking of certain activities that would compromise FTA's ability to comply with Federal environmental laws (*e.g.,* project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority) may render the project ineligible for FTA funding.

e. The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined based on the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

f. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

g. When a grant for the project is subsequently awarded, the grant and the Federal Financial Report in TrAMS must indicate the use of pre-award authority.

h. Environmental Requirements.

All Federal environmental requirements must be met at the appropriate time for a project to remain eligible for Federal funding. Designated recipients may incur costs for design and environmental review activities for all formula funded projects from the date of the authorization of the formula funds or for discretionary funded projects other than those funded by the Capital Investment Grants (CIG) program from the date of the announcement of the competitive allocation of funds for the project.

For projects that qualify for a categorical exclusion (CE) pursuant to 23 CFR 771.118(c), designated recipients may start activities and incur costs under pre-award authority for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials from the date of the authorization of formula funds or the date of the announcement of competitive allocations for the project.

FTA recommends that a grant applicant considering a CE pursuant to 23 CFR 771.118(c) contact FTA's Regional Office for assistance in determining the appropriate environmental review process and level of documentation necessary before incurring the above-mentioned costs, especially when the grant applicant believes a CE at 23 CFR 771.118(c)(8), (9), (10), (12), or (13) applies to its project. If FTA subsequently finds that a project does not qualify for a CE under 23 CFR 771.118(c) and the sponsor has already undertaken activities under pre-award authority, the project will be ineligible for FTA assistance.

For all other non-CIG projects that do not qualify for a CE under 23 CFR 771.118(c), grant applicants may take action and incur costs for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials from the date that FTA completes the environmental review process required by NEPA and its implementing regulations, 23 U.S.C. 139, and other environmental laws, by its issuance of a 23 CFR 771.118(d) categorical exclusion determination, a finding of no significant impact (FONSI), a combined final environmental impact statement (FEIS)/record of decision (ROD), or a ROD.

i. Planning and other requirements.

Formula funds must be authorized or appropriated and competitive project

allocations published or announced before pre-award authority can be considered. The requirements that a capital project be included in a locally adopted Metropolitan Transportation Plan, the metropolitan transportation improvement program, and the federally approved statewide transportation improvement program (23 CFR part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment or maintenance area for air quality, the conformity requirements of the Clean Air Act, 40 CFR part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority triggered by the completion of the NEPA process. For a planning project to have pre-award authority, the planning project must be included in a MPO-approved UPWP that has been coordinated with the State.

j. Federal procurement procedures, as well as the whole range of applicable Federal requirements (*e.g.,* Buy America, Davis-Bacon Act, and Disadvantaged Business Enterprise) must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, the administrative flexibility allowed by pre-award authority requires a grantee to make certain that no Federal requirements are circumvented.

k. All program specific requirements must be met. For example, projects under Section 5310 must comply with specific program requirements, including coordinated planning. Before incurring costs, grantees are strongly encouraged to consult with the appropriate FTA Regional Office regarding the eligibility of the project for future FTA funds and for questions on environmental requirements, or any other Federal requirements that must be met.

4. Pre-Award Authority for the Fixed Guideway Capital Investment Grants Program

Projects proposed for Section 5309 CIG program funds are required to follow a multi-step, multi-year process defined in law. For New Starts and Core Capacity projects, this process includes three phases: Project development (PD), engineering, and construction. For Small Starts projects, this process includes two phases: PD and construction. After receiving a letter from the project sponsor requesting entry into the PD phase, FTA must respond in writing within 45 days whether the information was sufficient for entry. If FTA's correspondence indicates the information was sufficient and the New Starts, Small Starts or Core Capacity project enters PD, FTA extends pre-award authority at that time to the project sponsor to incur costs for PD activities. PD activities include the work necessary to complete the environmental review process and as much engineering and design activities as the project sponsor believes are necessary to support the environmental review process. Upon completion of the environmental review process with a combined FEIS/ROD, ROD, FONSI, or CE determination by FTA for a New Starts, Small Starts, or Core Capacity Improvement project, FTA extends pre-award authority to the project sponsor to incur costs for as much engineering and design as needed to develop a reasonable cost estimate and financial plan for the project, utility relocation, and real property acquisition and associated relocations for any property acquisitions not already accomplished as a separate project for hardship or protective purposes or right-of-way under 49 U.S.C. 5323(q).

For Small Starts projects, upon completion of the environmental review process and confirmation from FTA that the overall project rating is at least a Medium, FTA extends pre-award authority for vehicle purchases. Upon receipt of a letter notifying a New Starts or Core Capacity project sponsor of the project's approval into the engineering phase, FTA extends pre-award authority for vehicle purchases as well as any remaining engineering and design, demolition, and procurement of long lead items for which market conditions play a significant role in the acquisition price. The long lead items include, but are not limited to, procurement of rails, ties, and other specialized equipment, and commodities.

Please contact the FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. FTA provides this pre-award authority in recognition of the long-lead time and complexity involved with purchasing vehicles as well as their relationship to the ''critical path'' project schedule. FTA cautions grantees that do not currently operate the type of vehicle proposed in the project about exercising this pre-award authority. FTA encourages these sponsors to wait until later in the process when project plans are more fully developed. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements, including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, Disadvantaged Business Enterprise program requirements and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regard to Federal requirements before exercising pre-award authority. Because there is not a formal engineering phase for Small Starts projects, FTA does not extend pre-award authority for demolition and procurement of long lead items. Instead, this work must await receipt of a construction grant award or an expedited grant agreement.

a. Real Property Acquisition

As stated above, FTA extends pre-award authority for the acquisition of real property and real property rights for CIG projects (New or Small Starts or Core Capacity) upon completion of the environmental review process for that project. The environmental review process is completed when FTA signs a combined FEIS/ROD, ROD, FONSI, or makes a CE determination. With the limitations and caveats described below, real estate acquisition may commence, at the project sponsor's risk. To maintain eligibility for a possible future FTA grant award, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR part 24. This pre-award authority is strictly limited to costs incurred: (i) To acquire real property and real property rights in accordance with the URA regulation; and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the draft environmental impact statement (DEIS), FEIS, environmental assessment (EA), or CE documentation, as needed for the selected alternative that is the subject of the FTA-signed combined FEIS/ROD, ROD, FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of the environmental review process does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception—namely when a building that has been acquired, vacated, and awaits demolition poses a potential fire safety hazard or other hazard to the community in which it is located, or is susceptible to unauthorized occupants. Demolition of

the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists. Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.118(d)(3). Pre-award authority for property acquisition is also provided when FTA completes the environmental review process for the acquisition of right-of-way as a separate project in accordance with 49 U.S.C. 5323(q). When a tiered environmental review in accordance with 23 CFR 771.111(g) is used, pre-award authority is NOT provided upon completion of the first-tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition. Project sponsors should use pre-award authority for real property acquisition relocation assistance with a clear understanding that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the environmental review process for real property acquisition and relocation assistance for displaced persons and businesses in accordance with the requirements of the URA.

b. Reimbursement of Costs Incurred Under Pre-Award Authority

Although FTA provides pre-award authority for property acquisition, long lead items, demolition, utility relocation, and vehicle purchases upon completion of the environmental review process, FTA does not award Federal funding for these activities conducted under pre-award authority until the project receives a CIG program construction grant. This is to ensure that Federal funds are not risked on a project whose advancement into construction is not yet assured.

c. National Environmental Policy Act (NEPA) Activities

NEPA requires that certain projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce adverse impacts. Projects of more limited scope also need a level of environmental review to determine whether there are significant environmental impacts or confirmation that a CE applies. FTA's regulation titled ''Environmental Impact and Related Procedures,'' at 23 CFR part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(f)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities, effective as of the earlier of the following two dates: (1) The date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project, or that includes a project grouping under 23 CFR 450.216(j) that includes the project; or (2) the date that FTA approves the project into the project development phase of the CIG program. The grant applicant must notify the FTA Regional Office to initiate the Federal environmental review process in accordance with the ''Dear Colleague'' letter from the FTA Administrator dated February 24, 2011. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, Section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process and associated engineering, and to prepare environmental, historic preservation and related documents. When a New Starts, Small Starts, or Core Capacity project is granted pre-award authority for the environmental review process, the reimbursement for NEPA activities conducted under pre-award authority may be sought at any time through Section 5307 (Urbanized Area Formula Program) or the flexible highway programs (*e.g.,* Surface Transportation Program or Congestion Mitigation and Air Quality Improvement Program). Reimbursement from the Section 5309 CIG program for NEPA activities conducted under pre-award authority is provided only for expenses incurred after entry into the project development phase and only once a construction grant agreement is signed. As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

d. Other Activities Requiring Letter of No Prejudice (LONP)

Except as discussed in paragraphs i through iii above, a CIG project sponsor must obtain a written LONP from FTA before incurring costs for any activity not covered by pre-award authority. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA Regional Office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project for a grant award at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for Section 5309 CIG program projects undertaking activities not covered under automatic pre-award authority. LONPs may be issued for formula funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized in the LONP. Receipt of Federal funding under any program is not implied or guaranteed by an LONP.

2. Conditions and Federal Requirements

The conditions and requirements for pre-award authority specified in section V.4.ii and V.4.iii above apply to all LONPs. Because project implementation activities may not be initiated before completion of the environmental review process, FTA will not issue an LONP for such activities until the environmental review process has been completed with a combined FEIS/ROD, ROD, FONSI, or CE determination.

3. Request for LONP

Before incurring costs for project activities not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval from FTA. FTA approval of an LONP is determined on a case-by-case basis. Federal funding under the CIG program is not implied or guaranteed by an LONP. Specifically, when requesting an LONP, the applicant shall provide the following items:

a. Description of the activities to be covered by the LONP.

b. Justification for advancing the identified activities. The justification should include an accurate assessment of the consequences to the project scope, schedule, and budget should the LONP not be approved.

c. Allocated level of risk and contingency for the activity requested.

C. FY 2019 Annual List of Certifications and Assurances

Section 5323(n) requires FTA to publish annually a list of all certifications required under Chapter 53 concurrently with the publication of this annual apportionment notice. The 2019 version of FTA's Certifications and Assurances is available on FTA's website. FTA cannot make an award or an amendment to an award unless the recipient has executed the latest version of FTA's Certifications and Assurances. FTA encourages recipients of formula funding to execute the new Certifications and Assurances within 90 days of this notice, to prevent any delay to application processing.

D. Civil Rights Requirements

1. Civil Rights Overview

Recipients must carry out provisions of the Americans with Disabilities act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, as amended, and the Department of Transportation's implementing regulations at 49 CFR parts 27, 37, 38, and 39. FTA's ADA Circular (4710.1) provides guidance for carrying out the regulatory requirements of the ADA. In addition, recipients must regularly prepare and submit civil rights program plans and reports to establish voluntary compliance and document policies and practices in the areas of Title VI, DBE and EEO. The current status of civil rights programs can be found on each recipient's Civil Rights Information page of TrAMS. New program plans and program updates must be submitted there as well. Before submitting an application for funding, recipients should consult with FTA Circulars and guidance and submit the following programs, as applicable:

a. Title VI of the Civil Rights Act of 1964: The Department of Transportation's Title VI implementing regulations are found in 49 CFR part 21. FTA's Title VI Circular (4702.1B) provides guidance for carrying out the regulatory requirements.

b. Disadvantaged Business Enterprise (DBE) program and triennial goal: The Department of Transportation's DBE implementing regulations are found in 49 CFR part 26 and provide guidance for carrying out the regulatory requirements and developing the triennial DBE goal.

c. Title VII of the Civil Rights Act of 1964, Equal Employment Opportunity (EEO): The Department of Transportation's EEO implementing regulations are found in 49 CFR part 21. FTA's EEO Circular (4704.1A) provides guidance for carrying out the regulatory requirements.

2. Disadvantaged Business Enterprise Program—Transit Vehicle Manufacturers (TVM)

Recipients exercising pre-award authority are expected to comply with the DBE regulations. The Department of Transportation's DBE program helps small businesses owned by socially and economically disadvantaged individuals to compete in the marketplace, and is designed to support the people who create jobs—our nation's entrepreneurs. When procuring vehicles, 49 CFR 26.49 requires that transit vehicle manufacturers (TVMs) ''must establish and submit for FTA's approval an annual overall percentage goal'' and ''one that has been approved or has not been disapproved, at the time solicitations are made eligible for bid.''

It is the recipient's responsibility to ensure that the TVM has submitted a goal to FTA and FTA has either approved it or not disapproved it. A recipient may verify a TVM has submitted a DBE goal to FTA for its review by checking the FTA Eligible TVMs List located at *www.transit.dot.gov/tvm.* A recipient may request from FTA verification of the eligibility of a TVM not included on FTA's website. Please email your request to *FTATVMSubmissions@dot.gov,* and FTA will respond via email within five business days. Failure by a recipient to verify a TVM's eligibility to bid on an FTA-assisted contract prior to award cannot be cured after award of the contract and will likely result in FTA declining to provide federal funding for the vehicle procurement.

Furthermore, recipients are also reminded of the requirement in 49 CFR 26.49(a)(4), which states, ''FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.'' Recipients are to report to FTA all vehicle purchases, post-production alterations, and retrofit procurements within the 30 days of award using the electronic Transit Vehicle Award Reporting form found at *www.transit.dot.gov/dbe.* Vehicles purchased solely for personal use and/or purchased ''off the lot'' do not need to be reported. Recipients that receive the funds directly from FTA must report on behalf of their subrecipients as well. Only the subrecipients that received the federal funds directly from FTA are responsible for reporting the vehicle awards to FTA.

E. Consolidated Planning Grants

FTA and FHWA planning funds under both the Metropolitan Planning and State Planning and Research Programs can be consolidated into a single consolidated planning grant, awarded by either FTA or FHWA. The Consolidated Planning Grants (CPG) eliminate the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first.

Under the CPG, States can report metropolitan planning program expenditures, to comply with the Uniform Guidance 2 CFR 200, subpart F, for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA rate. For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. The FHWA Order 4551.1 dated August 12, 2013, on ''Funding Transfers to Other Agencies and Among Title 23 Programs'' provides guidance and more detailed information.

For further information on CPGs, contact Ann Souvandara, Office of Budget and Policy, FTA, at (202) 366–0649 or *ann.souvandara@dot.gov.*

F. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Regional Office. All applications are filed electronically. FTA continues to award and manage grants and cooperative agreements using the Transit Award Management System (TrAMS). Information on accessing and using TrAMS, including a list of FTA points of contact for the system, can be found on FTA's website at *https://www.transit.dot.gov/TrAMS.*

FTA regional staff are responsible for working with grantees to review and process grant applications. For an application to be considered complete and ready for FTA to assign a Federal Award Identification Number (FAIN), enabling submission in TrAMS, and submission to the Department of Labor, when applicable, the following requirements must be met:

1. Recipient has registered in the System for Award Management (SAM) and its registration is current with an active status. To register an entity or check the status and renew registration, visit the SAM website at *https://www.sam.gov/SAM/.*

2. Recipient's contact information, including Dun and Bradstreet Data Universal Numbering System (DUNS), is correct. To request a DUNS number, call Dun & Bradstreet at 1–866–705–5711 or visit the website at *http://fedgov.dnb.com/webform.*

3. Recipient has properly submitted its annual certifications and assurances.

4. Recipient's Civil Rights submissions are current.

5. After October 1, 2018, the grantee has a Transit Asset Management plan in place that meets the requirements of 49 CFR part 625, or is covered by a compliant Group Plan.

6. Documentation is on file to support recipient's status as either a designated recipient for the program and area or a direct recipient.

7. Funding is available, including any flexible funds included in the budget, and split letters or suballocation letters on file, where applicable, to support the amount requested in the grant application.

8. The activity is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP).

9. All eligibility issues are resolved.

10. Required environmental findings are made.

11. The application contains a well-defined scope of work, including at least one project with accompanying project narratives, at least one budget scope code and an activity line item, Federal and non-Federal funding amounts, and milestones.

12. Major Capital Projects as defined by 49 CFR part 633 ''Project Management Oversight'' must document FTA has reviewed the project management plan and provided approval.

13. Milestone information is complete. FTA will also review status of other open grants reports to confirm financial and milestone information is current on other open awards.

FTA must also provide Congressional notification before awarding competitive grants.

Other important issues that impact FTA grant processing activities in addition to the list above are discussed below.

a. Award Budgets—Scope Codes and Activity Line Items (ALI) Codes; Financial Purpose Codes

FTA uses Scope and ALI Codes in the award budgets to track disbursements, monitor program trends, report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office, as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes.

b. Designated and Direct Recipients Documentation

For its formula programs, FTA primarily apportions funds to the designated recipient in the large UZAs (areas over 200,000), or for areas under 200,000 (small UZAs and rural areas), it apportions the funds to the Governor, or its designee (*e.g.,* State DOT). Depending on the program, as described in the individual program sections found in Section IV of this notice, further suballocation of funds may be permitted to eligible recipients who may then apply directly to FTA for the funding as direct recipients.

For the programs in which FTA may make grants to eligible direct recipients, other than the designated recipient(s), recipients are reminded that documentation must be on file to support: (1) The status of the recipient either as a designated recipient or direct recipient; and (2) the allocation of funds to the direct recipient.

Documentation to support existing designated recipients for the UZA must also be on file at the time of the first application in FY 2019. Split letters and/or suballocation letters (Governor's Apportionment letters), must also be on file to support grant applications from direct recipients. Once suballocation letters for FY 2019 funding are finalized they should be uploaded as part of the application into TrAMS.

The Direct Recipient is required to upload to TrAMS a copy of the suballocation letter (Letter) indicating their allocation of funding, for the appropriate fund program, when the applicant transmits their application for initial review. The Letter must be signed by the Designated Recipient, or as applicable in accordance with their planning requirements. If there are two Designated Recipients, both entities must sign the Letter. The Letter must: (1) Indicate the allocations to the respective Direct Recipients listed in the letter; (2) incorporate language above the signatories to reflect this agreement; and (3) make clear that the Direct Recipient will assume any/all responsibility associated with the award for the funds. When drafting the Letter, Designated Recipients may use the template language below:

''As identified in this Letter, the Designated Recipient(s) authorize the reassignment/reallocation of [enter fund source; *e.g.* Section 5307 funds] to the Direct Recipient(s) named herein. The undersigned agree to the amounts allocated/reassigned to each direct Recipient. Each Direct Recipient is responsible for its application to the Federal Transit Administration to receive such funds and assumes the responsibilities associated with any award for these funds.''

1. Payments

Once a grant has been awarded and executed, requests for payment can be processed. To process payments, FTA uses ECHO-Web, an internet accessible system that provides grantees the capability to submit payment requests online, as well as receive user-IDs and passwords via email. New applicants should contact the appropriate FTA Regional Office to obtain and submit the registration package necessary for set-up under ECHO-Web.

2. Oversight

FTA is responsible for conducting oversight activities to help ensure that grant recipients use FTA Federal financial assistance in a manner consistent with its intended purpose and in compliance with regulatory and statutory requirements. FTA conducts periodic oversight reviews to assess grantee compliance with applicable Federal requirements. Each Urbanized Area Formula Program recipient is reviewed every three years as part of FTA's Triennial Review; and States and state-wide public transportation agencies are reviewed periodically to assess the management practices and program implementation of FTA state-wide programs (*e.g.,* Planning, Rural Areas, Enhanced Mobility of Seniors and Individuals with Disabilities Programs). Other more detailed reviews are scheduled based on an annual grantee oversight assessment. Important objectives of FTA's oversight program include, but are not limited to: Determining grantee compliance with Federal requirements; identifying technical assistance needs, and delivering technical assistance to meet those needs; spotting emerging issues with grantees; recognizing when there is a need for more in-depth reviews in the areas of procurement, financial management, and civil rights; and identifying grantees with recurring or systemic issues.

3. Technical Assistance

As noted throughout the notice, recipients should review FTA's program circulars for general program guidance. FTA headquarters and regional staff will be pleased to answer questions and provide any technical assistance needed to apply for FTA program funds and manage grants. At its discretion, FTA may also use program oversight consultants to provide technical assistance to grantees on a case by case basis. This notice and the program guidance circulars identified in this document may be accessed on FTA's website: *www.transit.dot.gov.*

G. Grant Management

1. Grant Reporting

FTA grantees are required to report on their grants. It is critical to ensure reports demonstrate that reasonable progress is being made on projects. At a minimum, all awards require a Federal Financial Report (FFR) and a Milestone Progress Report (MPR) on an annual basis. Some reports are required quarterly depending on the recipient and the type of projects funded under the grant and FTA's risk-based reporting policy that went into effect on October 1, 2017. The requirements for these reports and other reporting requirements can be found in the latest version of FTA Circular 5010. FTA staff, auditors, and contractors rely on the information provided in the FFR and MPR to review and report on the status of both financial and project-level activities contained in the grant. It is critical that recipients provide accurate and complete information in these reports and submit them by the required due date. Failure to report and/or demonstrate reasonable progress on projects can result in suspension or premature closeout of a grant.

2. Inactive Grants and Grant Closeout

In FY 2019, FTA will continue to focus on identifying and working with recipients to close inactive grants. If appropriate, FTA will act to closeout and deobligate funds from these grants if reasonable progress is not made. The efficient use of funds will further FTA's fulfillment of its mission to provide efficient and effective public transportation systems for the nation.

In October 2018, FTA identified a list of grants that were awarded on or prior to September 30, 2015 that had not disbursed funds since September 30, 2017 or had never disbursed funds. FTA Regional Offices will contact grant recipients with grants that meet these criteria, to close the grant and deobligate any remaining funds unless the grantee can provide information that demonstrates projects funded by the grant remain active and there is a realistic schedule to expedite completion of the projects.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2019–14248 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0094]

Deepwater Port License Application: Bluewater Texas Terminal LLC (Bluewater)

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of intent; notice of public meeting; request for comments.

SUMMARY: The U.S. Coast Guard (USCG), in coordination with the Maritime Administration (MARAD), will prepare an environmental impact statement (EIS) as part of the environmental review of the Bluewater Texas Terminal LLC (Bluewater) Deepwater Port License Application. The application proposes the ownership, construction, operation and eventual decommissioning of an offshore oil export deepwater port that would be located in Federal waters approximately 15 nautical miles off the coast of San Patricio County, Texas in a water depth of approximately 89 feet. The deepwater port would allow for the loading of Very Large Crude Carriers (VLCCs) and other sized crude oil cargo carriers via a single point mooring buoy system.

This Notice of Intent (NOI) requests public participation in the scoping process, provides information on how to participate, and announces an informational open house and public meeting in Corpus Christi, Texas. Pursuant to the criteria provided in the Deepwater Port Act of 1974, as amended (the Act), Texas is the designated Adjacent Coastal State for this application.

DATES: There will be one public scoping meeting held in connection with the Bluewater Deepwater Port License Application. The meeting will be held in Corpus Christi, Texas, on Monday, July 22, 2019, from 6:00 p.m. to 8:00 p.m. The public meeting will be preceded by an informational open house from 4:00 p.m. to 6:00 p.m.

The public meeting may end later than the stated time, depending on the number of persons wishing to speak. Additionally, materials submitted in response to this request for comments on the Bluewater application must reach the Federal Docket Management Facility as detailed below by Wednesday, July 31, 2019.

ADDRESSES: The open house and public meeting in Corpus Christi, Texas will be held at the Omni Corpus Christi Hotel, 900 N Shoreline Boulevard, Corpus Christi, Texas, 78401, phone: (361) 887–1600, web address: *https://www.omnihotels.com/hotels/corpus-christi.* Parking is available at the venue.

The public docket for the Bluewater Deepwater Port License Application is maintained by the U.S. Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The license application is available for viewing at the *Regulations.gov* website: *http://www.regulations.gov* under docket number MARAD–2019–0094.

We encourage you to submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* If you submit your comments electronically, it is not necessary to also submit a hard copy. If you cannot submit material using *http://www.regulations.gov,* please contact either Mr. Roddy Bachman, USCG, or Ms. Yvette M. Fields, MARAD, as listed in the following **FOR FURTHER INFORMATION CONTACT** section of this document, which also provides alternate instructions for submitting written comments. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted. Anonymous comments will be accepted. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. The Federal Docket Management Facility's telephone number is 202–366–9317 or 202–366–9826, the fax number is 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. Roddy Bachman, USCG, telephone: 202–372–1451, email: *Roddy.C.Bachman@uscg.mil,* or Ms. Yvette M. Fields, MARAD, telephone: 202–366–0926, email: *Yvette.Fields@dot.gov.* For questions regarding viewing the Docket, call Docket Operations, telephone: 202–366–9317 or 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

We encourage you to attend the informational open house and public

meeting to learn about, and comment on, the proposed deepwater port. You will have the opportunity to submit comments on the scope and significance of the issues related to the proposed deepwater port that should be addressed in the EIS.

Speaker registrations will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: Elected officials, public agencies, individuals or groups in the sign-up order and then anyone else who wishes to speak.

In order to allow everyone a chance to speak at a public meeting, we may limit speaker time, extend the meeting hours, or both. You must identify yourself, and any organization you represent by name. Your remarks will be recorded and/or transcribed for inclusion in the public docket.

You may submit written material at the public meeting, either in place of, or in addition to, speaking. Written material should include your name and address and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management Facility website (see **ADDRESSES**).

Our public meeting location is wheelchair-accessible and compliant with the Americans with Disabilities Act. If you plan to attend the open house or public meeting and need special assistance such as sign language interpretation, non-English language translator services or other reasonable accommodation, please notify the USCG or MARAD (see **FOR FURTHER INFORMATION CONTACT**) at least 5 business days in advance of the public meeting. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comment on this proposal. The comments may relate to, but are not limited to, the environmental impact of the proposed action. All comments will be accepted. The public meeting is not the only opportunity you have to comment on the Bluewater Deepwater Port License Application. In addition to, or in place of, attending a meeting, you may submit comments directly to the Federal Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the 30-day scoping period.

The license application, comments and associated documentation, as well as the draft and final EISs (when published), are available for viewing at the Federal Docket Management System (FDMS) website: *http://www.regulations.gov* under docket number MARAD–2019–0094.

Public comment submissions should include:

- Docket number MARAD–2019–0094.
- Your name and address.

Submit comments or material using only one of the following methods:

- Electronically (preferred for processing) to the Federal Docket Management System (FDMS) website: *http://www.regulations.gov* under docket number MARAD–2019–0094.
- By mail to the Federal Docket Management Facility (MARAD–2019–0094), U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- By personal delivery to the room and address listed above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- By fax to the Federal Docket Management Facility at 202–493–2251.

Faxed, mailed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches and suitable for copying and electronic scanning. The format of electronic submissions should also be no larger than 8½ by 11 inches. If you mail your submission and want to know when it reaches the Federal Docket Management Facility, please include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments, all submissions will be posted, without change, to the FDMS website (*http://www.regulations.gov*) and will include any personal information you provide. Therefore, submitting this information to the docket makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS website and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see Privacy Act. You may view docket submissions at the Federal Docket Management Facility or electronically on the FDMS website.

Background

Information about deepwater ports, the statutes, and regulations governing their licensing, including the application review process, and the receipt of the current application for the proposed Bluewater deepwater port appears in the Bluewater Notice of Application, Wednesday, June 26, 2019 edition of the **Federal Register** (84 FR 30301). The ''Summary of the Application'' from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port's impact on the natural and human environment. For the proposed deepwater port, USCG and MARAD are the co-lead Federal agencies for determining the scope of this review, and in this case, it has been determined that review must include preparation of an EIS. This NOI is required by 40 CFR 1501.7. It briefly describes the proposed action, possible alternatives and our proposed scoping process. You can address any questions about the proposed action, the scoping process or the EIS to the USCG or MARAD project managers identified in this notice (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), (2) evaluation of deepwater port and onshore site/pipeline route alternatives or (3) denying the application, which for purposes of environmental review is the ''no-action'' alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when USCG and MARAD have completed the following actions:

- Invites the participation of Federal, state, and local agencies, any affected Indian tribe, the applicant, in this case Bluewater, and other interested persons;
- Determines the actions, alternatives and impacts described in 40 CFR 1508.25;
- Identifies and eliminates from detailed study, those issues that are not significant or that have been covered elsewhere;
- Identifies other relevant permitting, environmental review and consultation requirements;
- Indicates the relationship between timing of the environmental review and other aspects of the application process; and
- At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, USCG and MARAD will prepare a draft

EIS. When complete, MARAD will publish a **Federal Register** notice announcing public availability of the Draft EIS. (If you want that notice to be sent to you, please contact the USCG or MARAD project manager identified in FOR FURTHER INFORMATION CONTACT). You will have an opportunity to review and comment on the Draft EIS. The USCG, MARAD and other appropriate cooperating agencies will consider the received comments and then prepare the Final EIS. As with the Draft EIS, we will announce the availability of the Final EIS and give you an opportunity for review and comment. The Act requires a final public hearing to be held in the Adjacent Coastal State. Its purpose is to receive comments on matters related to whether or not an operating license should be issued. The final public hearing will be held after the Final EIS is made available for public review and comment.

Summary of the Application

Bluewater is proposing to construct, own, and operate a deepwater port terminal in the Gulf of Mexico (GOM) to export domestically produced crude oil. The proposed project involves the design, engineering, and construction of a deepwater port, approximately 56.48 miles of pipeline infrastructure, and a booster station. The Bluewater deepwater port would allow for up to two (2) very large crude carriers (VLCCs) or other crude oil carriers to moor at single point mooring (SPM) buoys and connect with the deepwater port via floating connecting crude oil hoses. During single vessel loading operations, the proposed project is capable of loading rates of up to approximately 80,000 barrels per hour (bph) and during simultaneous vessel loading operations, the proposed project is capable of loading rates of 40,000 bph. The facility is expected to service 16 Very Large Crude Carriers (VLCCs) per month.

For the purposes of this application, the proposed Bluewater project is described in three distinguishable segments by locality, to include the onshore components, the inshore components and the offshore components.

Onshore components associated with the proposed Bluewater project are defined as those components on the landward side of the western Redfish Bay Mean High Tide (MHT) line, located in San Patricio and Aransas Counties, Texas. The onshore project components include:

- Approximately 22.20 miles of two (2) new parallel 30-inch-diameter crude oil pipelines extending from a planned multi-use terminal located south of the City of Taft in San Patricio County, Texas. The planned multi-use terminal will consist of multiple inbound and outbound crude oil pipelines. Two of those outbound pipelines compose the proposed pipeline infrastructure that will extend to the inshore pipeline which connects to the proposed Harbor Island Booster Station (Booster Station) described below.

Inshore components associated with the proposed Bluewater project are defined as those components located between the western Redfish Bay MHT line and the MHT line located at the interface of San Jose Island and the GOM. Inshore project components include:

- Approximately 7.15 miles of two (2) new 30-inch-diameter crude oil pipelines connecting to the onshore facility, an approximately 19-acre booster station and a connection to the offshore pipeline. The onshore pipeline would be located within San Patricio County, Texas and Nueces County, Texas and the Booster Station would be located on Harbor Island in Nueces County, Texas.
- The Booster Station will include approximately 19 acres of land with two (2) aboveground crude oil storage tanks, each with a total storage capacity of 181,000 barrels and two (2) 181,000-barrel water storage tanks. The purpose of water tanks is to allow for the clearing of the pipeline infrastructure. During clearing operations, water from the water storage tanks would be pumped through the pipelines and back to the Booster Station. The displaced crude oil would be placed in the two crude oil storage tanks.
- Additionally, the Booster Station will contain equipment and piping to provide interconnectivity with the crude oil supply network for the Bluewater project. This would include the installation of four (4) 5,500 horsepower electrically powered motors in a series electronically locked into operation as two booster pumping systems delivering approximately 11,000 horsepower to each of the two (2) 30-inch diameter pipelines. Further, the Booster Station would house the necessary infrastructure to support the transport of crude oil through the proposed pipeline infrastructure to the deepwater port for the loading of moored vessels to include a fire water tank, firewater pumps, stormwater runoff treatment plant and pumps, emergency generator, foam and water monitors and an operations office.

Offshore components associated with the proposed Bluewater project are defined as those components located seaward of the MHT line located at the interface of San Jose Island and the GOM. The offshore project components include:

- Approximately 27.13 miles of two (2) new 30-inch-diameter crude oil pipelines extending from the shoreline crossing at the interface of San Jose Island to the offshore Bluewater deepwater port for crude oil delivery to Single Point Mooring (SPM) buoys.
- Two (2) SPMs in Outer Continental Shelf Matagorda Island Area TX4 lease blocks 698 and 699, approximately 15 nautical miles (17.26 statute miles) off the coast of San Patricio County, Texas in a water depth of approximately 89 feet.
- A catenary anchor leg mooring (CALM) system for each SPM buoy connected to a pipeline end manifold (PLEM) system, mooring hawsers, floating hoses, and sub-marine hoses to allow for the loading of crude oil to vessels moored at the proposed deepwater port. The SPM buoy system will be permanently moored with a symmetrically arranged six-leg anchor dual chain configuration extending to twelve (12) 72-inch-diameter pile anchors installed on the seafloor.
- Each of the proposed SPM buoy systems will consist of inner and outer cylindrical shells subdivided into twelve equal-sized watertight radial compartments. A rotating table will be affixed to the SPM buoy and allow for the connection of moored vessels to the SPM buoy system via mooring hawsers. Two floating hoses equipped with marine break-away couplings will be utilized for the transfer of crude oil from the SPM buoy systems to the moored vessel. Floating hoses will be equipped with strobe lights at 15-foot intervals for detection at night and low-light conditions.

Privacy Act

The electronic form of all comments received into the FDMS can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The Department of Transportation Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting *http://www.regulations.gov.*

(Authority: 33 U.S.C. 1501, *et seq.;* 49 CFR 1.93(h))

Dated: June 27, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–14177 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0093]

Deepwater Port License Application: Texas GulfLink LLC

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of intent; notice of public meeting; request for comments.

SUMMARY: The U.S. Coast Guard (USCG), in coordination with the Maritime Administration (MARAD), will prepare an environmental impact statement (EIS) as part of the environmental review of the Texas GulfLink LLC (Texas GulfLink) deepwater port license application. The application proposes the ownership, construction, operation and eventual decommissioning of an offshore oil export deepwater port that would be located in Federal waters approximately 28.3 nautical miles off the coast of Brazoria County, Texas in a water depth of approximately 104 feet. The deepwater port would allow for the loading of Very Large Crude Carriers (VLCCs) and other sized crude oil cargo carriers via two single point mooring buoy systems.

This Notice of Intent (NOI) requests public participation in the scoping process, provides information on how to participate and announces an informational open house and public meeting in Lake Jackson, Texas. Pursuant to the criteria provided in the Deepwater Port Act of 1974, as amended, (the Act), Texas is the designated Adjacent Coastal State for this application.

DATES: There will be one public scoping meeting held in connection with the Texas GulfLink deepwater port application. The meeting will be held in Lake Jackson, Texas on Wednesday, July 17, 2019, from 6:00 p.m. to 8:00 p.m. The public meeting will be preceded by an informational open house from 4:00 p.m. to 6:00 p.m.

The public meeting may end later than the stated time, depending on the number of persons wishing to speak. Additionally, materials submitted in response to this request for comments on the Texas GulfLink deepwater port license application must reach the Federal Docket Management Facility as detailed below by Wednesday, July 31, 2019.

ADDRESSES: The open house and public meeting Lake Jackson, TX will take place in the Marriott Courtyard Lake Jackson, 159 State Highway 288, Lake Jackson, Texas 77566, phone: (979) 297–7300, web address: *https://www.marriott.com/hotels/travel/ljncy-courtyard-lake-jackson/.* Free parking is available at the venue.

The public docket for the Texas GulfLink deepwater port license application is maintained by the U.S. Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The license application is available for viewing at the *Regulations.gov* website: *http://www.regulations.gov* under docket number MARAD–2019–0093.

We encourage you to submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* If you submit your comments electronically, it is not necessary to also submit a hard copy. If you cannot submit material using *http://www.regulations.gov,* please contact either Mr. Patrick Clark, USCG or Yvette Fields, MARAD, as listed in the following **FOR FURTHER INFORMATION CONTACT** section of this document, which also provides alternate instructions for submitting written comments. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted. Anonymous comments will be accepted. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. The Federal Docket Management Facility's telephone number is 202–366–9317 or 202–366–9826, the fax number is 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Clark, U.S. Coast Guard, telephone: 202–372–1358, email: *Patrick.W.Clark@uscg.mil* or Ms. Yvette Fields, Maritime Administration, telephone: 202–366–0926, email: *Yvette.Fields@dot.gov.* For questions regarding viewing the Docket, call Docket Operations, telephone: 202–366–9317 or 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

We encourage you to attend the informational open house and public meeting to learn about, and comment on, the proposed deepwater port. You will have the opportunity to submit comments on the scope and significance of the issues related to the proposed deepwater port that should be addressed in the EIS.

Speaker registrations will be available at the door. Speakers at the public scoping meeting will be recognized in the following order: Elected officials, public agencies, individuals or groups in the sign-up order and then anyone else who wishes to speak.

In order to allow everyone a chance to speak at a public meeting, we may limit speaker time, extend the meeting hours, or both. You must identify yourself, and any organization you represent, by name. Your remarks will be recorded and/or transcribed for inclusion in the public docket.

You may submit written material at the public meeting, either in place of, or in addition to, speaking. Written material should include your name and address and will be included in the public docket.

Public docket materials will be made available to the public on the Federal Docket Management Facility website (see **ADDRESSES**).

Our public meeting location is wheelchair-accessible and compliant with the Americans with Disabilities Act. If you plan to attend an open house or public meeting and need special assistance such as sign language interpretation, non-English language translator services or other reasonable accommodation, please notify the USCG or MARAD (see **FOR FURTHER INFORMATION CONTACT**) at least 5 business days in advance of the public meeting. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comment on this proposal. The comments may relate to, but are not limited to, the environmental impact of the proposed action. All comments will be accepted. The public meeting is not the only opportunity you have to comment on the Texas GulfLink deepwater port license application. In addition to, or in place of, attending a meeting, you may submit comments directly to the Federal Docket Management Facility during the public comment period (see **DATES**). We will consider all comments and material received during the 30-day scoping period.

The license application, comments and associated documentation, as well as the draft and final EISs (when published), are available for viewing at the Federal Docket Management System (FDMS) website: *http://*

www.regulations.gov under docket number MARAD–2019–0093.

Public comment submissions should include:

- Docket number MARAD–2019–0093.
- Your name and address.

Submit comments or material using only one of the following methods:

- Electronically (preferred for processing) to the Federal Docket Management System (FDMS) website: *http://www.regulations.gov* under docket number MARAD–2019–0093.
- By mail to the Federal Docket Management Facility (MARAD–2019–0093), U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- By personal delivery to the room and address listed above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- By fax to the Federal Docket Management Facility at 202–493–2251.

Faxed, mailed or hand delivered submissions must be unbound, no larger than 8½ by 11 inches and suitable for copying and electronic scanning. The format of electronic submissions should also be no larger than 8½ by 11 inches. If you mail your submission and want to know when it reaches the Federal Docket Management Facility, please include a stamped, self-addressed postcard or envelope.

Regardless of the method used for submitting comments, all submissions will be posted, without change, to the FDMS website (*http://www.regulations.gov*) and will include any personal information you provide. Therefore, submitting this information to the docket makes it public. You may wish to read the Privacy and Use Notice that is available on the FDMS website and the Department of Transportation Privacy Act Notice that appeared in the **Federal Register** on April 11, 2000 (65 FR 19477), see Privacy Act. You may view docket submissions at the Federal Docket Management Facility or electronically on the FDMS website.

Background

Information about deepwater ports, the statutes, and regulations governing their licensing, including the application review process, and the receipt of the current application for the proposed Texas GulfLink deepwater port appears in the Texas GulfLink Notice of Application, Wednesday, June 26, 2019 edition of the **Federal Register** (84 FR 30298). The ''Summary of the Application'' from that publication is reprinted below for your convenience.

Consideration of a deepwater port license application includes review of the proposed deepwater port's impact on the natural and human environment. For the proposed deepwater port, USCG and MARAD are the co-lead Federal agencies for determining the scope of this review, and in this case, it has been determined that review must include preparation of an EIS. This NOI is required by 40 CFR 1501.7. It briefly describes the proposed action, possible alternatives and our proposed scoping process. You can address any questions about the proposed action, the scoping process or the EIS to the USCG or MARAD project managers identified in this notice (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Action and Alternatives

The proposed action requiring environmental review is the Federal licensing of the proposed deepwater port described in ''Summary of the Application'' below. The alternatives to licensing the proposed port are: (1) Licensing with conditions (including conditions designed to mitigate environmental impact), (2) evaluation of proposed deepwater port and onshore site/pipeline route alternatives or (3) denying the application, which for purposes of environmental review is the ''no-action'' alternative.

Scoping Process

Public scoping is an early and open process for identifying and determining the scope of issues to be addressed in the EIS. Scoping begins with this notice, continues through the public comment period (see **DATES**), and ends when USCG and MARAD have completed the following actions:

- Invites the participation of Federal, state, and local agencies, any affected Indian tribe, the applicant, in this case Texas GulfLink, and other interested persons;
- Determines the actions, alternatives and impacts described in 40 CFR 1508.25;
- Identifies and eliminates from detailed study, those issues that are not significant or that have been covered elsewhere;
- Identifies other relevant permitting, environmental review and consultation requirements;
- Indicates the relationship between timing of the environmental review and other aspects of the application process; and
- At its discretion, exercises the options provided in 40 CFR 1501.7(b).

Once the scoping process is complete, USCG and MARAD will prepare a draft EIS. When complete, MARAD will publish a **Federal Register** notice announcing public availability of the Draft EIS. (If you want that notice to be sent to you, please contact the USCG or MARAD project manager identified in **FOR FURTHER INFORMATION CONTACT**). You will have an opportunity to review and comment on the Draft EIS. The USCG, MARAD and other appropriate cooperating agencies will consider the received comments and then prepare the Final EIS. As with the Draft EIS, we will announce the availability of the Final EIS and give you an opportunity for review and comment. The Act requires a final public hearing be held in the Adjacent Coastal State. Its purpose is to receive comments on matters related to whether or not a deepwater port license should be issued to the applicant by the Maritime Administrator. The final public hearing will be held in Lake Jackson, Texas after the Final EIS is made available for public review and comment.

Summary of the Application

Texas GulfLink is proposing to construct, own, and operate a deepwater port terminal in the Gulf of Mexico to export domestically produced crude oil. Use of the DWP would include the loading of various grades of crude oil at flow rates of up to 85,000 barrels per hour (bph). At full operating capacity, fifteen Very Large Crude Carrier (VLCC) vessels (or equivalent volumes) would be loaded per month from the proposed deepwater port for a total of 1 million barrels per day. VLCCs can carry cargos of approximately 2 million barrels of oil. Loading of one VLCC vessel is expected to take 33 hours.

The overall project would consist of offshore components as well as onshore components. The GulfLink deepwater port offshore and marine components would consist of the following:

- Texas GulfLink Offshore Metering Platform and Control Platform: Two (2) fixed offshore platforms with piles in Outer Continental Shelf Galveston Area Lease Block 423, approximately 28.3 nautical miles off the coast of Freeport, Texas in a water depth of approximately 104 feet. The fixed offshore platform would be comprised of a metering platform and a control platform. The Control Platform will contain personnel living quarters, a helideck and a vessel traffic controller control room, utilizing a state-of-the-art radar system to monitor the port on a 24-hour basis. The Metering Platform will contain: Generators, pig receivers, lease automatic custody transfer (LACT) unit, oil displacement prover loop, sampling pot, radar tower, electrical and instrumentation building, portal cranes,

and a crane. Each platform will have three levels with the upper level at a 109-foot elevation, the midlevel at 84 feet, and the lower level at 69 feet.

• One (1) 42-inch outside diameter, 28.3-nautical-mile (32.57 statute mile) long crude oil pipeline would be constructed from the shoreline crossing in Brazoria County, Texas, to the GulfLink deepwater port for crude oil delivery. This pipeline would connect the onshore Jones Creek Terminal described below to the offshore Texas GulfLink deepwater port.

• The platform is connected to VLCC tankers for loading by two (2) separate 42-inch diameter departing pipelines. Each pipeline will depart the offshore platform, carrying the oil to a Pipeline End Manifold (PLEM) in approximately 104 feet water depth located 1.25 nautical miles (1.43 statute miles) from the offshore platform. Each PLEM is then connected through two (2) 24-inch hoses to a Single Point Mooring (SPM) Buoy. Two 24-inch floating loading hoses will connect the SPM Buoy to the VLCC or other crude oil carrier. SPM Buoy 1 is in Outer Continental Shelf Galveston Area Lease Block 423 and SPM Buoy is in Outer Continental Shelf Galveston Area Lease Block A36.

The Texas GulfLink deepwater port onshore storage and supply components would consist of the following:

• Texas GulfLink Onshore Storage Terminal: The proposed Jones Creek Terminal would be located in Brazoria County, Texas, on approximately 200 acres of land consisting of eight (8) above ground storage tanks, each with a working storage capacity of 685,000 barrels, for a total onshore storage capacity of approximately 6 million barrels. The facility can accommodate five (5) additional tanks, bringing the total to thirteen (13) tanks or 9.8 million barrels of shell capacity with 8.6 million barrels of working capacity, should commercial drivers dictate.

• The Jones Creek Terminal also would include: Six (6) electric-driven mainline crude oil pumps; three (3) electric driven booster crude oil pumps; one (1) crude oil pipeline pig launcher; one (1) crude oil pipeline pig receiver; two (2) measurement skids for measuring incoming crude oil—one (1) skid located at the incoming pipeline from the Bryan Mound facility, and one (1) skid installed for the outgoing crude oil barrels leaving the tank storage to be loaded on the VLCC; and ancillary facilities to include an operations control center, electrical substation, offices, and warehouse building.

• Two (2) onshore crude oil pipelines would be constructed onshore to support the Texas GulfLink deepwater port and include the following items:

○ One (1) proposed incoming 9.45 statute mile 36-inch outside diameter pipeline originating at the Department of Energy (DOE) facility in Bryan Mound with connectivity to the Houston market.

○ One (1) proposed outgoing 12.45 statute mile 42-inch outside diameter connection from the Jones Creek Terminal to the shore crossing where this becomes the subsea pipeline supplying the offshore deepwater port.

Privacy Act

The electronic form of all comments received into the FDMS can be searched by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The Department of Transportation Privacy Act Statement can be viewed in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78) or by visiting *http://www.regulations.gov.*

(Authority: 33 U.S.C. 1501, *et seq.;* 49 CFR 1.93(h))

Dated: June 27, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–14178 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0013; Notice 1]

Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain BFGoodrich All-Terrain T/A KO2 replacement tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* MNA filed a noncompliance report dated November 13, 2018, and subsequently petitioned NHTSA on December 10, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MNA's petition.

DATES: Send comments on or before August 2, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

• *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

• *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://*

www.regulations.gov by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: MNA has determined that certain All-Terrain TA KO2 tires do not comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated November 13, 2018, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on December 10, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of MNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. *Equipment Involved:* Approximately 415 BFGoodrich All-Terrain T/A KO2 replacement tires, size LT275/65R20, manufactured between September 2, 2018, and October 6, 2018, are potentially involved.

III. *Noncompliance:* MNA explains that the noncompliance is that the subject tires were marked with an incorrectly sequenced Tire Identification Number and therefore, do not meet the requirements of paragraph S5.5.1(b) of FMVSS No. 139 Specifically, the DOT symbol was incorrectly placed between the first and second grouping of the TIN, when the symbol should be placed either in front of or below the TIN, thus, both the DOT symbol and the plant code were marked in the incorrect sequence.

IV. *Rule Requirements:* Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must be labeled with the TIN on the intended outboard sidewall of the tire, as required by 49 CFR part 574. Either the TIN or a partial TIN should contain all characters in the TIN, except for the date code and, at the discretion of the manufacturer, any optional code, and must be labeled on the other sidewall of the tire. If the tire does not have an intended outboard sidewall, the tire must be labeled with the TIN required by 49 CFR part 574 on one sidewall and with either the TIN, containing all characters in the TIN except for the date code and at the discretion of the manufacturer, any optional code, on the other sidewall.

V. *Summary of Petition:* MNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. Operational Safety

a. The TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable FMVSSs and all other applicable regulations.

b. The incorrect marking sequence of the DOT symbol and TIN plant code has no bearing on tire performance.

c. The subject tires are properly marked with all other markings required under FVMSS No. 139 such as S5.5(c) maximum permissible inflation pressure and S5.5(d) maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.

d. The subject tires contain the DOT symbol on both sidewalls thus indicating conformance to applicable FMVSS.

2. Identification & Traceability

a. All information required by 49 CFR 574.5 for Tire Identification Number (plant code + size code + option code + date code) is present on the sidewall of the tire.

b. The marking discrepancy only exists on one sidewall of the tire. The opposing sidewall has the correct sequence of DOT + plant code + size code + option code.

c. For identification and traceability purposes the key information of plant code and manufacturing date is present on the tire.

d. In the event that dealer/owner notifications are required either the intended marking (DOT BF) or the actual marking (BF DOT) would serve as an identifier of the tire.

3. Proactive Measures

a. The mismarking has been communicated to BFGoodrich Customer Care representatives in order to effectively handle any inquiries from dealers or owners regarding the subject tires.

MNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–14139 Filed 7–2–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

[Case IDs VENEZUELA–16092, VENEZUELA–16093]

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 FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant

Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; 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 (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On June 27, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are subject to U.S. jurisdiction are blocked under the relevant sanctions authority listed below.

Individuals

1. MOTTA DOMINGUEZ, Luis Alfredo (Latin: MOTTA DOMÍNGUEZ, Luis Alfredo) (a.k.a. MOTTA DOMINGUEZ, Luis (Latin: MOTTA DOMÍNGUEZ, Luis)), Aragua, Venezuela; DOB 02 Jul 1958; Gender Male; Cedula No. 4423539 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13692 of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela'' (E.O. 13692), as amended by Executive Order 13857 of January 25, 2019, ''Taking Additional Steps To Address the National Emergency With Respect to Venezuela,'' (E.O. 13857) for being a current or former official of the Government of Venezuela.

2. LUGO GOMEZ, Eustiquio Jose (Latin: LUGO GÓMEZ, Eustiquio José), Caracas, Capital District, Venezuela; DOB 09 Mar 1964; Gender Male; Cedula No. 8435812 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

Dated: June 27, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–14212 Filed 7–2–19; 8:45 am]

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