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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AD10

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or Agency) published a proposed rule on June 20, 2018 to amend the current regulation for the Single-Family Housing Guaranteed Loan Program (SFHGLP) Single Close Combination Construction to Permanent Loans (aka ''single close loans''), and now adopts the proposed changes in this final rule with some modifications. As proposed, the Agency will amend the regulation to ease the financial costs of interim construction financing for non-depository lenders (warehouse line of credit lenders or warehouse lenders) by allowing a temporary interest rate higher than the permanent note rate for interim construction financing, remove the requirement for loan modification or re-amortization once construction is complete, and allow for the reserve of regularly scheduled principal, interest, taxes and insurance (PITI) payments during the construction period. The final rule clarifies that the PITI reserve is an eligible use of single close loan funds. In addition, based on comments received, the Agency will allow single close loans for the rehabilitation of existing dwellings upon their purchase and eliminate maximum interest rate cap requirements for all SFHGLP loans. For clarity and completeness, the final rule also provides a definition of a warehouse lender and updates lender mortgage record retention requirements.

DATES: Effective on August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Kate Jensen, Finance and Loan Analyst, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–0784, telephone: (503) 894–2382, email is *kate.jensen@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866, Classification

This rule has been determined to be non-significant and therefore was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under SFHGLP, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This final rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Programs.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 imposes requirements on RHS in the development of regulatory policies that have Tribal implications or preempt tribal laws. RHS has determined that the final rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus,

this final rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RHS is not aware and would like to engage with RHS on this rule, please contact USDA's Native American Coordinator at (720) 544–2911 or *AIAN@usda.gov.*

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each SFHGLP loan in accordance with 2 CFR part 415, subpart C.

Programs Affected

The program affected by this regulation is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The assigned OMB control number is 0570–0179.

E-Government Act Compliance

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

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(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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Background Information

The Agency is amending its regulations to provide increased flexibility in loan terms to facilitate and encourage single close loans, which will stimulate new construction, rehabilitation, and homeownership in rural areas. Currently, warehouse lenders have considerable difficulty making affordable guaranteed single close loans because of the inability to cover construction costs and make payments to secondary market investors during the construction period. The proposed rule (83 FR 28547) sought to address these challenges through the following:

- Allow warehouse lenders the flexibility to charge a temporary and higher interest rate to cover their line of credit costs during construction as an eligible loan purpose. The temporary higher interest rate for the single close loan program would be limited to the construction period and must revert to the underlying promissory note rate or lower for the balance of the loan.
- Permit all lenders to create a reserve account for a up to 12 months of a borrower's regularly scheduled PITI payments from the original loan closing to make the loan payments during the construction period. This would make the process more affordable to the borrower who will not have to make both their existing housing payment and the construction loan payment at the same time during construction. While this change is available to all lenders, it will be predominantly utilized by those lenders who immediately securitize a loan after loan closing. The PITI reserve is intended solely for the use of making the borrower's fully amortized PITI payment during the construction period. The PITI reserve cannot be combined with any other reserve account and should any funds remain in the PITI reserve after construction is complete the lender is required to apply the excess funds as a principal payment.
- Remove the requirement for a loan modification or re-amortization at the end of the construction period, allowing loans to remain in mortgage backed securities without interruption.

In addition to adopting the proposed changes above, the final rule also makes several other changes based on comments received in response to the proposed rule. First, single close loan purposes will include rehabilitation when the property being purchased requires rehabilitation to meet program standards. Second, the final rule adds the definition of a warehouse lender. Third, the final rule updates lender mortgage record retention requirements to include single close construction documentation. Lastly, the final rule will update the regulation to eliminate the maximum interest rate cap for all SFHGLP loans to allow lenders the increased ability to extend credit to eligible applicants. This change is based on comments received in response to the proposed rule as well as the Request for Information (RFI) on August 17, 2018 (83 FR 41056) reduction or elimination of the interest rate cap.

These actions are taken to provide low- and moderate-income households in rural areas greater opportunities to acquire affordable newly constructed homes or rehabilitate an existing home, provide greater cost efficiency during construction, and increase viability in the secondary mortgage markets. These changes will expand affordable housing opportunities for rural borrowers and local builders as well as the economic viability of rural communities. Each change and Agency response to any comments to the proposed rule is discussed below. Topics are addressed below in order of appearance in the regulation, not based in order of predominance.

§ 3555.104 Loan Terms

Nine respondents fully supported the Agency's proposal to add provisions allowing an increased interest rate for interim construction financing during

the construction period. This provision will increase participation in the single close loan program by lenders who utilize a warehouse line of credit during construction.

One respondent replied unfavorably to the Agency's proposal to allow a higher rate of interest during the construction period, expressing concern that the current interest rate cap should stay in place to ensure customers falling within the lower income brackets have a chance at becoming homeowners. The Agency appreciates the comment; however, if warehouse lenders cannot recover their construction costs, they will not make such loans at all, since the current regulations are too restrictive. The changes do not take away existing loan opportunities from customers—rather, the changes allow single close loans to become available to more borrowers. In addition, lenders must still underwrite loans in accordance with existing regulations and guidance on applicant income, debt ratios, repayment ability, and other aspects that contribute to affordable loans and successful homeownership. Loans are also subject to the disclosure requirements of the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).

Allowing the higher interest rate during the construction period will expand opportunities for warehouse lenders to participate in the SFHGLP increasing competition in the marketplace. Encouraging new construction increases affordable housing opportunities in rural communities removing barriers to homeownership for low- to moderate-income applicants. The higher interest rate would be for a limited time and amortized on the loan advances, not the entire loan amount, and the interest costs can be included as an eligible loan purpose.

Therefore, the Agency is finalizing the proposal to allow a higher interest rate for warehouse lender interim construction financing accrued during the construction period up to twelve months. The interest rate must revert to a rate that is no higher than the promissory note rate once the construction period has ended. The Agency clarifies in the final rule that the higher interest rate for interim construction financing is only available for loans made by warehouse lenders. In addition, the Agency retains the authority to establish a maximum interest rate in the handbook as necessary to further program goals and protect the best interest of the government.

Two respondents recommended the Agency to raise or remove the maximum interest rate cap program wide for all SFHGLP loans, not just for the single close loans. Both respondents commented that raising or removing the current interest rate cap provides lenders the flexibility to offer reasonable rates to their clients or participate in a concurrent affordable housing product offered by a Housing Finance Agency (HFA). In response to the RFI which sought opinion regarding the reduction or elimination of the interest rate cap for all SFHGLP loans, most comments were in favor of eliminating the interest rate cap, citing the inability of the HFAs to adequately price the SFHGLP product. The Agency agrees with the comments and will revise section 3555.10 and 3555.104(a)(3) to eliminate the maximum interest rate cap, and instead require approved lenders and borrowers to negotiate the best interest rate in compliance with all applicable laws. The change is also consistent with policies of other federal mortgage credit programs, such as the Department of Veterans Affairs and Department of Housing and Urban Development. All loans must still meet program underwriting requirements and are subject to RESPA and TILA.

§ 3555.105 Combination Construction and Permanent Loans

Nine respondents fully supported the Agency's proposal to allow a reserve of up to 12 months of the borrower's regularly scheduled PITI payments during the construction period.

The proposed rule used ''reserve'' and ''escrow'' interchangeably when discussing this PITI account. Based on feedback regarding industry standards, the final rule refers to the PITI account as a ''reserve'', not an ''escrow''. The PITI reserve is separate from the construction escrow and the two accounts must not be combined.

One respondent supported the regulation changes for the single close option but requested clarification on fair market appraisal value and the appraiser's ability to use the cost approach to determine fair market value. The respondent expressed concern that the inclusion of a reserve account for twelve months PITI payments as an eligible loan cost could potentially increase the loan amount over the fair market appraised value, forcing the borrower to incur out of pocket expenses. The Agency agrees that in some circumstances the home may not appraise for the full value of the dwelling and construction. In such cases, a conditional commitment will not be issued, the loan will not be closed, construction will not be initiated, and the borrower will not incur out of pocket expenses; however, when the appraiser has been fully informed of all the hard and soft costs for the new construction, including any reserves, the homes are more likely to appraise for the complete cost or value of the new construction. No change is made to the provision.

One respondent requested the Agency to allow the use of the cost approach to determine the fair market value of single close construction properties. The respondent believes the appraiser should determine if the cost approach or sales comparison approach will best determine property value. Currently, the Agency considers the sales comparison approach (also referred to as the market value approach) as the principal method for appraisers to determine their opinion of value. However, the Uniform Standards of Professional Appraisal Practices (USPAP) also provide for appraisers to use the cost approach to value. The Agency agrees the cost approach is a useful tool for appraisers to use. While the current regulation can encompass both cost approach and sales comparison approach, the Agency will update § 3555.105(d)(2) to reiterate that appraisals must be conducted in accordance with USPAP and clarify in the handbook that either the cost or market value approach is acceptable. No other change is made in this provision.

One respondent requested the Agency to provide clear guidance addressing the collection and financing of the PITI reserve account along with any refund policy for the PITI reserve account should the property sell within twelve months. Typically, a property will not be sold within the construction period without extenuating circumstances. Under § 3555.105(g), in the event of unplanned changes during construction, a lender remains responsible for completion of improvements satisfactory to Rural Development, and that the loan will be serviced in accordance with applicable regulations. As explained in Chapter 12 of Handbook 3555, all available funds in the construction escrow account would be used to complete the project and remaining funds would be applied as a principal reduction. This final rule clarifies such policy in § 3555.105(g) and extends the policy to any remaining PITI reserve funds. Therefore, under the final rule, in the event of unplanned changes preventing completion of construction, the lender must complete improvements to the satisfaction of Rural Development and apply any remaining PITI reserve and construction escrow funds (after satisfactory

improvements are complete) as a principal reduction. The lender would proceed with loan servicing options as appropriate. The Agency is also amending § 3555.105(e) to require mortgage file documentation evidencing the lender's use of any remaining PITI reserve or construction escrow funds for principal reduction.

One respondent requested the Agency to provide additional guidance for the distribution of loan funds during construction and clarification on whether the lender or servicer will be responsible for the distribution of those funds. It is the responsibility of the lender to pay out monies from escrow to the builder during construction upon written approval from the borrower and to document that the appropriate work was completed in accordance with § 3555.105(a)(5). No change is made in this provision.

One respondent supported the changes to the single close loan program but requested the Agency to remove the requirement to conduct individual credit checks on contractors. Section 3555.105(b) does not require individual credit checks on contractors; however, the Agency will clarify the administrative guidance (Handbook 3555 Chapter 12) providing options to determine and document a builder's credit history. No change is made in this provision.

Three respondents fully supported the Agency's proposed amendments to the single close loan program and requested the Agency to extend the program to include rehabilitation loans. The Agency agrees with the comments submitted and will amend the language in § 3555.105(c) and § 3555.105(e) to include rehabilitation with the purchase of an existing dwelling as an allowable single close loan purpose.

After careful review and consideration of the comments submitted, the Agency decided the addition of rehabilitation in the single close loan program will increase inventory options and expand construction opportunities for rural applicants and lenders. The revisions allow the lender to finance the rehabilitation and purchase of an existing dwelling, to recapture interest accrued on a business line of credit during construction, and to reserve the entire regularly scheduled fully amortized PITI payment for the construction period. Allowable rehabilitation costs are those required to bring the dwelling into compliance with program standards. The need for these types of repairs are typically mentioned in the appraisal or inspection report. Single close loans may not be used to finance standalone rehabilitation without purchase of the dwelling that will be rehabilitated.

Current regulation prohibits the use of single close loans for condominiums. While SFHGLP loans are rarely used for condominiums in general, the Agency will clarify in this final rule that ''condominiums'' ineligible for single close loans include detached and site condominiums. The clarification is made in response to evolving types of condominiums, all of which are still excluded from single close loan purposes.

The Agency is updating the mortgage file documentation requirements in § 3555.105(e) to reflect the addition of rehabilitation as an allowable single close loan purpose.

Overall, the regulatory revisions will reduce the burden of construction financing on small and medium sized lenders, streamline and expand the program, and provide lenders the ability to quickly transfer closed loans to program investors.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan Programs—Housing and community development, Eligible loan purpose, Construction, Loan terms, Mortgages, Rural areas.

Therefore, chapter XXXV, title 7 of the Code of Federal Regulations is amended as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for Part 3555 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1471 *et seq.*

Subpart C—Loan Requirements

■ 2. Amend § 3555.10 by removing the definition of ''maximum allowable interest rate'' and adding the definition of ''warehouse lender'' in alphabetical order to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Warehouse lender. A non-depository lender who utilizes short-term revolving lines of credit to finance loan origination and or construction financing.

■ 3. Amend § 3555.104 by revising paragraphs (a)(2) through (4) to read as follows:

§ 3555.104 Loan terms.

(a) * * *

(2) Shall be negotiated between the lender and the borrower to allow the borrower to obtain the best available rate in compliance with all applicable laws.

(3) If the interest rate increases between the time of the issuance of the conditional commitment and the loan closing, the lender will submit appropriate documentation and underwriting analysis to confirm that the applicant is still eligible.

(4) The warehouse lender may charge an interest rate for interim construction financing that exceeds the underlying promissory note rate. After construction ends, the interest rate must revert to a rate that is no higher than the underlying promissory note rate. The Agency reserves the right to establish a maximum amount for the interim construction financing interest rate in the handbook, as necessary to further program goals and protect the best interests of the government.

* * * * *

■ 4. Amend § 3555.105 by:
■ a. Revising paragraph (c)(1);
■ b. Adding paragraph (c)(2)(iv);
■ c. Revising paragraph (d)(2);
■ d. Adding paragraph (d)(7);
■ e. Revising paragraph (e)(1)
■ f. Removing ''and'' from the end of (e)(6);
■ g. Revising paragraph (e)(7);
■ h. Adding paragraph (e)(8); and
■ i. Revising paragraph (g).

The revisions and additions read as follows:

§ 3555.105 Combination construction and permanent loans.

* * * * *

(c) * * *

(1) The loan is to finance the purchase of real estate and construction of a single family dwelling or the purchase and required rehabilitation of an existing single family dwelling. Condominiums, including detached condominiums and site condominiums, are ineligible for combination construction and permanent loans.

(2) * * *

(iv) The costs of an interim construction financing interest rate and PITI reserve under § 3555.104(e) and § 3555.105(d)(7), respectively.

(d) * * *

(2) The fair market value as determined by a licensed or certified appraiser in accordance with regulation 3555.107(d) will be used to establish the maximum loan amount.

* * * * *

(7) Lenders may fund a reserve account for up to 12 months of regularly scheduled (amortized) principal and interest payments along with taxes and insurance (PITI). In such cases, a loan modification is not required after

construction is complete. Funds remaining in the PITI reserve after construction is complete will be applied by the lender as a principal payment.

(e) * * *

(1) The actual cost to construct or rehabilitate the subject dwelling.

* * * * *

(7) Loan modification agreement, once construction is complete, confirming the existence of a permanent loan and the amortizing interest rate on the loan; and

(8) Evidence that all funds remaining in the construction escrow or PITI reserve accounts have been applied as a principal curtailment once construction or rehabilitation is complete.

* * * * *

(g) *Unplanned changes during construction.* Should an unplanned change occur with the borrower or contractor preventing completion of construction, the lender remains responsible for completion of improvements satisfactory to Rural Development. The loan will be serviced in accordance with subparts F and G of this part. Funds remaining in all PITI reserve and construction escrow accounts after full disbursement of construction costs will be applied by the lender as a principal payment.

* * * * *

Bruce W. Lammers,

Administrator, Rural Housing Service.

[FR Doc. 2019–15450 Filed 7–19–19; 8:45 am]

BILLING CODE 3410–XV–P

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 2019–09]

Point of Entry for All Campaign Finance Reports; Correction

AGENCY: Federal Election Commission.

ACTION: Correcting amendment.

SUMMARY: On May 2, 2019, the Federal Election Commission revised Commission regulations regarding the point of entry for filing campaign finance reports. That document inadvertently contained technical language having the effect of removing a portion of one of the regulations. This document corrects the final regulations.

DATES: This correcting amendment is effective July 22, 2019, and is applicable as of May 2, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Joanna S. Waldstreicher, Acting Assistant General Counsel, or Ms. Cheryl A. Hemsley, Attorney, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On May 2, 2019, the Federal Election Commission published an interim final rule implementing the Congressional requirement that all reports, designations, and notices mandated by the Federal Election Campaign Act must be filed with the Commission. *See* Point of Entry for All Campaign Finance Reports, 84 FR 18697 (May 2, 2019). The amendments to the Code of Federal Regulations (''CFR'') were generally intended to remove language requiring filing with the Secretary of the Senate, as well as cross-references to such sections. Erroneous technical instructions for amending 11 CFR 102.2(a)(1) to remove such a cross-reference (*see id.* at 18699) inadvertently caused the removal from the CFR of part of that paragraph. This document corrects that error, reinstating the portion of 11 CFR 102.2(a)(1) that was not intended to be removed.

List of Subjects in 11 CFR Part 102

Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR chapter I, as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (52 U.S.C. 30103)

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 52 U.S.C. 30102, 30103, 30104(a)(11), 30111(a)(8), and 30120.

■ 2. Amend § 102.2 by revising the section heading and paragraph (a)(1) to read as follows:

§ 102.2 Statement of organization: Forms and committee identification number (52 U.S.C. 30102(g), 30103(b), (c)).

(a) *Forms.* (1) The Statement of Organization shall be filed with the Commission on Federal Election Commission Form 1. The Statement shall be signed by the treasurer and shall include the following information:

(i) The name, address, and type of committee;

(ii) The name, address, relationship, and type of any connected organization or affiliated committee in accordance with paragraph (b) of this section;

(iii) The name, address, and committee position of the custodian of books and accounts of the committee;

(iv) The name and address of the treasurer of the committee;

(v) If the committee is authorized by a candidate, the name, office sought (including State and Congressional district, when applicable) and party affiliation of the candidate; and the address to which communications should be sent;

(vi) A listing of all banks, safe deposit boxes, or other depositories used by the committee;

(vii) The internet address of the committee's official website, if such a website exists. If the committee is required to file electronically under 11 CFR 104.18, its electronic mail address, if such an address exists; and

(viii) If the committee is a principal campaign committee of a candidate for the Senate or the House of Representatives, the principal campaign committee's electronic mail address.

* * * * *

On behalf of the Commission.

Dated: July 16, 2019.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2019–15479 Filed 7–19–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 44

[Docket ID OCC–2018–0029]

RIN 1557–AE47

FEDERAL RESERVE SYSTEM

12 CFR Part 248

[Docket No. R–1643]

RIN 7100–AF33

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 351

RIN 3064–AE88

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 75

RIN 3038–AE72

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 255

[Release no. BHCA–6; File no. S7–30–18]

RIN 3235–AM43

Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and Relationships With, Hedge Funds and Private Equity Funds

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Securities and Exchange Commission (SEC); and Commodity Futures Trading Commission (CFTC).

ACTION: Final rules.

SUMMARY: The OCC, Board, FDIC, SEC, and CFTC are adopting final rules to amend the regulations implementing the Bank Holding Company Act's prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds (commonly known as the Volcker Rule) in a manner consistent with the statutory amendments made pursuant to certain sections of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The EGRRCPA amendments and the final rules exclude from these prohibitions and restrictions certain firms that have total consolidated assets equal to $10 billion or less and total trading assets and liabilities equal to five percent or less of total consolidated assets. The EGRRCPA amendments and the final rules also revise the restrictions applicable to the naming of a hedge fund or private equity fund to permit an investment adviser that is a banking entity to share a name with the fund under certain circumstances.

DATES: These final rules are effective on July 22, 2019.

FOR FURTHER INFORMATION CONTACT:

OCC: Roman Goldstein, Risk Specialist, Treasury and Market Risk Policy, 202–649–6360; Tabitha Edgens, Senior Attorney; Mark O'Horo, Senior Attorney, Chief Counsel's Office, (202) 649–5510; for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Flora Ahn, Special Counsel, (202) 452–2317, Gregory Frischmann, Senior Counsel, (202) 452–2803, Kirin Walsh, Attorney, (202) 452–3058, or Sarah Podrygula, Attorney, (202) 912–4658, Legal Division, Constance Horsley, Deputy Associate Director, (202) 452–5239, Cecily Boggs, Senior Financial Institution Policy Analyst, (202) 530–6209, David Lynch, Deputy Associate Director, (202) 452–2081, Division of Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

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SEC: Andrew R. Bernstein, Senior Special Counsel, Sam Litz, Attorney-Adviser, Aaron Washington, Special Counsel, or Carol McGee, Assistant Director, at (202) 551–5870, Office of Derivatives Policy and Trading Practices, Division of Trading and Markets, and Matthew Cook, Senior Counsel, Benjamin Tecmire, Senior Counsel, and Jennifer Songer, Branch Chief, at (202) 551–6787 or *IArules@sec.gov,* Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

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SUPPLEMENTARY INFORMATION:

I. Background

Section 13 of the Bank Holding Company Act of 1956 (BHC Act),[1] also known as the Volcker Rule, generally prohibits any banking entity from engaging in proprietary trading or from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a hedge fund or private equity fund, subject to certain exemptions.[2]

Under the statute, authority for developing and adopting regulations to implement the prohibitions and restrictions of section 13 of the BHC Act is shared among the OCC, Board, FDIC, SEC, and CFTC (the agencies).[3] The agencies adopted final rules implementing section 13 of the BHC Act in December 2013 (the 2013 final rule).[4] The agencies recently proposed amendments to these rules to provide clarity about what activities are prohibited, and to improve supervision

[1] 12 U.S.C. 1851.

[2] *See id.*

[3] *See* 12 U.S.C. 1851(b)(2). Under section 13(b)(2)(B) of the BHC Act, rules implementing section 13's prohibitions and restrictions must be issued by: (i) The appropriate Federal banking agencies (*i.e.,* the Board, the OCC, and the FDIC), jointly, with respect to insured depository institutions; (ii) the Board, with respect to any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act, any nonbank financial company supervised by the Board, and any subsidiary of any of the foregoing (other than a subsidiary for which an appropriate Federal banking agency, the SEC, or the CFTC is the primary financial regulatory agency); (iii) the CFTC with respect to any entity for which it is the primary financial regulatory agency, as defined in section 2 of the Dodd-Frank Act; and (iv) the SEC with respect to any entity for which it is the primary financial regulatory agency, as defined in section 2 of the Dodd-Frank Act. *See id.*

[4] *See* ''Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds; Final Rule,'' 79 FR 5535 (Jan. 31, 2014).

and implementation of section 13 of the BHC Act.[5]

The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended section 13 of the BHC Act by modifying the definition of ''banking entity'' to exclude certain community banks and their affiliates from section 13's restrictions and by permitting an investment adviser that is a banking entity to share a name with a hedge fund or private equity fund that the banking entity organizes and offers under certain circumstances.[6]

Prior to the enactment of EGRRCPA, the definition of ''banking entity,'' for purposes of section 13 of the BHC Act, included any insured depository institution, as defined in the Federal Deposit Insurance Act (FDI Act),[7] any company that controls an insured depository institution, or that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (IBA), and any affiliate or subsidiary of such entity (excluding from the term insured depository institution certain insured depository institutions that function solely in a trust or fiduciary capacity, subject to a variety of conditions).[8]

Section 203 of EGRRCPA, entitled ''Community bank relief,'' modified the scope of the term ''banking entity'' to exclude certain community banks and their affiliates. Specifically, under section 203, the term ''insured depository institution'' no longer includes any institution that does not have, and is not controlled by a company that has: (i) More than $10 billion in total consolidated assets; and (ii) total trading assets and trading liabilities, as reported on the most recent applicable regulatory filing filed by the institution, that are more than 5 percent of total consolidated assets. Therefore, an insured depository institution and its affiliates generally are not ''banking entities'' if the insured depository institution and each affiliated insured depository institution meets the statutory exclusion.[9] However, EGRRCPA did not amend the definition of ''banking entity'' as it relates to a company that is treated as a bank holding company for purposes of section 8 of the IBA. Accordingly, the statutory exclusion does not apply to a foreign banking organization with a U.S. branch or agency, which continues to be subject to the prohibitions in section 13 of the BHC Act.

Section 204 of EGRRCPA revised the restrictions applicable to the naming of a hedge fund or private equity fund[10] to permit an investment adviser that is a banking entity to share a name with the fund under certain circumstances. Prior to enactment of EGRRCPA, section 13 provided that a banking entity (or an affiliate of the banking entity), including an investment adviser, that organized and offered a hedge fund or private equity fund could not share the same name or a variation of the same name with the fund (the name-sharing restriction).[11] Section 204 of EGRRCPA amended the name-sharing restriction to permit a hedge fund or private equity fund organized and offered by a banking entity to share the same name or a variation of the same name as a banking entity that is an investment adviser to the hedge fund or private equity fund, if: (1) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the IBA;[12] (2) the investment adviser does not share the same name or a variation of the same name with any such entities; and (3) the name does not contain the word ''bank.''

On February 8, 2019, the agencies published a notice of proposed rulemaking (the proposal) to revise the 2013 final rule consistent with the EGRRCPA statutory amendments.[13] For the reasons discussed below, the agencies are now adopting the proposal as final without change.

II. Description of the Final Rules

A. Definition of Banking Entity

Consistent with the proposal, the agencies are modifying the definition of ''insured depository institution'' in § __.2(r) of the 2013 final rule to conform that definition with section 203 of EGRRCPA. Under this revised definition, an insured depository institution must satisfy two conditions for it and its affiliates to qualify for the exclusion. First, the insured depository institution, and every entity that controls it, must have total consolidated assets equal to or less than $10 billion. Second, total consolidated trading assets and liabilities of the insured depository institution, and every entity that controls it, must be equal to or less than five percent of its total consolidated assets.

Trade associations representing large commercial banks, community banks, and credit unions all generally supported the agencies' proposal to implement the community bank relief provision under section 203 of EGRRCPA.[14] Some commenters cited, among other considerations, the statute's plain meaning, legislative history, and policy considerations for their support of the proposal.[15] Certain other commenters suggested that section 203 extended relief to firms with *either* $10 billion or less in total consolidated assets *or* trading assets and liabilities equal to 5 percent or less of total consolidated assets.[16] Under these commenters' view of section 203, many banks with total consolidated assets well over $10 billion, including certain global systemically important banks (G–SIBs) with over $250 billion in total consolidated assets, would be exempt from section 13 of the BHC Act.

After considering these comments, the agencies are not persuaded by the argument that the exclusion under section 203 of EGRRCPA extends to institutions with total consolidated assets in excess of $10 billion. The agencies believe that the statute requires an institution to satisfy both criteria to qualify for the exclusion. This approach

[5] *See* ''Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds,'' 83 FR 33432 (July 17, 2018).

[6] *See* Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, sections 203, 204 (May 24, 2018). These provisions were effective upon EGRRCPA's enactment.

[7] Section 3(c)(2) of the FDI Act defines an insured depository institution to include any bank or savings association the deposits of which are insured by the FDIC under the FDI Act. 12 U.S.C. 1813(c)(2).

[8] 12 U.S.C. 1813(c)(2), 1851(h)(1).

[9] Section 203 amended section 13(h)(1)(B) of the BHC Act by excluding certain institutions from the term ''insured depository institution'' exclusively for the purposes of section 13. Insured banks and savings associations that qualify for this exclusion for the purposes of section 13 of the BHC Act remain insured depository institutions under section 3(c)(2) of the FDI Act. Additionally, an institution that meets the criteria to be excluded from the definition of insured depository institution under EGRRCPA may still be a banking entity by virtue of its affiliation with another insured depository institution or a company that is treated as a bank holding company under section 8 of the IBA.

[10] The terms ''hedge fund'' and ''private equity fund'' are defined at 12 U.S.C. 1851(h)(2). *See also* 12 CFR 44.10(b); 12 CFR 248.10(b); 12 CFR 351.10(b); 17 CFR 255.10(b); 17 CFR 75.10(b) (defining ''covered fund'' for purposes of the 2013 final rule).

[11] 12 U.S.C. 1851(d)(1)(G)(vi) (2017).

[12] 12 U.S.C. 3106.

[13] ''Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds,'' 84 FR 2778 (Feb. 8, 2019).

[14] *See* American Bankers Association; Independent Community Bankers of America; National Association of Federally-Insured Credit Unions; California Bankers Association.

[15] Los Huertos and Mount; National Association of Federally-Insured Credit Unions.

[16] *See* Competitive Enterprise Institute; Competitive Enterprise Institute *et al.;* Luetkemeyer; Matthew Thomas.

is most consistent with the statutory language of EGRRCPA, the congressional intent behind the statute, and the structure of the statute as a whole.

The agencies note that Section 203 of EGRRCPA, is entitled ''Community bank relief,'' and that numerous floor statements made by senators contemporaneously with passage of the legislation in the Senate on a bipartisan basis indicated that section 203 was only intended to exclude community banks and their affiliates.[17] Moreover, the Senate Banking Committee's summary of section 203 describes it as exempting banking entities that have total consolidated assets of $10 billion or less and total trading assets and trading liabilities that are five percent or less of total consolidated assets.[18] For these reasons, the agencies are adopting without change the proposed revisions to the banking entity definition.

Some commenters requested that, for purposes of determining whether trading assets and liabilities are within the five percent threshold, the agencies limit their review to an institution's most recent applicable regulatory filing.[19] These commenters requested that the agencies not review all ''available information,'' as suggested in the preamble to the proposal,[20] because such information could be at variance with the trading assets and/or liabilities figure(s) reported in the most recent applicable regulatory filing. These commenters also requested that the agencies confirm that section 203 of EGRRCPA is self-effectuating and that no additional action is required by the agencies for the community bank exclusion to take effect.

The agencies confirm that a bank or savings association seeking to determine its eligibility for the exclusion may use its most recent quarterly Consolidated Report of Condition and Income (call report) as the source of data for its consolidated assets and its total trading assets and liabilities at the bank or savings association level. Similarly, a banking organization may use the most recent filing of the Board's FR Y–9C by its holding company as the source of data about the consolidated assets and total trading assets and liabilities of the companies controlling the bank or savings association. Generally, the agencies believe that most current FR Y9–SP filers will be able to determine eligibility for the exclusion based on the call report data filed by their affiliated insured depository institution(s). All entities that seek to rely on the community bank exclusion should assure themselves that all affiliated banks or savings associations and holding companies satisfy the total consolidated assets and trading asset and liability thresholds. As the agencies noted in the proposal, institutions that meet the eligibility requirements under section 203 of EGRRCPA are no longer subject to the requirements of section 13 of the BHC Act, and no additional action by the agencies is required for the exclusion to take effect.

Two commenters requested that the agencies provide clarification that certain securities held by banks or savings associations and their holding companies are not within the category of ''trading assets'' for purposes of determining eligibility for the exclusion.[21] As described above, the call report or FR Y–9C, as applicable, may be used as the source of data for purposes of determining compliance with the total assets and trading asset and liability thresholds. Institutions should classify assets and liabilities consistent with the instructions to the relevant report in consultation with appropriate supervisors, as necessary.

One commenter requested that the agencies generally clarify that securities held as available-for-sale do not count towards the trading assets and liabilities threshold.[22] The call report and FR Y–9C require reporting an institution's available-for-sale securities separately from the institution's trading assets. Accordingly, securities appropriately classified as available-for-sale and excluded from trading assets on an institution's call report or FR Y–9C will not count toward an institution's trading assets and liabilities threshold. Another commenter requested that the agencies address the classification of securities held in connection with employee deferred compensation programs for purposes of the call report and FR Y–9C.[23] The question of how to classify specific types of assets, such as assets held in connection with employee deferred compensation programs, on the call report and FR Y–9C is fact-specific and beyond the scope of this rulemaking.[24] As stated above, institutions should classify assets and liabilities consistent with the instructions to the relevant report in consultation with appropriate supervisors, as necessary.

Two commenters generally opposed providing an exclusion to community banks.[25] One of these commenters suggested that, for a community bank to remain eligible for the exclusion, it should be required to pass periodic tests by its regulator.[26] As noted above, EGRRCPA excludes community banks from section 13 if they meet the specified total consolidated assets and trading asset and liability conditions, and these provisions became effective upon enactment. Accordingly, the agencies are finalizing the exclusion as proposed in order to conform the regulation to the statutory exclusion. The banking agencies note that they will continue to examine community banks that are exempt under section 203 for compliance with applicable laws and regulations, including the requirement under applicable banking laws and regulations that they operate in a safe and sound manner.

Another commenter requested relief from the control definition or a specific exclusion for investors in companies that control industrial loan companies (ILCs).[27] Any changes to the definition of ''control'' under the BHC Act [28] are outside of the scope of this rulemaking.[29] Furthermore, the agencies do not find any support for a specific exemption from section 13 of the BHC Act for investors in ILC parents under EGRRCPA. Accordingly, the agencies are not adopting an exemption from

[17] *See, e.g.,* 164 Cong. Rec. S1696 at S1701, S1720, S1724–25 (Mar. 14, 2018).

[18] *See* S. 2155, Section-By-Section, as Passed by Senate, United State Senate Committee on Banking and Urban Affairs (March 14, 2018).

[19] *See* American Bankers Association; California Bankers Association. Another commenter requested that the agencies provide additional clarity for the purposes of determining which institutions qualify for the relevant exclusion. *See* Grimm. That commenter also requested further clarity with respect to the changes made to the name-sharing restriction pursuant to section 204 of EGRRCPA.

[20] The preamble to the proposal stated that ''the Agencies would expect to use available information, including information reported on regulatory reporting forms available to each Agency, with respect to whether financial institutions qualify for the exclusion.'' 84 FR 2781.

[21] American Bankers Association (securities reported as available-for-sale); Bessemer Group, Inc. (mutual fund shares held to hedge nonqualified compensation plan liabilities).

[22] American Bankers Association.

[23] Bessemer Group, Inc.

[24] The regulatory reporting forms to which the commenter is requesting revision or clarification are also used for other purposes, such as for determining capital requirements. *See* 12 CFR part 3, app. B; 12 CFR 217.202; 12 CFR 324.202 (using trading assets and liabilities for the purpose of determining ''covered positions'' under the market risk capital rule). Accordingly, changes to the reporting forms or the instructions thereto would likely have unintended consequences for other areas of supervision and regulation.

[25] Tinee Carraker, Rodger Cunningham.

[26] *See* Carraker.

[27] *See* EnerBank.

[28] 12 U.S.C. 1841(a)(2); 12 CFR 225.2(e)(1).

[29] The Board recently invited comment on a notice of proposed rulemaking to simplify and increase the transparency of the rules for determining control of a banking organization. Press Release: *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190423a.htm.*

section 13 of the BHC Act for parent ILCs or investors in the parent ILCs that do not otherwise meet the eligibility requirements for the community bank exclusion under section 203.

B. Modification of Name-Sharing Restriction

Consistent with the proposal, the agencies are modifying the name-sharing restriction in § __.11(a)(6)(i) of the 2013 final rule to conform that restriction to section 204 of EGRRCPA. Pursuant to this change, a hedge fund or private equity fund sponsored by a banking entity is permitted to share the same name or a variation of the same name with a banking entity that is an investment adviser to the fund, subject to the conditions specified in the statute.[30] These conditions require that the investment adviser is not, and does not share the same name (or a variation of the same name) as, an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the IBA,[31] and that the investment adviser's name does not contain the word ''bank.'' [32]

The agencies received four comments on these proposed changes to the name-sharing restriction. One commenter generally supported the proposed changes to the name-sharing restriction.[33] Two commenters asked the agencies to provide relief from the name-sharing restriction for covered funds that are required or expected by regulators in a foreign jurisdiction to share the same name or a variation of the same name with a fund manager, and the fund manager shares a name or a variation of the same name as its banking entity affiliate.[34] One of these commenters asserted that concerns regarding investor confusion about the role of the banking entity or perceived bailout risk would be mitigated because the funds would be required to comply with the written disclosure requirements under the 2013 final rule for organizing and offering a covered fund.[35] Another commenter suggested that the agencies could use their exemptive authority under section 13(d)(1)(J) of the BHC Act to implement this exemption.[36]

The purpose of these revisions to the 2013 final rule is to conform the amendments to section 204 of EGRRCPA. Section 204 of EGRRCPA did not provide an exclusion allowing banking entities to share a name with a covered fund if required or expected to by foreign regulators. Accordingly, the agencies have determined not to make the requested change to the name-sharing restriction, which goes beyond the scope of this rulemaking, and are adopting the changes implementing section 204 as proposed.

The agencies are also finalizing conforming changes to the definition of ''sponsor.'' [37] Pursuant to these changes, the definition of the term ''sponsor'' includes a banking entity that shares the same name or a variation of the same name with a fund, for corporate, marketing, promotional, or other purposes, except as permitted under § __.11(a)(6)—*i.e.,* the name-sharing restriction as amended by EGRRCPA. The agencies did not receive any comments on the proposed conforming changes to the definition of ''sponsor.'' The agencies are adopting this change as final in order to conform the rule to the EGRRCPA statutory revisions.

III. Administrative Law Matters

A. Paperwork Reduction Act

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 agencies 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 (OMB) control number. The agencies reviewed and determined that the final would not change the current reporting, recordkeeping or third-party disclosure requirements associated with section 13 of the BHC Act under the PRA. However, the final rule would reduce the number of respondents for the Board (including OCC-, FDIC-, SEC-, and CFTC-supervised institutions under a holding company), FDIC (with respect to supervised institutions not under a holding company), and OCC (supervised institutions not under a holding company), which will be addressed as a nonmaterial change to OMB.

B. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [38] requires the OCC, Board, and FDIC (Federal banking agencies) to use plain language in all proposed and final rules published after January 1, 2000. The Federal banking agencies have sought to present the proposed rule in a simple and straightforward manner and did not receive any comments on plain language.

C. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* (RFA), requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the SBA for purposes of the RFA to include commercial banks and savings institutions with total assets of $550 million or less and trust companies with total assets of $38.5 million of less) or to certify that the rule would not have a significant economic impact on a substantial number of small entities.

The OCC currently supervises approximately 758 small entities.[39]

Because the statutory provisions are already in effect, and this rule only revises the OCC's existing regulations to conform to this statutory change, this rule does not affect a substantial number of small entities. Section 204 of EGRRCPA generally does not apply to OCC-supervised institutions.

The OCC's threshold for a significant effect is whether cost increases associated with a proposed rule are greater than or equal to either 5 percent of a small bank's total annual salaries and benefits or 2.5 percent of a small bank's total non-interest expense. Even if the rule affected a substantial number

[30] EGRRCPA, section 204. While the statute applies these restrictions and conditions to ''hedge funds'' and ''private equity funds,'' the 2013 final rule applies to ''covered funds,'' as defined in § __.10 of the regulations. *See supra* footnote 10.

[31] 12 U.S.C. 1851(d)(1)(G)(vi)(I); 12 U.S.C. 1851(d)(1)(G)(vi)(II).

[32] 12 U.S.C. 1851(d)(1)(G)(vi)(III). The requirement that the name not contain the word ''bank'' was included in the name-sharing restriction by section 204 of EGRRCPA but already is a condition under the 2013 final rule. Accordingly, the agencies did not make any additional modifications to the rule to reflect this condition.

[33] Independent Community Bankers of America.

[34] American Bankers Association; Investment Adviser Association. Another commenter stated that the agencies should be mindful of any foreign requirements on name-sharing between covered funds and banking entities. *See* Matthew Thomas.

[35] *See* Investment Adviser Association; 12 CFR 44.11(a)(8); 12 CFR 248.11(a)(8); 12 CFR 351.11(a)(8); 17 CFR 255.11(a)(8); 17 CFR 75.11(a)(8).

[36] *See* American Bankers Association.

[37] EGRRCPA section 204.

[38] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

[39] We base our estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation 13 CFR 121.103(a), we count the assets of affiliated financial institutions when determining if we should classify an OCC-supervised institution as a small entity. We use December 31, 2018, to determine size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

of small banks, the OCC does not believe that it would have a significant economic impact on small banks, because OCC-supervised institutions that qualify for the exclusion under section 203 of the EGRRCPA should not have compliance costs associated with 12 CFR part 44. OCC-supervised institutions can determine their eligibility for the exclusion at the bank level based on information they are separately required to file in their Consolidated Reports of Condition and Income. Therefore, the OCC certifies that the rule would not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The RFA imposes certain requirements on the Board regarding any potential significant economic impact that a rule may have on a substantial number of small entities. The size standard to be considered a small business for banking entities subject to the rule is generally $550 million or less in consolidated assets.[40] The Board has considered the potential economic impact of the final rule on Board-supervised small entities in accordance with the RFA. The Board believes that the final rule will not have a significant economic impact on a substantial number of small entities for the reasons described below.[41]

1. Reason for the Final Rule

As discussed in this **SUPPLEMENTARY INFORMATION**, the agencies are revising the regulations implementing section 13 of the BHC Act in conformance with EGRRCPA. The final rule therefore excludes from the definition of ''insured depository institution'' if an insured depository institution (and any company that controls such institution) has total consolidated assets equal to $10 billion or less and total trading assets and liabilities equal to five percent or less of total consolidated assets. Such institutions are exempt from the prohibitions and restrictions under section 13 of the BHC Act.

2. Statement of Objectives and Legal Basis

As discussed above, the agencies' objective in finalizing amendments to the regulations implementing section 13 of the BHC Act is to conform the regulations to changes recently enacted by sections 203 and 204 of EGRRCPA. The agencies are explicitly authorized under section 13(b)(2) of the BHC Act to adopt rules implementing section 13.[42]

3. Description of Small Entities to Which the Regulation Applies

Section 203 of EGRRCPA exempted approximately 3,193 Board-supervised small entities from section 13 of the BHC Act.[43] The Board's final rule conforms its regulations implementing section 13 to the statutory changes.

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Sections 203 and 204 of EGRRCPA were effective upon enactment, and, thus, any economic impacts on small entities associated with these changes were caused by the statutory changes. Section 203 of EGRRCPA exempted all Board-supervised small entities from the reporting, recordkeeping, and all other requirements associated with section 13 of the BHC Act. While section 203 of EGRRCPA, therefore, affects a substantial number of Board-supervised small entities, it is not expected to have a significant economic impact on such entities. This is because such small entities generally engage in limited activities subject to section 13 of the BHC Act and are subject to limited compliance requirements under the rule.

The Board estimates that Board-supervised small entities that are no longer subject to section 13 of the BHC Act due to section 203 of EGRRCPA will save, on average, approximately $5,000 per year.[44] This represents, on average, less than 1.25 percent of net income and less than 0.07 percent of total equity for such entities. For the reasons stated above, section 203 of EGRRCPA and the Board's final rule are not expected to have a significant economic impact on Board-supervised small entities.

Section 204 of EGRRCPA, which amends the restrictions related to the naming of covered funds, will likely only have direct economic impacts on investment advisory businesses subject to section 13 of the BHC Act. Because the Board is not the primary financial regulatory agency for investment advisers,[45] section 204 of EGRRCPA not expected to have a significant economic impact on Board-supervised small entities.

5. Identification of Duplicative, Overlapping, or Conflicting Federal Regulations

The Board has not identified any federal statutes or regulations that duplicate, overlap, or conflict with the proposed revisions.

6. Discussion of Significant Alternatives

The Board does not believe that this final rule will have a significant economic impact on a substantial number small entities. As a result, the Board has not adopted any alternatives to the final rule.

FDIC: The RFA generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the rulemaking on small entities.[46] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The SBA has defined ''small entities'' to include banking organizations with total assets less than or equal to $550 million.[47]

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[40] U.S. SBA, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, *available at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Pursuant to SBA regulations, the asset size of a concern includes the assets of the concern whose size is at issue and all of its domestic and foreign affiliates. 13 CFR 121.103(6).

[41] The Board published an initial RFA analysis in connection with the proposal and received no public comments related to its analysis.

[42] 12 U.S.C. 1851(b)(2).

[43] Qualifying institutions eligible for this exclusion would consist of state member banks, bank holding companies, and savings and loan holding companies that meet the eligibility criteria for the exclusion.

[44] This estimate is based on the paperwork, recordkeeping, and disclosure-related compliance requirements associated with section 13 of the BHC Act that the Board estimates for purposes of the PRA. Because community banks do not significantly engage in the types of activities subject to section 13's prohibitions and restrictions, the majority of the ongoing costs associated with section 13 for community banks prior to EGRRCPA were likely related to recordkeeping and should thus be captured by this data. The average estimated compliance cost savings would be $9,225, equal to 146 hours multiplied by an estimated total hourly compensation rate of $63.36 per hour. According to the May 2017 National Industry-Specific Occupational Employment and Wage Estimates for the Depository Credit Intermediation sector the 75th percentile wages for a compliance officer is $40.55 per hour. The wage information reported by the BLS in the Specific Occupational Employment and Wage Estimates does not include health benefits and other non-monetary benefits. According to the December 2018 Employer Cost of Employee Compensation data compensation rates for health and other benefits are 33.7 percent of total compensation. The wage is also inflation adjusted according to the BLS data on the Consumer Price Index for Urban Consumers (CPI–U) so that it is contemporaneous with the non-wage compensation statistic. The inflation rate was 3.59 percent between May 2017 and December 2018. Therefore, the adjusted average wage for a compliance officer is $63.36 per hour.

[45] *See* 12 U.S.C. 1851(b)(2)(B)(i)(II).

[46] 5 U.S.C. 601 *et seq.*

[47] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' 13 CFR 121.201 n.8 (2018). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates . . .'' 13 CFR 121.103(a)(6) (2018). Following these regulations, the FDIC uses a

Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. The FDIC supervises 3,489 depository institutions,[48] of which 2,674 are defined as small banking entities by the terms of the RFA.[49] Of the 2,674 small, FDIC-supervised institutions, all report having total consolidated assets less than or equal to $10 billion, and total trading assets and liabilities less than or equal to five percent of total consolidated assets, and are therefore, covered by the rule.[50]

Although the rule applies to 2,674 small, FDIC-supervised institutions, the rule would not have a significant economic impact. The statutory changes established by EGRRCPA no longer prohibit certain institutions to engage in proprietary trading,[51] thereby potentially increasing the volume of such activity for affected banking entities. The rule would amend the FDIC's regulations to conform to this exemption established in EGRRCPA. Therefore, this component of the rule would have no direct effect on small, FDIC-supervised institutions.

However, even if the economic effects of the proposed rule were considered relative to a pre-statutory baseline the proposed changes that enable certain institutions to engage in proprietary trading are unlikely to have a significant effect on a substantial number of small, FDIC-supervised institutions. In the years prior to the enactment of the 2013 final rule (2006 to 2012) a maximum of 59 small, FDIC-supervised institutions reported a nonzero value for trading assets, trading liabilities, or structured financial products. Additionally, in the years prior to the enactment of the 2013 final rule (2006 to 2012) trading assets as a percent of total assets ranged between 0.00013 and 0.07 percent for small, FDIC-supervised institutions.[52] According to the most recent Call Report data trading assets as a percent of total assets is 0.007 percent for small, FDIC-supervised institutions.[53] Not all trading activity is necessarily proprietary trading, so only a subset of trading assets would be affected by this rule. Also, changes in the dollar volume of trading assets and their percentage of total assets are affected by market conditions, economic conditions, and the decisions of senior management at small, FDIC-supervised institutions, among other things. However, the small volume of pre-Volcker Rule trading assets and liabilities at small institutions suggests that the proposed rule is unlikely to have significant effects on small, FDIC-supervised institutions, assuming that past behavior is indicative of the propensity of small, FDIC-supervised institutions to engage in trading activity that otherwise would have been prohibited under the Volcker Rule.

As previously stated, EGRRCPA permits a covered fund organized and offered by a banking entity to share the same name, or a variation of the same name, as a banking entity that is an affiliated investment adviser to the hedge fund or private equity fund, with some restrictions. By permitting a covered fund to share the name of a banking entity, or variation thereof, the fund can utilize the franchise value of the banking entity to more effectively market the fund to the bank's current account holders or the public. The size of this potential benefit is difficult to accurately estimate with available data because it depends on the business model of individual banks and funds, the propensity of those funds to advertise to particular groups, and the decisions of customers, among other things. However, since the rule would conform FDIC regulations with the statutory language enacted by EGRRCPA, this component of the rule would have no direct effect on small, FDIC-supervised institutions.

Finally, the rule would introduce conforming changes that would reduce recordkeeping, reporting, and disclosure costs for affected FDIC-supervised institutions. EGRRCPA states that certain institutions with total consolidated assets less than or equal to $10 billion, and total trading assets and liabilities less than or equal to five percent of total consolidated assets, are excluded from restrictions on engaging in proprietary trading activity. The rule would amend the FDIC's regulations to conform to this exclusion established in EGRRCPA. In so doing, the rule would make conforming changes to reduce the recordkeeping and reporting requirements for small, FDIC-supervised institutions that were excluded from proprietary trading restriction by EGRRCPA. Although the vast majority of small, FDIC-supervised institutions are not currently required to comply with the recordkeeping, reporting, or disclosure requirements associated with proprietary trading, the rule would introduce conforming changes that would exclude some small, FDIC-supervised institutions. Of these newly excluded institutions, the rule would conform to Section 203 of EGRRCPA, which reduced recordkeeping, reporting, or disclosure requirements by up to an estimated 8 hours per institution, or approximately $506.88 per year.[54] [55] The estimated reduction in recordkeeping, reporting, or disclosure costs per institution represents less than 0.01 percent of non-interest expenses, on average, for small, FDIC-supervised institution.[56] Thus, the FDIC believes the rule would not have a significant economic impact on small, FDIC-supervised institutions.

For the reasons described above and under section 605(b) of the RFA, the FDIC certifies that the rule would not have a significant economic impact on a substantial number of small entities.

CFTC: Pursuant to 5 U.S.C. 605(b), the CFTC hereby certifies that the rule would not have a significant economic impact on a substantial number of small entities for which the CFTC is the primary financial regulatory agency.

As discussed in this **SUPPLEMENTARY INFORMATION**, the agencies are revising the 2013 final rule in order to be consistent with statutory amendments made by EGRRCPA to section 13 of the BHC Act. The statutory amendments (a) modified the scope of the term ''banking entity'' to exclude certain community banks and their affiliates and (b) permitted any banking entity to share a name with a hedge fund or private equity fund that it organizes and offers under certain circumstances.

covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[48] FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

[49] Call Report: December 31, 2018.

[50] Call Report: December 31, 2018.

[51] 12 CFR 351.3(a).

[52] Call Report: March 2006–December 2012.

[53] Call Report: December 2018.

[54] 8 hours * $63.36 per hour = $506.88.

[55] The estimated reduction in costs is calculated by multiplying 8 hours by an estimated total hourly compensation rate of $63.36 per hour. According to the May 2017 National Industry-Specific Occupational Employment and Wage Estimates for the Depository Credit Intermediation sector the 75th percentile wages for a compliance officer is $40.55 per hour. The wage information reported by the BLS in the Specific Occupational Employment and Wage Estimates does not include health benefits and other non-monetary benefits. According to the December 2018 Employer Cost of Employee Compensation data compensation rates for health and other benefits are 33.7 percent of total compensation. The wage is also inflation adjusted according to the BLS data on the Consumer Price Index for Urban Consumers (CPI–U) so that it is contemporaneous with the non-wage compensation statistic. The inflation rate was 3.59 percent between May 2017 and December 2018. Therefore, the adjusted average wage for a compliance officer is $63.36 per hour.

[56] Call Report, December 31, 2018.

The revisions generally apply to banking entities, including certain CFTC-registered entities. These entities include bank-affiliated CFTC-registered swap dealers, futures commission merchants, commodity trading advisors and commodity pool operators.[57] The CFTC has previously determined that swap dealers, futures commission merchants and commodity pool operators are not small entities for purposes of the RFA and, therefore, the requirements of the RFA do not apply to those entities.[58] As for commodity trading advisors, the CFTC has found it appropriate to consider whether such registrants should be deemed small entities for purposes of the RFA on a case-by-case basis, in the context of the particular regulation at issue.[59]

In the context of the rule, the CFTC believes it is unlikely that a substantial number of the commodity trading advisors that are potentially affected are small entities for purposes of the RFA. In this regard, the CFTC notes that only commodity trading advisors that are registered with the CFTC are potentially covered by the rule, and generally those that are registered have larger businesses. Similarly, the rule applies to only those commodity trading advisors that are affiliated with banks, which the CFTC expects are larger businesses.

Because the CFTC believes that there are not a substantial number of registered, banking entity-affiliated commodity trading advisors that are small entities for purposes of the RFA, and the other CFTC registrants that may be affected by the rule have been determined not to be small entities, the CFTC believes that the rule will not have a significant economic impact on a substantial number of small entities for which the CFTC is the primary financial regulatory agency.

SEC: In the proposal, the SEC certified that, pursuant to 5 U.S.C. 605(b), the proposal would not, if adopted, have a significant economic impact on a substantial number of small entities. Although the SEC solicited written comments regarding this certification, no commenters responded to this request.

As discussed in this **SUPPLEMENTARY INFORMATION**, the agencies are adopting the proposal as final without change, in order to be consistent with statutory amendments made by EGRRCPA to section 13 of the BHC Act. The statutory amendments (a) modified the scope of the term ''banking entity'' to exclude certain community banks and their affiliates and (b) permitted any banking entity to share a name with a hedge fund or private equity fund that it organizes and offers under certain circumstances.

The revisions the agencies are adopting will generally apply to banking entities, including certain SEC-registered entities.[60] These entities include bank-affiliated SEC-registered broker-dealers, investment advisers, security-based swap dealers, and major security-based swap participants. Based on information in filings submitted by these entities, the SEC believes that there are no banking entity registered investment advisers,[61] broker-dealers,[62] security-based swap dealers, or major security-based swap participants that are small entities for purposes of the RFA.[63] For this reason, the SEC certifies that the rule, as adopted, will not have a significant economic impact on a substantial number of small entities.

D. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[64] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[65] The rule reduces burden and does not impose any reporting, disclosure, or other new requirements on insured depository institutions. Accordingly, the agencies are not required by RCDRIA to consider the administrative burdens and benefits of the rule or delay its effective date.[66] Because delaying the effective date of the rule is not required and would serve no purpose, the final rule will be effective on the date of publication in the **Federal Register**.

[57] The rule may also apply to other types of CFTC registrants that are banking entities, such as introducing brokers, but the CFTC believes it is unlikely that such other registrants will have significant activities that would implicate the rule. *See* 79 FR 5808, 5813 (Jan. 31, 2014) (CFTC version of 2013 final rule).

[58] *See* Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982) (futures commission merchants and commodity pool operators); Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) (swap dealers and major swap participants).

[59] *See* Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18620 (Apr. 30, 1982).

[60] The SEC's Economic Analysis, below, discusses the economic effects of the final amendments. *See* SEC Economic Analysis, section III.F.

[61] For the purposes of an SEC rulemaking in connection with the RFA, an investment adviser generally is a small entity if it: (1) Has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year. *See* 17 CFR 275.0–7.

[62] For the purposes of an SEC rulemaking in connection with the RFA, a broker-dealer will be deemed a small entity if it: (1) Had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to 17 CFR 240.17a–5(d), or, if not required to file such statements, had total capital (net worth plus subordinated liabilities) of less than $500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization. *See* 17 CFR 240.0–10(c). Under the standards adopted by the SBA, small entities also include entities engaged in financial investments and related activities with $38.5 million or less in annual receipts. *See* 13 CFR 121.201 (Subsector 523).

[63] Based on SEC analysis of Form ADV data, the SEC believes that there are not a substantial number of registered investment advisers affected by the proposal that qualify as small entities under RFA. Based on SEC analysis of broker-dealer FOCUS filings and NIC relationship data, the SEC believes that there are no SEC-registered broker-dealers affected by the proposal that qualify as small entities under RFA. With respect to security-based swap dealers and major security-based swap participants, based on feedback from market participants and information about the security-based swap markets, the Commission believes that the types of entities that would engage in more than a de minimis amount of dealing activity involving security-based swaps—which generally would be large financial institutions—would not be ''small entities'' for purposes of the RFA. *See* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 81 FR 53546, 53553 (Aug. 12, 2016).

[64] 12 U.S.C. 4802(a).

[65] *Id.*

[66] Additionally, the 30-day delayed effective date requirement under the Administrative Procedure Act is not applicable to a rule, such as the one herein, that grants or recognizes an exemption or relieves a burden. 5 U.S.C. 553(d)(1).

E. OCC Unfunded Mandates Reform Act Determination

The OCC has analyzed the rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The rule does not impose new mandates. Therefore, the OCC has determined that the rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a written statement to accompany this rule.

F. SEC Economic Analysis

The agencies are adopting amendments to the 2013 final rule to implement the statutory mandates of sections 203 and 204 of EGRRCPA. In accordance with section 203 of EGRRCPA,[67] the final rules amend the definition of ''insured depository institution'' in § ____.2(r) of the 2013 final rule to exclude an institution so long as it, and every company that controls it, has both (1) $10 billion or less in total consolidated assets and (2) total consolidated trading assets and liabilities that are 5 percent or less of total consolidated assets. The final rule also amends the 2013 final rule to reflect the changes made by section 204 of EGRRCPA. That provision modified section 13 of the BHC Act to permit, in certain circumstances, bank-affiliated investment advisers to share their name with the hedge funds or private equity funds they organize and offer.

The amendments to the 2013 final rule reflect the statutory provisions of EGRRCPA that are already in effect, and the SEC continues to believe that market participants are already responding to the statutory changes. Thus, the baseline against which the SEC is assessing the effects of these amendments incorporates both: (i) The enacted statutory provisions of sections 203 and 204 of EGRRCPA, and (ii) the SEC's understanding that banking entities with both total consolidated assets of $10 billion or less and total consolidated trading assets and liabilities (henceforth, ''TAL'') that are 5 percent or less of total consolidated assets are, consistent with EGRRCPA, no longer complying with the 2013 final rule. The SEC continues to believe that any costs, benefits, and economic effects of the final rules, including those on efficiency, competition, and capital formation, stem entirely from these statutory provisions and not from the conforming amendments to the 2013 final rule.

The SEC is mindful of the costs and benefits imposed by its rules. In the proposal, the SEC solicited comment on the economic effects of the amendments on SEC registrants and on efficiency, competition, and capital formation in securities markets. The SEC has considered these comments, as discussed below.

This analysis is limited to areas within the scope of the SEC's function as the primary regulator of U.S. securities markets. In particular, the SEC's economic analysis is focused on the effects of the final amendments on registrants the SEC oversees for purposes of section 13 of the BHC Act, investors and issuers in securities markets, and the functioning and efficiency of such markets.

As discussed in more detail below, the enactment of the statutory exemption in section 203 of EGRRCPA: (i) Eliminated the costs of compliance with section 13 of the BHC Act for certain banking entities, with the cost savings potentially being passed along to customers and counterparties; (ii) was not followed by significant changes in trading activity by broker-dealers (''BDs'') that qualify for the statutory exemption, and such trading activity remains extremely limited in absolute terms by year-end 2018; (iii) may have created incentives for entities that do not qualify for the statutory exemption but are close to the relevant thresholds to decrease their asset size or trading activity to become subject to the statutory exemption, though such an effect had not materialized by year-end 2018; and (iv) may have improved the competitive position of entities that qualify for the statutory exemption relative to those that are not, and the competitive position of U.S. entities that qualify for the statutory exemption relative to certain foreign banking entities.

The statutory exemption in section 204 of EGRRCPA may also have: (i) Improved the ability of certain bank-affiliated registered investment advisers (''RIAs'') to compete for investor capital with RIAs that are not affiliated with banks; (ii) provided bank-affiliated RIAs that can share a name with a fund with a competitive advantage over those bank-affiliated RIAs that cannot share a name with a fund because they do not meet the statutory conditions for name sharing; and (iii) reduced some investors' search costs in the capital allocation process by making it easier for some investors to identify bank-affiliated advisers of funds, to the extent that such advisers could share a name with a fund as a result of the statutory exemption.

The SEC continues to believe that these economic effects stem from the statutory provisions of EGRRCPA that are fully in effect, and that the conforming amendments will not result in any additional costs, benefits, or effects on efficiency, competition, and capital formation.

Certain SEC-regulated entities, such as BDs and RIAs, that fell under the definition of ''banking entity'' for the purposes of section 13 of the BHC Act before the enactment of EGRRCPA qualify for the final amendments implementing sections 203 and 204 of EGRRCPA.[68] As presented in Panel A of Table 1,[69] the SEC estimates that there are as many as 114 bank-affiliated BDs with aggregate assets of approximately $101 billion and aggregate holdings of approximately $16 billion that are within the scope of these final amendments.[70] The SEC estimates that, at most, 296 bank-affiliated RIAs are within the scope of the final

[67] Specifically, Section 203 of EGRRCPA provides that the term ''insured depository institution,'' for purposes of the definition of ''banking entity'' in section 13(h)(1) of the BHC Act (12 U.S.C 1851(h)(1)), does not include an insured depository institution that does not have, and is not controlled by a company that has: (1) More than $10 billion in total consolidated assets; and (2) total trading assets and trading liabilities, as reported on the most recent applicable regulatory filing filed by the institution, that are more than 5 percent of total consolidated assets.

[68] The SEC believes that all bank-affiliated entities that may register with the SEC as security-based swap dealers and major security-based swap participants are unaffected by the amendments due to the size of the balance sheet and the amount of trading activity of their affiliated banking entities. The SEC's analysis is based on DTCC Derivatives Repository Limited Trade Information Warehouse data on single-name credit-default swaps. Throughout this economic analysis, the term ''banking entity'' generally refers only to banking entities that are subject to section 13 of the BHC Act and for which the SEC is the primary financial regulatory agency as defined in section 2(12)(B) of the Dodd-Frank Act. *See* 12 U.S.C. 1851(b)(2); 12 U.S.C. 5301(12)(B).

[69] In the proposal (84 FR at 2786) the SEC used data from the release for the recently proposed amendments to these rules to provide clarity about what activities are prohibited, and to improve supervision and implementation of section 13 of the BHC Act (83 FR at 33525) as of Q3 2017. In this release, we update the estimates and use data as of Q4 2018 and Q4 2017. Data sources for Table 1 include Reporting Form FR Y–9C data for domestic bank holding companies and Reports of Condition and Income data for banks that are not bank holding companies. BD bank affiliations were obtained from the Federal Financial Institutions Examination Council's National Information Center. BD assets and holdings were obtained from FOCUS Reports data.

[70] As of Q4 2018, these 114 BDs were affiliated with 98 banks or holding companies.

amendments and no longer subject to section 13 of the BHC Act.[71]

TABLE 1—BD COUNT, ASSETS, AND HOLDINGS BY AFFILIATION

BD affiliation	Number	Total assets, $mln [72]	Holdings, $mln [73]	Holdings (alt.), $mln [74]
Panel A. After the enactment of EGRRCPA: BD statistics as of Q4 2018				
Bank BDs, affiliated bank total assets > $10bln & TAL > 5% of total assets	61	2,826,909	709,534	548,426
Bank BDs, affiliated bank total assets > $10bln & TAL ≤ 5% of total assets	74	198,380	43,450	15,393
Bank BDs, affiliated bank total assets ≤ $10bln & TAL > 5% of total assets	0	0	0	0
Bank BDs subject to section 203 of EGRRCPA [75]	114	100,518	16,379	5,376
Non-bank BDs	3,545	1,196,845	374,597	223,844
Total	3,794	4,322,651	1,143,960	793,038
BD affiliation	Number	Total assets, $mln	Holdings, $mln	Holdings (alt.), $mln
Panel B. Before the enactment of EGRRCPA: BD statistics as of Q4 2017				
Bank BDs, affiliated bank total assets > $10bln & TAL > 5% of total assets	57	2,711,033	615,206	489,964
Bank BDs, affiliated bank total assets > $10bln & TAL ≤ 5% of total assets	83	223,474	42,684	11,749
Bank BDs, affiliated bank total assets ≤ $10bln & TAL > 5% of total assets	0	0	0	0
Bank BDs subject to section 203 of EGRRCPA [76]	113	108,457	17,743	6,463
Non-bank BDs	3,642	1,001,819	316,691	202,668
Total	3,895	4,044,782	992,324	710,844

The costs of the 2013 final rule no longer apply to the entities that qualify for the statutory exemption, which, as discussed above, is already fully in effect.[77] To the extent that the compliance costs related to section 13 of the BHC Act and the relevant implementing regulations would otherwise have been passed along to customers and counterparties of the affected entities, the cost reductions associated with section 203 of EGRRCPA may be flowing through to customers and counterparties in the form of reduced transaction costs and increased willingness to engage in trading activity, including intermediation that facilitates risk-sharing, as well as covered fund activities.[78]

The statutory exemption in section 203 of EGRRCPA provided entities thereby excluded from section 13 of the BHC Act with greater flexibility in pursuing certain types of potentially profitable trading and covered fund activities. Additionally, to the extent that section 13 of the BHC Act may have previously reduced the ability or willingness of such entities to engage in permitted hedging, underwriting or market-making due to compliance costs, the statutory exemption may have facilitated access to capital and trading activity.

In the proposal, the SEC stated that some entities with $10 billion or less in total consolidated assets and TAL equal to or less than 5 percent of its total consolidated assets may have responded to the statutory exemption by increasing or planning to increase their trading activity and covered funds activities, while still remaining under the applicable thresholds at the consolidated holding company level. Using Q4 2018 data, the SEC estimates that 21 such holding companies with 22

[71] As estimated in the release for the recently proposed amendments to these rules to provide clarity about what activities are prohibited, and to improve supervision and implementation of section 13 of the BHC Act (83 FR at 33525), there were 308 bank-affiliated RIAs based on data as of March 31, 2018. Using data as of March 31, 2019, the SEC is updating the estimate to approximately 296 bank-affiliated RIAs. The SEC does not have information or data that would allow us to estimate how many of these bank-affiliated RIAs would have preferred to share a name with funds they advise. For the purposes of this analysis, the SEC estimates that these 296 bank-affiliated RIAs and 114 bank-affiliated BDs may be able to engage in covered fund activities as a result of section 203 of EGRRCPA. The SEC does not have information or data that would allow us to estimate how many of these entities would have preferred to engage in covered fund activities.

[72] BD total assets are based on FOCUS report data for ''Total Assets.''

[73] BD holdings are based on FOCUS reports data for securities and spot commodities owned at market value, including bankers' acceptances, certificates of deposit and commercial paper, state and municipal government obligations, corporate obligations, stocks and warrants, options, arbitrage, other securities, U.S. and Canadian government obligations, and spot commodities.

[74] This measure excludes U.S. and Canadian government obligations and spot commodities.

[75] This category includes all bank-affiliated BDs affiliated with holding companies that have both consolidated total assets less than or equal to $10 billion and TAL less than or equal to 5% of total assets, as well as bank-affiliated BDs for which parent firm TAL data was not available. Based on a manual search of regulatory filings for holding companies with missing assets and liabilities data and current FR Y–9C and FR Y–9SP reporting requirements, the SEC believes that entities with missing data have low levels of trading activity and likely qualify for the exemption in section 203 of EGRRCPA. To the degree that this may not be the case for some bank-affiliated BDs, these figures may overestimate the number of affected entities.

[76] *Id.*

[77] In the proposal, the SEC estimated based on data as of Q3 2017 that annual compliance cost savings for SEC-regulated entities due to section 203 of EGRRCPA may be as high as approximately $16,626,385 (= 2,035 hours × 0.18 × (Attorney at $409 per hour) × 111). Based on data as of Q4 2018 we now estimate these annual compliance cost savings may be as high as approximately $14,682,037 (= 2,035 hours × 0.18 × (Attorney at $409 per hour) × 98).

[78] *See* 79 FR 5778 for the agencies' estimated ongoing compliance and recordkeeping burdens related to the requirements of the 2013 final rule.

BD affiliates and available information about TAL have, on aggregate, total consolidated assets of approximately $74.5 billion and gross TAL of approximately $688 million.[79] The SEC further estimates that the gross TAL of these 21 holding companies that qualify for the exemption in section 203 of EGRRCPA and for which data is available increased by approximately $98 million between Q4 2017 and Q4 2018 (from $590 million in Q4 2017 to approximately $688 million in Q4 2018). The SEC does not have information about the remaining banks and holding companies. However, the SEC is aware that, in total, 98 banks and holding companies that qualify for the exemption in section 203 of EGRRCPA and have affiliated BDs, can have, on aggregate, total gross TAL of no more than $49 billion without exceeding either threshold and becoming subject to section 13 of the BHC Act.[80] Therefore, the SEC estimates that the increase in the aggregate TAL of all 98 affected banks and holding companies with SEC-regulated affiliates is likely no more than $48.3 billion.[81] The SEC continues to note that, if an increase in risk-taking by such affected entities is observed by market participants that provide capital to them, these capital providers may demand additional compensation for bearing more financial risk, which may decrease the profitability of the entity's trading and covered fund activities.

Because EGRRCPA was enacted relatively recently (on May 24, 2018) and a realignment of a BD's balance sheet may necessarily be gradual, it is not yet clear if the economic effects of sections 203 and 204 are fully realized in the relevant securities markets. However, Table 1 reports changes in the size and trading activity of different groups of BDs within an approximate 12 month window around the enactment of section 203 of EGRRCPA. Comparing BD statistics in Q4 2017 against Q4 2018, the number of bank-affiliated BDs that qualify for the exemption in section 203 of EGRRCPA increased by one. BDs that qualify for the exemption in section 203 of EGRRCPA decreased their assets by approximately $8 billion, and their holdings by between approximately $1.1 billion (using a measure of holdings that excludes U.S. and Canadian government obligations and spot commodities) and approximately $1.4 billion (using an inclusive measure of holdings).[82] In comparison, although the number of bank-affiliated BDs that do not qualify for the exemption in section 203 of EGRRCPA decreased by 5, such BDs experienced in the aggregate an approximately $90.8 billion increase in total assets, and an increase in holdings between $62.1 billion (excluding U.S. and Canadian government obligations and spot commodities) and approximately $95.1 billion (using an inclusive measure of holdings).

It is difficult to draw meaningful causal inference from these trends in assets and holdings due to a number of methodological considerations. First, the effect of enactment of section 203 of EGRRCPA is confounded by other changes, notably the market participants' potential reaction to other statutory relief for small banking entities in EGRRCPA (such as sections 201, 207, and 210 of EGRRCPA) and to the agencies' proposed amendments to the 2013 final rule that affected bank-affiliated BDs that do not qualify for the exemption in section 203 of EGRRCPA. Second, there is a lack of ''control'' and ''treatment'' groups that are likely to satisfy the ''parallel trends'' assumption required for a difference-in-difference analysis.[83] Third, quarterly reporting of FOCUS data is insufficiently frequent to perform an announcement effect analysis of BD risk taking and asset size in the days immediately before and immediately after the enactment of EGRRCPA. Fourth, as discussed in the proposal, certain entities can influence whether they qualify for the statutory exemption in section 203 of EGRRCPA by adjusting their balance sheets and trading books, which is likely to confound inference. Fifth, the relief in section 203 of EGRRCPA may have been at least partly anticipated by market participants.[84] In addition, in the proposal, the SEC anticipated spillover effects between bank-affiliated BDs that qualify for the exemption in section 203 of EGRRCPA and bank-affiliated BDs that do not. Both anticipation and spillover effects contaminate the estimation of regulatory effects.

Thus, the SEC cannot conclusively determine whether the above changes in BD characteristics arose as a result of the passage of EGRRCPA. However, the above statistics indicate that bank-affiliated BDs that qualify for the exemption in section 203 of EGRRCPA slightly decreased their balance sheet and trading activity.[85] This group of BDs continues to represent a very small fraction of the BD industry, representing approximately 2.3% of all BD assets and between 0.7% and 1.4% of all BD holdings.

In the proposal, the SEC noted that certain banking entities with more than $10 billion in total consolidated assets and/or TAL greater than 5 percent of total consolidated assets may be incentivized to shrink their balance sheets or trading activity under the thresholds. The SEC recognized that this may reduce the willingness of such banking entities to serve as intermediaries, and may also reduce the potential for market impacts from the failure of a given entity.

As can be seen in Table 1, the number of bank-affiliated BDs not subject to section 203 of EGRRCPA has declined by five between Q4 2017 and Q4 2018. These counts are impacted by the fact that holding companies may have multiple BD subsidiaries, and by occurrences of mergers and other changes in the organizational structure within holding companies. Bank-affiliated BDs that do not qualify for the exemption in section 203 of EGRRCPA have experienced an increase in assets (by $91 billion) and holdings (by between $62.1 billion and $95.1 billion

[79] The current FR Y–9C and FR Y–9SP filing requirements limit data availability. As of Q4 2018, the SEC has information about TAL of 21 holding companies with 22 BD affiliates.

[80] This figure is based on a maximum of $10 bln of total consolidated assets and a maximum TAL of 5 percent of total consolidated assets and is calculated as follows: 98 holding companies × $10 bln total assets × 0.05 = $49 bln.

[81] This figure is calculated as follows: $49 bln − $0.688 bln = $48.312 bln. The SEC recognizes that these estimates may under- or overestimate the increases in trading activity that may occur as a result of section 203 of EGRRCPA for four primary reasons. First, the profitability of trading activity is likely to strongly influence incentives to engage in trading activity and may vary depending on trading strategy, market sector, and time period measured. Second, growth in a holding company's total consolidated assets is influenced by business models, prevailing market conditions, industry competition, bank merger and acquisition activity, among other factors. Third, this estimate assumes that no affected entity will enter or exit the industry as a result of the statutory exclusion. Fourth, this estimate assumes for purposes of this economic analysis that small holding companies that file form FR Y–9SP, which does not contain data on TAL, do not currently have any TAL.

[82] This discussion describes changes in assets and holdings in absolute terms since percentage measures magnify changes when initial levels of a measure are extremely low.

[83] Causal inference using difference-in-difference generally requires that differences between treatment and control groups along the dimension of interest (*e.g.,* risk-taking) are constant in the absence of regulatory intervention.

[84] *See* U.S. Department of the Treasury, ''A Financial System that Creates Economic Opportunities: Banks and Credit Unions'' (June 2017).

[85] As discussed above, BDs that qualify for the exemption in section 203 of EGRRCPA exhibited a decrease in holdings by approximately $1.4 billion when including the holdings of U.S. and Canadian government obligations and spot commodities, and by approximately $1.1 billion when excluding them. Thus, such government obligations and spot commodities accounted for approximately $277 million or 20% of the decrease in the inclusive measure of holdings by BDs that qualify for the exemption in section 203 of EGRRCPA.

depending on the measure). BDs unaffiliated with banks or bank holding companies have also increased their assets (by $195 billion) and holdings (by between $21.2 billion and $57.9 billion depending on the measure), despite the backdrop of the aggregate decline in the number of BDs in the industry.

These observations suggest that aggregate industry and macroeconomic factors may be driving a general increase in the size and trading books of BDs. Such observations may also indicate that banking entities not subject to section 203 of EGRRCPA may currently be unable or unwilling to shrink their balance sheets and trading books in order to fall under the relevant thresholds in section 203 of EGRRCPA. The SEC continues to believe that banking entities not excluded from section 13 of the BHC Act pursuant to section 203 of EGRRCPA may weigh the size and complexity of each banking entity's trading activities and organizational structure, and the profitability of their banking and trading books, against the magnitude of expected compliance savings from not being subject to section 13 of the BHC Act. The SEC continues to note that, similar to the discussion above, due to methodological limitations (including, among others, confounding events and the likely violation of the parallel trends assumption), these observations of trends do not allow us to draw a causal inference. It is also possible that the effects of section 203 of EGRRCPA are still being realized, and the observed trends may under- or overestimate potential long-term shifts in risk-taking by entities that qualify for the exemption in section 203 and those that do not.

In the proposal, the SEC stated that to the degree that statutory changes in section 203 of EGRRCPA may have contributed to an increase in the gross volume of TAL, there may be an increase in risk-taking among entities no longer subject to section 13 of the BHC Act. However, this need not necessarily be the case. For example, a hedging transaction that offsets a risk exposure from an existing asset would increase the reported gross TAL without necessarily producing a net increase in the risk born by the entity. As described above, bank affiliated BDs that qualify for the exemption in section 203 of EGRRCPA have not increased their gross volume of TAL over the analyzed time period. The SEC continues to recognize that bank-affiliated BDs that qualify for the exemption in section 203 of EGRRCPA account only for approximately 2.3% of aggregate BD assets and between 0.7% and 1.4% of aggregate BD holdings. Thus, the statutory exemption affects only a small fraction of the BD industry. Moreover, the SEC continues to recognize that both the risks and the returns from newly permissible trading and covered fund activities by individual bank-affiliated BDs are likely to be passed along to their customers and counterparties.

In the proposal, the SEC recognized that potential shifts in risk-taking due to section 203 of EGRRCPA, as discussed above, may lead to two competing effects. On the one hand, if affected entities are now able to bear risk at a lower cost than their customers (*i.e.,* because such entities are no longer subject to section 13 of the BHC Act), increased risk-taking could promote secondary market trading activity and capital formation in primary markets, and thus increase access to capital for issuers. Similarly, the statutory exemption may increase banking entities' covered fund activities, which may broaden investment opportunities for investors in covered funds and facilitate access to capital by companies in which those funds invest. On the other hand, the statutory exemption may increase risk-taking by individual SEC-regulated entities, the amount of covered fund activity in which they engage, as well as total risk in the financial system, which may ultimately negatively impact issuers and investors. However, as noted above, the maximum potential increase in aggregate trading activity of entities that qualify for the exemption in section 203 of EGRRCPA that would not trigger section 13 of the BHC Act compliance is likely limited to $48.3 billion.[86] Moreover, as shown above, empirically such changes in risk-taking by SEC registrants that qualify for the exemption in section 203 of EGRRCPA so far remain very low in absolute terms, and such BDs continue to represent a very small fraction of the industry as measured by both assets and trading book size. The SEC continues to recognize that an increase in risk-taking by entities that qualify for the exemption in section 203 of EGRRCPA, to the degree that it is observed by providers of capital, may increase their cost of capital and reduce the profitability of such risk-taking.

In the proposal, the SEC outlined two primary effects of section 203 of EGRRCPA on competition. First, entities exempt from section 13 of the BHC Act under EGRRCPA are no longer required to incur related compliance costs and, thus, may have a competitive advantage relative to similarly situated entities above the thresholds. The availability of the statutory exemption may incentivize entities near the thresholds to decrease the size of their balance sheet, trading activity, or both in order to become exempt from section 13 of the BHC Act, resulting in greater competition between entities with consolidated assets and TAL near the thresholds. As demonstrated in Table 1 and the discussion above, the number of BDs above the thresholds in section 203 of EGRRCPA has declined only by five, while their assets and trading activity have actually increased. Thus, to date the above competition effects may have been muted.

Second, section 203 of EGRRCPA may have placed domestic entities subject to the statutory exemption on a more even competitive footing with foreign firms that are not subject to the substantive prohibitions and compliance costs related to section 13 of the BHC Act and its implementing regulations. In addition, section 203 of EGRRCPA may have improved the competitive position of affected domestic entities relative to foreign banking entities that are subject to section 13 of the BHC Act as a result of such foreign banking entities utilizing the exemptions related to activity outside of the United States.[87] The SEC has no data on the activity or risk-taking of foreign BDs that are not registered with the SEC and are affiliated with banks or bank holding companies. No such data is publicly available and commenters did not provide data enabling such quantification. As a result, the SEC is unable to empirically evaluate this effect.

Prior to the enactment of EGRRCPA, a bank-affiliated RIA could not share the same name or a variation of the same name as a hedge fund or private equity fund that it organized and offered under an exemption in section 13 of the BHC Act.[88] Section 204 of EGRRCPA changed this condition for bank-affiliated RIAs that meet certain requirements and provided them with flexibility in name sharing for corporate, marketing, promotional, or other purposes. To the extent that name sharing effectively and easily conveys the identity of a fund's RIA and preserves the brand value, section 204 of EGRRCPA improved bank-affiliated RIAs' ability to compete for investor capital with RIAs that are not affiliated with banks.

Section 204 also provided bank-affiliated RIAs that can share a name with a fund with a competitive

[86] *See supra* footnote 81.

[87] *See* 12 U.S.C. 1851(d)(1)(H) and (I) (2017); *See* §§ __.6(e) and __.13(b) of the 2013 final rule.

[88] *See* § __.11 of the 2013 final rule; 12 U.S.C. 1851(d)(1)(G) (2017).

advantage over those bank-affiliated RIAs that cannot share a name with a fund because they do not meet the statutory conditions for name sharing. This competitive effect can be attenuated since bank-affiliated RIAs in the latter group may change their names to avoid sharing the same name or a variation of the same name as a depository institution, any company that controls it, or any bank holding company. However, such a name change by bank-affiliated RIAs may have associated costs that would not apply to bank-affiliated RIAs that do not have the name of a depository institution, any company that controls it, or any bank holding company in their names.

In addition, the statutory name-sharing provision may have reduced some investors' search costs in the capital allocation process by making it easier for some investors to identify the bank-affiliated RIA of funds, to the extent that such advisers and funds could share names as a result of the statutory exemption.

The SEC reiterates that the economic effects discussed above stem from the statutory provisions of EGRRCPA that are fully in effect, and, therefore, the SEC believes that these effects may be already partly realized. The SEC believes that the conforming amendments to the implementing regulations will have no additional costs, benefits, or effects on efficiency, competition, and capital formation.

The agencies have received a number of comments on the proposal, some supporting [89] and others questioning [90] the agencies' codification of section 203 of EGRRCPA, and comments opposing the statutory exemption for community banks.[91] As discussed above, the agencies believe that the final amendments conform the regulations implementing section 13 of the BHC Act with the statutory amendments made pursuant to sections 203 and 204 of EGRRCPA with no exercise of agency discretion. As such, the SEC believes there are no reasonable alternatives to the final rule.

G. Congressional Review Act

Pursuant to the Congressional Review Act,[92] the Office of Information and Regulatory Affairs has designated these rules as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

H. Effective Date

Pursuant to Section 553(d) of the Administrative Procedure Act,[93] the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except, among other things, as provided by the agency for good cause found and published with the rule or if the rule is a substantive rule which grants or recognizes an exemption or relieves a restriction. The agencies find that there is good cause for setting an effective date that is less than 30 days after publication of this substantive rule because this final rule merely conforms the 2013 final rule to the EGRRCPA statutory amendments. Furthermore, the final rule recognizes a statutory exemption from the definition of ''banking entity,'' and relieves restrictions applicable to the naming of a hedge fund or private equity fund. Accordingly, the final rules are effective as of July 22, 2019.

List of Subjects

12 CFR Part 44

Banks, Banking, Compensation, Credit, Derivatives, Government securities, Insurance, Investments, National banks, Penalties, Reporting and recordkeeping requirements, Risk, Risk retention, Securities, Trusts and trustees.

12 CFR Part 248

Administrative practice and procedure, Banks, Banking, Conflict of interests, Credit, Foreign banking, Government securities, Holding companies, Insurance, Insurance companies, Investments, Penalties, Reporting and recordkeeping requirements, Securities, State nonmember banks, State savings associations, Trusts and trustees.

12 CFR Part 351

Banks, Banking, Capital, Compensation, Conflicts of interest, Credit, Derivatives, Government securities, Insurance, Insurance companies, Investments, Penalties, Reporting and recordkeeping requirements, Risk, Risk retention, Securities, Trusts and trustees.

17 CFR Part 75

Banks, Banking, Compensation, Credit, Derivatives, Federal branches and agencies, Federal savings associations, Government securities, Hedge funds, Insurance, Investments, National banks, Penalties, Proprietary trading, Reporting and recordkeeping requirements, Risk, Risk retention, Securities, Swap dealers, Trusts and trustees, Volcker rule.

17 CFR Part 255

Banks, Brokers, Dealers, Investment advisers, Recordkeeping, Reporting, Securities.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons stated in the Common Preamble, the Office of the Comptroller of the Currency amends chapter I of title 12, Code of Federal Regulations as follows:

PART 44—PROPRIETARY TRADING AND CERTAIN INTERESTS IN AND RELATIONSHIPS WITH COVERED FUNDS

■ 1. The authority citation for part 44 continues to read as follows:

Authority: 7 U.S.C. 27 *et seq.,* 12 U.S.C. 1, 24, 92a, 93a, 161, 1461, 1462a, 1463, 1464, 1467a, 1813(q), 1818, 1851, 3101 3102, 3108, 5412.

Subpart A—Authority and Definitions

■ 2. In § 44.1, revise paragraph (c) to read as follows:

§ 44.1 Authority, purpose, scope, and relationship to other authorities.

* * * * *

(c) *Scope.* This part implements section 13 of the Bank Holding Company Act with respect to banking entities for which the OCC is authorized to issue regulations under section 13(b)(2) of the Bank Holding Company Act (12 U.S.C. 1851(b)(2)) and take actions under section 13(e) of that Act (12 U.S.C. 1851(e)). These include national banks, Federal branches and Federal agencies of foreign banks, Federal savings associations, Federal savings banks, and any of their respective subsidiaries (except a subsidiary for which there is a different primary financial regulatory agency, as that term is defined in this part), but do not include such entities to the extent they are not within the definition of banking entity in § 44.2(c).

* * * * *

■ 3. In § 44.2, revise paragraph (r) to read as follows:

§ 44.2 Definitions.

* * * * *

[89] *See* ICBA Letter; IAA Letter; LosHuertos and Mount Letter; NAFCU Letter. *See also* section II.

[90] *See* Competitive Enterprise Institute Letter; Competitive Enterprise Institute et. al. Letter; Luetkemeyer Letter. *See also* section II.

[91] *See* Tinee Carraker Letter, Rodger Cunningham Letter.

[92] 5 U.S.C. 801 *et seq.*

[93] 5 U.S.C. 553(d).

(r) *Insured depository institution,* unless otherwise indicated, has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)), but does not include:

(1) An insured depository institution that is described in section 2(c)(2)(D) of the BHC Act (12 U.S.C. 1841(c)(2)(D)); or

(2) An insured depository institution if it has, and if every company that controls it has, total consolidated assets of $10 billion or less and total trading assets and trading liabilities, on a consolidated basis, that are 5 percent or less of total consolidated assets.

* * * * *

Subpart C—Covered Funds Activities and Investments

■ 4. In § 44.10, revise paragraph (d)(9)(iii) to read as follows:

§ 44.10 Prohibition on acquiring or retaining an ownership interest in and having certain relationships with a covered fund.

* * * * *

(d) * * *

(9) * * *

(iii) To share with a covered fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name, except as permitted under § 44.11(a)(6).

* * * * *

■ 5. In § 44.11, revise paragraph (a)(6) to read as follows:

§ 44.11 Permitted organizing and offering, underwriting, and market making with respect to a covered fund.

(a) * * *

(6) The covered fund, for corporate, marketing, promotional, or other purposes:

(i) Does not share the same name or a variation of the same name with the banking entity (or an affiliate thereof) except that a covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if:

(A) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(B) The investment adviser does not share the same name or a variation of the same name as an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(ii) Does not use the word ''bank'' in its name;

* * * * *

Board of Governors of the Federal Reserve

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the Common Preamble the Board amends chapter II of title 12 of the Code of Federal Regulations as follows:

PART 248—PROPRIETARY TRADING AND CERTAIN INTERESTS IN AND RELATIONSHIPS WITH COVERED FUNDS (REGULATION VV)

■ 6. The authority citation for part 248 continues to read as follows:

Authority: 12 U.S.C. 1851, 12 U.S.C. 221 *et seq.,* 12 U.S.C. 1818, 12 U.S.C. 1841 *et seq.,* and 12 U.S.C. 3103 *et seq.*

■ 7. The heading for part 248 is revised as set forth above.

Subpart A—Authority and Definitions

■ 8. In § 248.1, revise paragraph (c) to read as follows:

§ 248.1 Authority, purpose, scope, and relationship to other authorities.

* * * * *

(c) *Scope.* This part implements section 13 of the Bank Holding Company Act with respect to banking entities for which the Board is authorized to issue regulations under section 13(b)(2) of the Bank Holding Company Act (12 U.S.C. 1851(b)(2)) and take actions under section 13(e) of that Act (12 U.S.C. 1851(e)). These include any state bank that is a member of the Federal Reserve System, any company that controls an insured depository institution (including a bank holding company and savings and loan holding company), any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act (12 U.S.C. 3106), and any subsidiary of the foregoing other than a subsidiary for which the OCC, FDIC, CFTC, or SEC is the primary financial regulatory agency (as defined in section 2(12) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (12 U.S.C. 5301(12)), but do not include such entities to the extent they are not within the definition of banking entity in § 248.2(c).

* * * * *

■ 9. In § 248.2, revise paragraph (r) to read as follows:

§ 248.2 Definitions.

* * * * *

(r) *Insured depository institution,* unless otherwise indicated, has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)), but does not include:

(1) An insured depository institution that is described in section 2(c)(2)(D) of the BHC Act (12 U.S.C. 1841(c)(2)(D)); or

(2) An insured depository institution if it has, and if every company that controls it has, total consolidated assets of $10 billion or less and total trading assets and trading liabilities, on a consolidated basis, that are 5 percent or less of total consolidated assets.

* * * * *

Subpart C—Covered Funds Activities and Investments

■ 10. In § 248.10, revise paragraph (d)(9)(iii) to read as follows:

§ 248.10 Prohibition on acquiring or retaining an ownership interest in and having certain relationships with a covered fund.

* * * * *

(d) * * *

(9) * * *

(iii) To share with a covered fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name, except as permitted under § 248.11(a)(6).

* * * * *

■ 11. In § 248.11, revise paragraph (a) to read as follows:

§ 248.11 Permitted organizing and offering, underwriting, and market making with respect to a covered fund.

(a) * * *

(6) The covered fund, for corporate, marketing, promotional, or other purposes:

(i) Does not share the same name or a variation of the same name with the banking entity (or an affiliate thereof) except that a covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if:

(A) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(B) The investment adviser does not share the same name or a variation of the same name as an insured depository institution, a company that controls an

insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(ii) Does not use the word ''bank'' in its name;

* * * * *

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the Common Preamble, the Federal Deposit Insurance Corporation amends chapter III of title 12, Code of Federal Regulations as follows:

PART 351—PROPRIETARY TRADING AND CERTAIN INTERESTS IN AND RELATIONSHIPS WITH COVERED FUNDS

■ 12. The authority citation for part 351 continues to read as follows:

Authority: 12 U.S.C. 1851; 1811 *et seq.;* 3101 *et seq.;* and 5412.

Subpart A—Authority and Definitions

■ 13. In § 351.1, revise paragraph (c) to read as follows:

§ 351.1 Authority, purpose, scope and relationship to other authorities.

* * * * *

(c) *Scope.* This part implements section 13 of the Bank Holding Company Act with respect to insured depository institutions for which the FDIC is the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act, and certain subsidiaries of the foregoing, but does not include such entities to the extent they are not within the definition of banking entity in § 351.2(c).

* * * * *

■ 14. In § 351.2, revise paragraph (r) to read as follows:

§ 351.2 Definitions.

* * * * *

(r) *Insured depository institution,* unless otherwise indicated, has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)), but does not include:

(1) An insured depository institution that is described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)); or

(2) An insured depository institution if it has, and if every company that controls it has, total consolidated assets of $10 billion or less and total trading assets and trading liabilities, on a consolidated basis, that are 5 percent or less of total consolidated assets.

* * * * *

Subpart C—Covered Funds Activities and Investments

■ 15. In § 351.10, revise paragraph (d)(9)(iii) to read as follows:

§ 351.10 Prohibitions on acquiring or retaining an ownership interest in and having certain relationships with a covered fund.

* * * * *

(d) * * *

(9) * * *

(iii) To share with a covered fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name, except as permitted under § 351.11(a)(6).

* * * * *

■ 16. In § 351.11, revise paragraph (a) to read as follows:

§ 351.11 Permitted organizing and offering, underwriting, and market making with respect to a covered fund.

(a) * * *

(6) The covered fund, for corporate, marketing, promotional, or other purposes:

(i) Does not share the same name or a variation of the same name with the banking entity (or an affiliate thereof), except that a covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if:

(A) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(B) The investment adviser does not share the same name or a variation of the same name as an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(ii) Does not use the word ''bank'' in its name;

* * * * *

COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

Authority and Issuance

For the reasons set forth in the Common Preamble, the Commodity Futures Trading Commission amends part 75 to chapter I of title 17 of the Code of Federal Regulations as follows:

PART 75 — PROPRIETARY TRADING AND CERTAIN INTERESTS IN AND RELATIONSHIPS WITH COVERED FUNDS

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

Authority: 12 U.S.C. 1851.

Subpart A—Authority and Definitions

■ 18. In § 75.1, revise paragraph (c) to read as follows:

§ 75.1 Authority, purpose, scope and relationship to other authorities.

* * * * *

(c) *Scope.* This part implements section 13 of the Bank Holding Company Act with respect to banking entities for which the CFTC is the primary financial regulatory agency, as defined in section 2(12) of the Dodd-Frank Act, but does not include such entities to the extent they are not within the definition of banking entity in § 75.2(c).

* * * * *

■ 19. In § 75.2, revise paragraph (r) to read as follows:

§ 75.2 Definitions.

* * * * *

(r) *Insured depository institution,* unless otherwise indicated, has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)), but does not include:

(1) An insured depository institution that is described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)); or

(2) An insured depository institution if it has, and if every company that controls it has, total consolidated assets of $10 billion or less and total trading assets and trading liabilities, on a consolidated basis, that are 5 percent or less of total consolidated assets.

* * * * *

Subpart C—Covered Funds Activities and Investments

■ 20. In § 75.10, revise paragraph (d)(9)(iii) to read as follows:

§ 75.10 Prohibitions on acquiring or retaining an ownership interest in and having certain relationships with a covered fund.

* * * * *

(d) * * *

(9) * * *

(iii) To share with a covered fund, for corporate, marketing, promotional, or

other purposes, the same name or a variation of the same name, except as permitted under § 75.11(a)(6).

* * * * *

■ 21. In § 75.11, revise paragraph (a) to read as follows:

§ 75.11 Permitted organizing and offering, underwriting, and market making with respect to a covered fund.

(a) * * *

(6) The covered fund, for corporate, marketing, promotional, or other purposes:

(i) Does not share the same name or a variation of the same name with the banking entity (or an affiliate thereof), except that a covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if:

(A) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(B) The investment adviser does not share the same name or a variation of the same name as an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(ii) Does not use the word ''bank'' in its name;

* * * * *

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

Authority and Issuance

For the reasons set forth in the Common Preamble, the Securities and Exchange Commission amends part 255 to chapter II of title 17 of the Code of Federal Regulations as follows:

PART 255—PROPRIETARY TRADING AND CERTAIN INTERESTS IN AND RELATIONSHIPS WITH COVERED FUNDS

■ 22. The authority for part 255 continues to read as follows:

Authority: 12 U.S.C. 1851.

Subpart A—Authority and Definitions

■ 23. In § 255.1, revise paragraph (c) to read as follows:

§ 255.1 Authority, purpose, scope and relationship to other authorities.

* * * * *

(c) *Scope.* This part implements section 13 of the Bank Holding Company Act with respect to banking entities for which the SEC is the primary financial regulatory agency, as defined in this part, but does not include such entities to the extent they are not within the definition of banking entity in § 255.2(c).

* * * * *

■ 24. In § 255.2, revise paragraph (r) to read as follows:

§ 255.2 Definitions

* * * * *

(r) *Insured depository institution,* unless otherwise indicated, has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)), but does not include:

(1) An insured depository institution that is described in section 2(c)(2)(D) of the BHC Act (12 U.S.C. 1841(c)(2)(D)); or

(2) An insured depository institution if it has, and if every company that controls it has, total consolidated assets of $10 billion or less and total trading assets and trading liabilities, on a consolidated basis, that are 5 percent or less of total consolidated assets.

* * * * *

Subpart C—Covered Funds Activities and Investments

■ 25. In § 255.10, revise paragraph (d)(9)(iii) to read as follows:

§ 255.10 Prohibition on acquiring or retaining an ownership interest in and having certain relationships with a covered fund.

* * * * *

(d) * * *

(9) * * *

(iii) To share with a covered fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name, except as permitted under § 255.11(a)(6).

* * * * *

■ 26. In § 255.11, revise paragraph (a) to read as follows:

§ 255.11 Permitted organizing and offering, underwriting, and market making with respect to a covered fund.

(a) * * *

(6) The covered fund, for corporate, marketing, promotional, or other purposes:

(i) Does not share the same name or a variation of the same name with the banking entity (or an affiliate thereof) except that a covered fund may share the same name or a variation of the same name with a banking entity that is an investment adviser to the covered fund if:

(A) The investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(B) The investment adviser does not share the same name or a variation of the same name as an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106); and

(ii) Does not use the word ''bank'' in its name;

* * * * *

Dated: June 26, 2019.

Morris Morgan,

Senior Deputy Comptroller and Chief Operating Officer.

By order of the Board of Governors of the Federal Reserve System, July 8, 2019.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Federal Deposit Insurance Corporation.

By Order of the Board of Directors.

Dated at Washington, DC, on June 18, 2019.

Valerie J. Best,

Assistant Executive Secretary.

Issued in Washington, DC, on July 9, 2019, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Securities and Exchange Commission

Dated: July 5, 2019.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2019–15019 Filed 7–19–19; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AF04

Joint Ownership Deposit Accounts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The FDIC is amending its deposit insurance regulations to update one of the requirements that must be satisfied for an account to be separately insured as a joint account. Specifically, the final rule provides an alternative

method to satisfy the ''signature card'' requirement. Under the final rule, the signature card requirement may be satisfied by information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner.

DATES: This rule is effective on August 21, 2019.

FOR FURTHER INFORMATION CONTACT: James Watts, Counsel, Legal Division, (202) 898–6678, *jwatts@fdic.gov;* Teresa Franks, Associate Director, Division of Resolutions and Receiverships, (571) 858–8226, *tfranks@fdic.gov;* Martin Becker, Chief, Deposit Insurance, Division of Depositor and Consumer Protection, (202) 898–7207, *mbecker@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The FDIC is amending its regulation governing the requirements for a deposit account to be insured as a joint account, 12 CFR 330.9, and specifically, the requirement that each co-owner of a joint account has personally signed a deposit account signature card. The FDIC periodically receives inquiries regarding this requirement. Those inquiries have increased following the issuance of a rule (Recordkeeping Rule) [1] that requires certain large insured depository institutions (covered institutions) to configure their information technology systems to be capable of calculating insurance coverage for deposit accounts in the event of the institution's failure. The Recordkeeping Rule has introduced an element of pre-judgment involving identification of account categories and satisfaction of recordkeeping requirements for the institutions subject to that Rule.[2] In particular, for purposes of that Rule, covered institutions are required to review their records and update missing and erroneous deposit account information (Legacy Data Cleanup).[3] As part of the Legacy Data Cleanup, covered institutions must obtain signature cards for owners of accounts with multiple co-owners that are missing one or more required signature cards (affected joint accounts). Staff at the FDIC has engaged in discussions with these covered institutions as part of the implementation process, and these discussions have led the FDIC to reconsider the methods by which joint ownership may be established for purposes of deposit insurance.

The final rule is intended to reduce the regulatory burden associated with obtaining deposit account signature cards for all insured depository institutions (IDIs). For covered institutions (*i.e.,* IDIs subject to the Recordkeeping Rule) discussed above, the final rule is also intended to reduce the burden of obtaining signature cards for owners of affected joint accounts. The final rule is intended to facilitate the prompt payment of deposit insurance in the event of an IDI's failure by providing alternative methods that the FDIC could use to determine the owners of joint accounts, consistent with its statutory authority. These changes promote confidence in FDIC-insured deposits. Finally, the final rule embodies a forward-looking approach that permits the use of new and innovative technologies and processes to meet the FDIC's policy objectives.

II. Background and Overview of the Proposed Rule

A. Current Regulatory Approach

The FDIC is authorized to prescribe rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act (FDI Act).[4] Under the FDI Act, the FDIC is responsible for paying deposit insurance in the event of an IDI's failure up to the standard maximum deposit insurance amount, which is currently set at $250,000.[5] The statute provides that deposits maintained by each depositor in the same capacity and the same right at the same IDI generally must be aggregated and insured up to the standard maximum deposit insurance amount.[6] Because the statute does not define ''capacity'' or ''right,'' the FDIC has implemented these terms by issuing regulations recognizing particular categories of accounts, such as single ownership accounts and joint ownership accounts.[7] If a deposit meets the requirements for a particular category, the deposit is insured up to the $250,000 limit separately from deposits held by the depositor in a different category at the same IDI. For example, deposits in the single ownership category will be separately insured from deposits in the joint ownership category held by the same depositor at the same IDI.

Section 330.9 of the FDIC's regulations governs insurance coverage for joint ownership accounts. Joint ownership accounts include deposit accounts held pursuant to various forms of co-ownership under state law. For example, joint tenants could each hold an equal, undivided interest in a deposit account. Section 330.9 provides that only ''qualifying joint accounts'' (whether owned as joint tenants with the right of survivorship, as tenants in common, or as tenants by the entirety) are insured separately from individually-owned deposit accounts maintained by the co-owners.[8] ''Qualifying joint accounts'' generally must satisfy three requirements: (1) All co-owners of the funds in the account are ''natural persons,'' as defined in § 330.1(l) of the FDIC's regulations; (2) each co-owner has personally signed a deposit account signature card; and (3) each co-owner possesses withdrawal rights on the same basis.[9] If a joint deposit account is not a qualifying joint account, each co-owner's actual ownership interest in the account is aggregated with other single ownership accounts of such individual or other accounts of such entity.[10] This may result in some uninsured deposits if a depositor's single ownership accounts at the same IDI, including deposits in any non-qualifying joint accounts, exceed $250,000.

The requirement that each co-owner of a joint account has personally signed a deposit account signature card (signature card requirement) in order for the account to be insured as a joint account has been included in the regulation governing insurance coverage since 1967.[11] This requirement was intended to address practices such as the addition of nominal co-owners to an account solely to increase deposit insurance coverage.[12] The FDIC has

[1] *See* Recordkeeping for Timely Deposit Insurance Determination, 81 FR 87734 (Dec. 5, 2016); 12 CFR part 370.

[2] The Recordkeeping Rule generally applies to IDIs that have 2 million or more deposit accounts. 12 CFR 370.2(c).

[3] Insured depository institutions that are not subject to the Recordkeeping Rule are not required to perform Legacy Data Cleanup, but may choose to do so to provide added certainty regarding deposit insurance coverage to their depositors.

[4] 12 U.S.C. 1819(Tenth); 1820(g).

[5] 12 U.S.C. 1821(a)(1).

[6] 12 U.S.C. 1821(a)(1)(B), (C).

[7] *See* 12 CFR part 330.

[8] 12 CFR 330.9(a).

[9] 12 CFR 330.9(c)(1). The signature card requirement does not apply to certificates of deposit, deposits evidenced by negotiable instruments, or accounts maintained by an agent, nominee, guardian, or conservator on behalf of two or more persons. 12 CFR 330.9(c)(2).

[10] 12 CFR 330.9(d).

[11] *See* 32 FR 10408, 10409 (July 14, 1967) (''A joint deposit account shall be deemed to exist, for purposes of insurance of accounts, only if each co-owner has personally executed a deposit account signature card and possesses withdrawal rights.'')

[12] The FDIC stated that its purpose was to ''carry out the concept of limited insurance coverage

Continued

periodically considered whether the signature card requirement should be eliminated, but retained the requirement, concluding that signature cards are reliable indicators of deposit ownership.[13] The FDIC continues to view the signature card requirement as important to ensuring consistency with the FDI Act, which expressly limits the amount of deposit insurance coverage available to each depositor at a particular IDI based on the right and capacity in which funds are held.

Neither the FDI Act nor the FDIC's regulations define the term ''deposit account signature card.'' FDIC staff has taken the position that section 330.9 does not require any particular format for a deposit account signature card. Therefore, staff has previously concluded that various forms of documentation used in an IDI's account opening processes may constitute a deposit account signature card. For example, staff has concluded that a deposit account agreement signed by each of an account's co-owners would satisfy the signature card requirement. Published guidance further states that the signature card requirement may be satisfied electronically.[14]

B. The Proposed Rule

On April 4, 2019, the FDIC published a notice of proposed rulemaking (NPR) to amend 12 CFR 330.9, the regulation governing the requirements for a deposit account to be insured as a joint account.[15] Specifically, the FDIC proposed to provide an alternative method to satisfy the requirement that each co-owner of a joint account has personally signed a deposit account signature card. Under the proposal, information maintained in the deposit account records of an IDI establishing co-ownership of the account, such as the issuance of a mechanism for accessing the account to each co-owner or evidence of account usage by each co-owner, could satisfy the signature card requirement.

The FDIC also proposed a conforming amendment to section 330.9 consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act).[16] Specifically, the FDIC proposed to amend section 330.9 to state expressly that the signature card requirement may be satisfied electronically.

The FDIC received comments from four IDIs and four trade associations in response to the NPR. Commenters generally supported the proposed rule. Comments are discussed in the relevant sections below.

III. The Final Rule

After careful consideration of all of the comments received, the FDIC is adopting the rule generally as proposed, with one additional clarifying cross-reference discussed below. The final rule amends § 330.9 to provide an alternative method to satisfy the signature card requirement. It allows the signature card requirement to be satisfied by information contained in the deposit account records of the IDI establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner. For example, the requirement could be satisfied by evidence that an IDI has issued a debit card to each co-owner of the account or evidence that each co-owner of the account has transacted using the deposit account.

Commenters requested confirmation that the types of evidence described in the NPR are not the only forms of evidence of co-ownership that could satisfy the signature card requirement. As noted in the NPR, these descriptions were only intended to serve as examples and not to limit the forms of evidence of co-ownership that could satisfy the signature card requirement.[17]

A commenter requested that the FDIC clarify the rule to provide that evidence of online banking access or telephone banking access could be used to establish co-ownership of a joint account. Another commenter requested similar clarification with respect to access devices that are no longer effective, such as an expired debit card. Like the proposed rule, the final rule does not attempt to specify all of the forms of evidence of co-ownership that could be used to satisfy the signature card requirement. This flexible approach is intended to accommodate changes in technology and differences in IDIs' records. However, the FDIC believes that evidence of online banking access or telephone banking access generally could be used to establish co-ownership of a joint account, though IDIs may differ in their implementation of these technologies. In the event of a deposit insurance determination, the FDIC would consider all of the information contained in an IDI's deposit account records, and would not disregard evidence with respect to a mechanism for accessing an account simply because that mechanism is expired.

One commenter urged the FDIC to memorialize prior staff guidance by amending § 330.9(c)(1)(ii) to refer to other types of documents that may be used to satisfy the signature card requirement, such as a deposit account agreement or other document indicating ownership of the account or agreement to the account terms. In general, the FDIC has sought to limit changes to the text of § 330.9 to minimize the potential for confusion among IDIs that do not intend to use the new alternative method of satisfying the signature card requirement. The FDIC believes that expressly referencing other forms of acceptable documentation in the text of the rule could require additional conforming amendments and would unnecessarily complicate the rule.

Three trade associations expressed concern that, because the FDIC proposed to retain the language of the signature card requirement in § 330.9(c)(1)(ii), the addition of paragraph (c)(4) (defining the alternative method of satisfying the requirement) could be confusing. They requested that the FDIC amend § 330.9(c)(1)(ii) to include a cross-reference to paragraph (c)(4). The FDIC agrees that a cross-reference could provide useful clarification of the function of paragraph (c)(4), which is to provide an alternative method of satisfying the signature card requirement. The final rule therefore amends § 330.9(c)(1)(ii) to cross reference to the alternative method of satisfying the signature-card requirement provided in paragraph (c)(4).

A trade association also requested clarification that the final rule was not pre-empting state laws that require signatures to establish ownership rights in deposit accounts. The final rule does not modify or affect any state law requirements generally applicable to IDIs, including requirements to use signatures to establish ownership of a deposit account. The final rule only affects a requirement in the FDIC's regulations that must be satisfied for an account to be separately insured as a joint account. As stated in the NPR, ''IDIs may, for legal or other reasons, find it appropriate or necessary to continue collecting customers' signatures.'' [18]

intended by Federal deposit insurance,'' and it interpreted the FDI Act to ''limit the various devices commonly used to increase such coverage beyond that meant to be provided by law.'' 32 FR 10408 (July 14, 1967).

[13] *See, e.g.,* 55 FR 20111, 20113 (May 15, 1990).

[14] *See* FDIC *Financial Institution Employee's Guide to Deposit Insurance,* 2016 ed., at 34.

[15] 84 FR 13143 (Apr. 4, 2019).

[16] Public Law 106–229; 15 U.S.C. 7001(a).

[17] *See* 84 FR 13144 (Apr. 4, 2019).

[18] *See* 84 FR 13144 (Apr. 4, 2019).

The final rule does not introduce new requirements that must be satisfied for an account to be insured as a joint account, and does not reduce or affect insurance coverage for any account for which the existing joint account requirements are satisfied. The rule simply provides an alternative method to satisfy the existing signature card requirement. If each co-owner of a joint account signs, or has previously signed, a deposit account signature card in accordance with the existing requirement, the alternative method provided by the final rule is unnecessary. Assuming that the remaining joint account requirements are satisfied—that is, all co-owners of the account are natural persons and possess equal withdrawal rights—the account would be insured as a joint account.

The rule applies to all IDIs and provides an alternative method that may be used to satisfy the signature card requirement at the time of an IDI's failure. It does not impose any new recordkeeping requirements for joint accounts. The final rule also does not affect the general provisions of the FDIC's deposit insurance regulations concerning recognition of deposit ownership.[19] These general rules continue to apply to all deposit accounts, including joint accounts.

For institutions subject to part 370's recordkeeping requirements, the rule reduces the burden of obtaining signature cards for owners of affected joint accounts. The rule will facilitate the prompt payment of deposit insurance in the event of an IDI's failure by providing alternative methods that the FDIC could use to determine the owners of joint accounts, consistent with its statutory authority. These changes serve to promote confidence in FDIC-insured deposits. Finally, the rule embodies a forward-looking approach that permits the use of new and innovative technologies and processes to meet the FDIC's policy objectives.

The FDIC is also adopting, as proposed, a conforming amendment to § 330.9 consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act).[20] The final rule amends the regulation to state expressly that the signature card requirement may be satisfied electronically. As noted in the NPR, this amendment is consistent with published guidance and staff interpretations of § 330.9.[21] It does not substantively alter the regulatory requirements for joint accounts.

A commenter requested clarification that an electronic signature acknowledging ownership of an account would satisfy the signature card requirement even in the absence of a paper or electronic document containing a physical representation of a customer's name. The final rule does not include any particular requirements with respect to electronic signatures, and is merely intended to clarify for IDIs and depositors that the signature card requirement may be satisfied electronically. If an IDI's records and processes establish an electronic signature with respect to a joint account for purposes of the E-Sign Act, the FDIC's signature requirement would be satisfied.

IV. Expected Effects

The final rule applies to all joint deposit accounts at all IDIs and provides an alternative method that may be used to satisfy the signature card requirement at the time of an IDI's failure. For owners of joint deposit accounts, the rule alleviates delays in the recognition of account ownership and uncertainty regarding the extent of deposit insurance coverage. For IDIs, the final rule reduces the regulatory burden associated with obtaining deposit account signature cards personally signed by each co-owner. It does not impose any new recordkeeping requirements for joint accounts.

The final rule is expected to have a regulatory burden relief impact on the covered institutions subject to the Recordkeeping Rule. For purposes of that Rule, as discussed above, covered institutions are currently engaged in Legacy Data Cleanup. As part of the Legacy Data Cleanup, covered institutions likely must obtain signature cards for owners of affected joint accounts. By providing an alternative method to satisfy the signature card requirement that relies on other information in the institution's deposit account records, the final rule should reduce the Legacy Data Cleanup burden associated with obtaining missing signature cards for covered institutions subject to the Recordkeeping Rule.

To estimate the burden reduction of the final rule relating to Legacy Data Cleanup, the FDIC estimates: (1) The cost of obtaining signature cards for an affected joint account; and (2) the total number of affected joint accounts held at covered institutions subject to the Recordkeeping Rule. The product of these two figures is the estimated cost burden of collecting missing signatures. The final rule would reduce that burden by allowing covered institutions subject to the Recordkeeping Rule to satisfy the signature card requirement using other information in their deposit account records establishing co-ownership of the deposit account.

The FDIC's estimate of the cost of obtaining missing signature cards for an affected joint account is based on cost estimates used in connection with the Recordkeeping Rule. Legacy Data Cleanup costs for the Recordkeeping Rule were estimated at $226 million to address approximately 21 million deposit accounts held in covered institutions.[22] [23] This represents an average of approximately $11 per account. Although accounts may require Legacy Data Cleanup for a variety of reasons, the Recordkeeping Rule estimates that ''more than 90 percent of the legacy data cleanup costs are associated with manually collecting account information from customers and entering it into the covered institution's systems.'' [24] The process of obtaining a missing signature fits this description, and the FDIC believes that $11 per account is a reasonable estimate of the average cost of obtaining signatures for an affected joint account.

The cost estimates used in the Recordkeeping Rule are based in part on data from the Consolidated Reports of Condition and Income that were available at the time that Rule was issued. As of March 31, 2019, 33 covered institutions subject to the Recordkeeping Rule held approximately 416 million deposit accounts.[25] Assuming that 25 percent of those accounts are joint,[26] and assuming that

[19] *See* 12 CFR 330.5.

[20] Public Law 106–229; 15 U.S.C. 7001(a).

[21] *See* FDIC *Financial Institution Employee's Guide to Deposit Insurance,* 2016 ed., at 34.

[22] *See* 81 FR 87742–43. The analysis for the Recordkeeping Rule estimated that approximately 5 percent of the approximately 416 million deposit accounts held by covered institutions would require manual data cleanup.

[23] The $226 million estimate includes both costs incurred by the institutions and costs incurred by depositors to update missing account information. *See* 81 FR 87747.

[24] 81 FR 87742.

[25] FDIC Consolidated Reports of Condition and Income, as of March 31, 2019.

[26] According to recent Census estimates, approximately 60 percent of Americans live with a spouse or partner (U.S. Census Bureau, Current Population Survey, Annual Social and Economic Supplement, 1967 to 2018). In addition, according to a recent banking survey, 58 to 76 percent of Americans in relationships have at least one joint account (TD Love & Money, Report of Findings, Customer Insights, July 2017). Based on these figures, the FDIC estimates that between 35 and 46 percent of Americans hold a joint account. Assuming that joint accounts have two owners on average, the FDIC estimates that between 21 and 30 percent of deposit accounts are joint. (For example, if 35 percent of Americans share a joint account with another American and the remaining 65 percent each has a personal account, then (35/2)/(35/2 + 65) = 21 percent of accounts are joint). For

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5 percent of joint accounts are missing at least one required signature,[27] there are a total of approximately 5.2 (= 416 * 25% * 5%) million affected joint accounts. At an estimated cost of $11 per affected joint account, the FDIC estimates a total cost burden of $57 million for covered institutions subject to the Recordkeeping Rule to update deposit account records related to affected joint accounts. The final rule would reduce this burden, resulting in an estimated cost savings for these institutions of $57 million over several years.

IDIs that are not subject to the Recordkeeping Rule are not required to perform Legacy Data Cleanup. Nonetheless, some may choose to do so to provide added certainty regarding deposit insurance coverage to their depositors. These IDIs would also experience regulatory burden reduction due to the final rule. As of December 31, 2018, there were approximately 164 million deposit accounts held at 5,338 IDIs not covered by the Recordkeeping Rule. Given the same assumptions outlined in the previous paragraph, the FDIC estimates there are a total of 2.1 (= 164 * 25% * 5%) million affected joint accounts held at these IDIs. To the extent IDIs choose to perform Legacy Data Cleanup, the final rule would alleviate some of the burden of addressing these affected joint accounts, resulting in estimated cost savings of up to $23 ($11 * 2.1) million.

The total estimated burden reduction for the industry associated with updating deposit account records for joint accounts is estimated to be between $57 and $80 million over several years, depending on the number of IDIs not subject to the Recordkeeping Rule that choose to update their deposit account records. In addition, the final rule could alleviate some of the burden of obtaining signature cards for new joint accounts at all IDIs. The FDIC expects this benefit to be *de minimis* because the signature card requirement may be satisfied electronically pursuant to the E-Sign Act.

The final rule also provides non-quantifiable benefits to owners of joint accounts. By providing alternative methods that the FDIC could use in making a deposit insurance determination, the final rule further supports a prompt deposit insurance determination in the event of an IDI's failure, alleviating delays in the recognition of account ownership and uncertainty regarding the extent of deposit insurance coverage. These benefits promote depositor confidence in the nation's banking system and particularly in FDIC-insured deposits.

The FDIC is also adopting a conforming amendment to section 330.9 consistent with the E-Sign Act. This conforming amendment is not expected to result in any discernable economic effect, as current FDIC practice already permits IDIs to use electronic signatures. The effects of the conforming amendment are limited to eliminating uncertainty regarding the regulation.

V. Alternatives

The FDIC considered several alternatives but believes that the final rule represents the most appropriate option. In particular, the FDIC considered four alternatives to the proposed rule, as discussed in the NPR: (1) Maintaining the current requirements for accounts to be insured as joint accounts, with IDIs potentially prioritizing accounts with balances of more than $250,000 for purposes of their Legacy Data Cleanup; (2) amending the Recordkeeping Rule's certification requirements to allow covered institutions to certify compliance based on substantial or good faith compliance with the deposit insurance rules with respect to joint deposit accounts; (3) amending § 330.9 to eliminate the signature card requirement for joint accounts; and (4) amending § 330.9 to allow IDIs to satisfy the signature card requirement based on existing Bank Secrecy Act/Anti-Money Laundering (BSA/AML) processes. The FDIC concluded that the proposed rule would provide greater benefits than these alternatives, but invited comment on these and other potential approaches.

Three commenters took the position that the FDIC should eliminate the signature card requirement (or eliminate the requirement for particular subsets of accounts). Generally, these commenters argued that because depositors have other options available for obtaining additional deposit insurance coverage, they would be unlikely to take the risks entailed in adding nominal co-owners to their accounts solely to increase deposit insurance coverage. Commenters cited, for example, the risk that a nominal co-owner might withdraw funds without permission or that a creditor of the nominal co-owner would garnish the account. While the risks of adding a nominal co-owner to an account may discourage such action in certain circumstances, the ability to increase insurance coverage by several multiples of the standard $250,000 deposit insurance limit may nonetheless motivate some depositors to add nominal co-owners. As discussed in the NPR, the FDIC believes the signature card requirement helps to ensure consistency with the FDI Act's limits on the amount of deposit insurance coverage available to each depositor. Because the final rule retains this benefit while reducing regulatory burden, the FDIC continues to believe the final rule is preferable to elimination of the signature card requirement.

VI. Regulatory Analysis

A. Regulatory Flexibility Act

The RFA generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the proposed rule on small entities.[28] However, a regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The SBA has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million that are independently owned and operated or owned by a holding company with less than or equal to $550 million in total assets.[29] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions. For the reasons described below, the FDIC certifies pursuant to section 605(b) of the RFA that the final rule will not have a significant economic impact on a substantial number of small entities. As of March 31, 2019, the FDIC insured 5,371 institutions, of which 3,920 are considered small entities for the purposes of RFA.[30] These small IDIs hold approximately 30 million deposit

this analysis, the FDIC assumes the middle value of 25% as an estimate of the percent of accounts that are joint.

[27] Following the analysis in the Recordkeeping Rule, the FDIC assumes that 5% of accounts will require data cleanup.

[28] 5 U.S.C. 601 *et seq.*

[29] The SBA defines a small banking organization as having $550 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended, effective December 2, 2014). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[30] Consolidated Reports of Condition and Income for the quarter ending March 31, 2019.

accounts, with an average of approximately 7,700 deposit accounts and a maximum of approximately 332,000 deposit accounts held at a single small IDI.

The final rule amends § 330.9 to provide an alternative method to satisfy the signature card requirement for joint accounts based on information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account. As discussed in Expected Effects section, because no small IDIs are covered by the Recordkeeping Rule, a small IDI would only experience burden relief from the proposed rule if it chose to update its account records. If the IDI chooses to update its account records, the FDIC estimates the final rule will reduce burden in the amount of $11 per affected joint account.

Following the burden reduction estimation outlined in the Expected Effects section, the FDIC estimates the potential burden reduction for each small IDI, conditional on the IDI's choice to update its records. Each IDI's potential burden reduction is estimated by multiplying the number of deposit accounts held by 25 percent to estimate the number of joint accounts, then by 5 percent to estimate the number of affected joint accounts, and finally by $11 to estimate the cost of addressing those affected joint accounts. The potential burden reductions range from less than a dollar to approximately forty-five thousand dollars, with an average of approximately one thousand dollars per small IDI. Expressed as proportions of annualized noninterest income expenses as of March 31, 2019, the potential burden reductions range from less than a millionth of one percent to less than half of one percent of annualized noninterest income expenses.

The final rule would apply to all IDIs, affecting a substantial number of small entities. However, the economic impact on each small entity is insignificant, with no entity affected by more than half of one percent of annualized noninterest income expenses, as of March 31, 2019. Accordingly, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

B. Congressional Review Act

The OMB has determined that the final rule is not a ''major rule'' within the meaning of the Congressional Review Act, 5 U.S.C. 801 *et seq.* As required by the statute, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act of 1995

In accordance with the requirements of the Paperwork Reduction Act of 1995,[31] the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This final rule does not require any new information collections or revise existing information collections, and therefore, no submission to OMB is necessary.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Section 302 of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[32] Subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which 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.[33]

The final rule does not impose additional reporting or disclosure requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. It provides an alternative method to satisfy the existing signature card requirement for joint deposit accounts based on information contained in the deposit account records of the insured depository institution. Accordingly, the FDIC concludes that section 302 of RCDRIA does not apply. The FDIC invited comment regarding the application of RCDRIA to the final rule, but did not receive comments on this topic.

E. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999.[34]

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[35] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. FDIC staff believes the final rule is presented in a simple and straightforward manner. The FDIC did not receive any comments with respect to the use of plain language.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 330 as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

■ 1. The authority citation for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(*l*), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

■ 2. Revise § 330.9(c) to read as follows:

§ 330.9 Joint ownership accounts.

* * * * *

(c) *Qualifying joint accounts*—(1) *Qualification requirements.* A joint deposit account shall be deemed to be a qualifying joint account, for purposes of this section, only if:

(i) All co-owners of the funds in the account are ''natural persons'' (as defined in § 330.1(l));

(ii) Each co-owner has personally signed, which may include signing electronically, a deposit account signature card, or the alternative method provided in paragraph (c)(4) of this section is satisfied; and

(iii) Each co-owner possesses withdrawal rights on the same basis.

[31] 44 U.S.C. 3501 *et seq.*

[32] 12 U.S.C. 4802(a).

[33] 12 U.S.C. 4802(b).

[34] Public Law 105–277, 112 Stat. 2681.

[35] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

(2) *Limited exceptions.* The signature-card requirement of paragraph (c)(1)(ii) of this section shall not apply to certificates of deposit, to any deposit obligation evidenced by a negotiable instrument, or to any account maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons.

(3) *Evidence of deposit ownership.* All deposit accounts that satisfy the criteria in paragraph (c)(1) of this section, and those accounts that come within the exception provided for in paragraph (c)(2) of this section, shall be deemed to be jointly owned provided that, in accordance with the provisions of § 330.5(a), the FDIC determines that the deposit account records of the insured depository institution are clear and unambiguous as to the ownership of the accounts. If the deposit account records are ambiguous or unclear as to the manner in which the deposit accounts are owned, then the FDIC may, in its sole discretion, consider evidence other than the deposit account records of the insured depository institution for the purpose of establishing the manner in which the funds are owned. The signatures of two or more persons on the deposit account signature card or the names of two or more persons on a certificate of deposit or other deposit instrument shall be conclusive evidence that the account is a joint account (although not necessarily a qualifying joint account) unless the deposit records as a whole are ambiguous and some other evidence indicates, to the satisfaction of the FDIC, that there is a contrary ownership capacity.

(4) *Alternative method to satisfy signature-card requirement.* The signature-card requirement of paragraph (c)(1)(ii) of this section also may be satisfied by information contained in the deposit account records of the insured depository institution establishing co-ownership of the deposit account, such as evidence that the institution has issued a mechanism for accessing the account to each co-owner or evidence of usage of the deposit account by each co-owner.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on July 16, 2019.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–15502 Filed 7–19–19; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1069; Product Identifier 2018–NM–128–AD; Amendment 39–19677; AD 2019–13–04]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR72 airplanes. This AD was prompted by a determination that new or more restrictive maintenance instructions and airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance instructions and airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 26, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 26, 2019.

ADDRESSES: For service information identified in this final rule, contact ATR–GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr-aircraft.com;* internet *http://www.atr-aircraft.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–2018–1069.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1069; 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: 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:

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 ATR–GIE Avions de Transport Régional Model ATR72 airplanes. The NPRM published in the **Federal Register** on February 14, 2019 (84 FR 4012). The NPRM was prompted by a determination that new or more restrictive maintenance instructions and airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance instructions and airworthiness limitations.

The FAA is issuing this AD to address fatigue cracking and damage in principal structural elements, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0184, dated August 28, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all ATR–GIE Avions de Transport Régional Model ATR72 airplanes. The MCAI states:

> The airworthiness limitations and certification maintenance requirements (CMR) for ATR aeroplanes, which are approved by EASA, are currently defined and published in the TLD [time limits document]. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Previously, EASA issued AD 2017–0223 (later revised) to require accomplishment of the actions specified in the TLD at Revision 15.
>
> Since EASA AD 2017–0223R1 [which corresponds to FAA AD 2018–14–11, Amendment 39–19331 (83 FR 34031, July 19, 2018) (''AD 2018–14–11'')] was issued, ATR published Revision 16 of the TLD for ATR 72 aeroplanes, introducing new and/or more

restrictive airworthiness limitations and/or maintenance actions.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2017–0223R1, which is superseded, and requires accomplishment of the actions specified in the TLD.

This AD requires revising the existing maintenance or inspection program to incorporate certain maintenance instructions and airworthiness limitations. The unsafe condition is fatigue cracking and damage in principal structural elements, which could result in reduced structural integrity of the airplane. 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–2018–1069.

Comments

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

Request To Clarify the Proposed Terminating Action

Empire Airlines requested clarification of the terminating action specified in the proposed AD. Empire Airlines pointed out that paragraph (k) of the proposed AD stated that accomplishing the actions required by the proposed AD would terminate all requirements of AD 2018–14–11. Empire Airlines explained that paragraph (j) of AD 2018–14–11 states that, accomplishing the actions required by paragraph (g) of that AD terminates all requirements of AD 2000–23–26, Amendment 39–11999 (65 FR 70775, November 28, 2000); and AD 2008–04–19 R1, Amendment 39–16069 (74 FR 56713, November 3, 2009). Therefore, Empire Airlines asked if the terminating action specified in paragraph (j) of AD 2018–14–11 is still applicable in the proposed AD.

The FAA agrees to provide clarification for the commenter. Paragraph (k) of the proposed AD stated that accomplishing the proposed actions would terminate all requirements of AD 2018–14–11, including paragraph (j) of AD 2018–14–11, which terminates all requirements of AD 2000–23–26 and AD 2008–04–19 R1. However, the FAA's intent is that paragraph (k) of the proposed AD terminates all requirements of AD 2000–23–26 and AD 2008–04–19 R1, along with AD 2018–14–11. Therefore, the agency has revised paragraph (k) of this AD to specify that the actions required by this AD also terminate the requirements of AD 2000–23–26 and AD 2008–04–19 R1.

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 with the changes described previously and 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.

The FAA has also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

ATR–GIE Avions de Transport Régional has issued ATR72 Time Limits Document, Revision 16, dated January 30, 2018. This service information describes preventive maintenance requirements and includes updated limitations, tasks, thresholds and intervals to be incorporated into the existing maintenance or inspection program.

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 23 airplanes of U.S. registry. The agency estimates the following costs to comply with this AD:

The FAA determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency 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 agency 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):

2019–13–04 ATR–GIE Avions de Transport Régional: Amendment 39–19677; Docket No. FAA–2018–1069; Product Identifier 2018–NM–128–AD.

(a) Effective Date

This AD is effective August 26, 2019.

(b) Affected ADs

This AD affects AD 2018–14–11, Amendment 39–19331 (83 FR 34031, July 19, 2018) (''AD 2018–14–11''); AD 2000–23–26, Amendment 39–11999 (65 FR 70775, November 28, 2000) (''AD 2000–23–26''); and AD 2008–04–19 R1, Amendment 39–16069 (74 FR 56713, November 3, 2009) (''AD 2008–04–19 R1'').

(c) Applicability

This AD applies to ATR–GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 30, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive maintenance instructions and airworthiness limitations are necessary. The FAA is issuing this AD to prevent fatigue cracking and damage in principal structural elements, 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) 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 ATR ATR72 Time Limits Document, Revision 16, dated January 30, 2018. The initial compliance time for doing the tasks is at the time specified in ATR ATR72 Time Limits Document, Revision 16, dated January 30, 2018, or within 90 days after the effective date of this AD, whichever occurs later, except as provided by paragraphs (h) and (i) of this AD.

(h) Initial Compliance Times for Certain Tasks

For accomplishing airworthiness limitations (AWL) and certification maintenance requirement (CMR)/maintenance significant item (MSI) tasks identified in figure 1 to paragraph (h) of this AD, the initial compliance time is at the applicable time specified in the airworthiness limitations section (ALS) of the ATR ATR72 Time Limits Document, Revision 16, dated January 30, 2018, or at the applicable compliance time in figure 1 to paragraph (h) of this AD, whichever occurs later.

Figure 1 to paragraph (h) – *Grace period for CMR/MSI tasks*

CMR/MSI Tasks	Compliance Time
213100-1 213100-2 213100-3	Within 550 flight hours or 3 months after August 23, 2018 (the effective date of AD 2018-14-11), whichever occurs first

(i) Initial Compliance Time: One-Time Initial Threshold

For CMR task 220000–5, a one-time initial threshold, as specified in ATR ATR72 Time Limits Document, Revision 16, dated January 30, 2018, is allowed as specified in figure 2 to paragraph (i) of this AD.

Figure 2 to paragraph (i) – *Initial threshold for CMR task*

Configuration	Compliance Time
ATR modification 7585 embodied in production	Within 7,000 flight hours since first flight of the airplane
ATR Service Bulletin ATR72-34-1154 embodied in service	Within 7,000 flight hours after embodiment of ATR Service Bulletin ATR72-34-1154

(j) No Alternative Actions and 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) and 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 (l)(1) of this AD.

(k) Terminating Action for AD 2018–14–11, AD 2000–23–26, and AD 2008–04–19 R1

Accomplishing the actions required by this AD terminates all requirements of AD 2018–14–11, AD 2000–23–26, and AD 2008–04–19 R1.

(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 ATR–GIE Avions de Transport Régional'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 AD 2018–0184, dated August 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–2018–1069.

(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.

(n) Material Incorporated by Reference

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

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

(i) ATR ATR72 Time Limits Document, Revision 16, dated January 30, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact ATR–GIE Avions de Transport Régional, 1 Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr-aircraft.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 July 1, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–15447 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0993; Product Identifier 2018–NE–18–AD; Amendment 39–19679; AD 2019–14–01]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG TAY 650–15 and TAY 651–54 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) TAY 650–15 and TAY 651–54 turbofan engines with low-pressure compressor (LPC) fan blade module M01300AA or M01300AB, installed. This AD was prompted by reports of LPC fan blade retention lug fractures on engines with a high number of dry-film lubrication (DFL) treatments. This AD requires determining the number of DFL treatments applied on each LPC fan blade, and removing from service and replacing the affected LPC fan blades if the DFL treatment limit is exceeded. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 26, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 26, 2019.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33–7086–1200; fax: +49 (0) 33–086–3276. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0993.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0993; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The 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: Wego Wang, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@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 RRD TAY 650–15 and TAY 651–54 turbofan engines with LPC fan blade module M01300AA or M01300AB, installed. The NPRM published in the **Federal Register** on March 5, 2019 (84 FR 7832). The NPRM was prompted by reports of LPC fan blade retention lug fractures on engines with a high number of DFL treatments. The NPRM proposed to require determining the number of DFL treatments applied on each LPC fan blade, and removing from service and replacing the affected LPC fan blades if the DFL treatment limit is exceeded. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2018–0079, dated April 11, 2018 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Fractures of LPC fan blade retention lugs were reported on engines that had been subjected to a high number of Dry Film Lubrication (DFL) treatments. Subsequent investigation determined that this had exposed the retention lugs of the affected LPC (fan) blades to excessively high stress cycles.

This condition, if not detected and corrected, could lead to failure of LPC fan blade retention lug(s), high vibration, reduced thrust or in-flight shut down, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, RRD issued original issue of Alert NMSB TAY–72–A1833 to provide identification and replacement instructions and EASA issued AD 2017–0217 to require determination of the number of DFL treatments applied to the LPC fan blades and, based on that determination, fan blade(s) replacement. That AD also introduced the maximum allowable number of DFL treatments applicable to the LPC fan blades.

Since that AD was issued, RRD issued the NMSB to update the calculation methodology which was provided to determine the number of DFL treatments, in case that number could not be identified from the engine maintenance records. The new calculation methodology, compared with the methodology provided in the original issue of the RRD Alert NMSB TAY–72–A1833 can lead, in some cases of LPC fan blades with TAY 651–54 operation history, to earlier replacement of blades.

For the reasons described above, this AD retains the requirements of EASA AD 2017–0217, which is superseded, but refers to an updated alternative method to determine the number of DFL treatments.

You may obtain further information by examining the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0993.

Comments

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

Request To Revise Compliance

RRD requested that the FAA revise the wording in paragraph (g)(3)(i) of this AD from ''For Group 1 and 2 engines: If the number of LPC fan blades with DFL treatments is fewer than 13'' to ''For Group 1 and 2 engines: If the number of DFL treatments on a LPC fan blades is fewer than 13.'' RRD reasoned that it is the number of DFL treatments and not the number of LPC fan blades that counts.

We agree. We revised the AD as suggested by the commenter.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the change described previously and minor editorial changes. We have determined that these minor changes:

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

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

The FAA reviewed RRD Alert Non-Modification Service Bulletin (NMSB) TAY–72–A1833, Revision 1, dated January 8, 2018. The Alert NMSB describes procedures for determining the number of DFL treatments on each LPC fan blade by reviewing the engine maintenance records or using an alternative method of counting, and replacing the LPC fan blade with a part eligible for installation if the DFL treatment limit is exceeded. 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 76 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect LPC fan blades	11 work-hours × $85 per hour = $935	$0	$935	$71,060

The FAA estimates the following costs to do any necessary replacement of a single LPC fan blade that would be required based on the results of the proposed inspection. The FAA has no way of determining the number of aircraft that might need replacement of LPC fan blades.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC fan blade	16 work-hours × $85 per hour = $1,360	$10,750	$12,110

Authority for This Rulemaking

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

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

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

Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

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

For the reasons discussed above, I certify 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):

2019–14–01 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–19679; Docket No. FAA–2018–0993; Product Identifier 2018–NE–18–AD.

(a) Effective Date

This AD is effective August 26, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) TAY 650–15 and TAY 651–54 turbofan engines with low-pressure compressor (LPC) fan blade module M01300AA or M01300AB, installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of LPC fan blade retention lug fractures on engines with a high number of dry-film lubrication (DFL) treatments. The FAA is issuing this AD to prevent failure of the LPC fan blade retention lug. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 30 days after the effective date of this AD, determine whether the engine is a Group 1 or Group 2 engine as follows:

(i) A Group 1 engine is an affected RRD TAY 650–15 or TAY 651–54 turbofan engine with a LPC fan blade, part number (P/N) JR31911, P/N JR33865, or P/N JR33866, and with a serial number (S/N) listed in Appendix 1 of RRD Alert Non-Modification Service Bulletin (NMSB) TAY–72–A1833, Revision 1, dated January 8, 2018.

(ii) A Group 2 engine is any other RRD TAY 650–15 or TAY 651–54 turbofan engine with LPC fan blade module M01300AA or M01300AB, installed.

(2) For Group 1 and 2 engines: Within 30 days after the effective date of this AD, determine the number of DFL treatments on each affected LPC fan blade by reviewing the maintenance records or using the alternative method specified in the Accomplishment Instructions, paragraph 3.D. or 3.Q., of RRD Alert NMSB TAY–72–A1833, Revision 1, dated January 8, 2018.

(3) Depending on the results of the maintenance record review or the alternative method specified above, do the following, as applicable:

(i) For Group 1 and 2 engines: If the number of DFL treatments on an LPC fan blade is fewer than 13, mark the LPC fan blade dovetail root with a suffix code during the next scheduled LPC fan blade removal using the Accomplishment Instructions, paragraph 3.J. or 3.U., of RRD Alert NMSB TAY–72–A1833, Revision 1, dated January 8, 2018.

(ii) For Group 1 engines: If any LPC fan blades with 13 to 20 DFL treatments are installed on more than one engine on the same airplane, within 500 flight hours after the effective date of this AD, use one of the three options in the Accomplishment Instructions, paragraph 3.F., of RRD Alert NMSB TAY–72–A1833, Revision 1, dated January 8, 2018, to ensure that no LPC fan blade with 13 to 20 DFL treatments is installed on more than one engine on the same airplane.

(iii) For Group 1 and 2 engines: If it is determined that the number of DFL treatments on an LPC fan blade is equal to or more than the value defined in Table 1 of paragraph (g) of this AD, remove the LPC fan blade from service and replace with a part eligible for installation within the compliance times specified in Table 1 of paragraph (g) of this AD.

Table 1 to Paragraph (g) – LPC Fan Blade Replacement

Group	DFL Treatments	Compliance Time
1	20 or more	Within 500 flight hours after the effective date of this AD
2	13 or more	Within 500 flight hours after the effective date of this AD

(h) Installation Prohibition

After the effective date of this AD, do not install an affected LPC fan blade or LPC module M01300AA or M01300AB onto any engine or install any engine with an affected LPC fan blade or LPC module M01300AA or M01300AB onto any airplane unless it has been first determined that the LPC fan blades have had less than 13 DFL treatments and have been marked in accordance with the Accomplishment Instructions, paragraph 3.J. or 3.U, of RRD Alert NMSB TAY–72–A1833, Revision 1, dated January 8, 2018.

(i) Definitions

(1) A part eligible for installation is an LPC fan blade that has had 12 or fewer DFL treatments and is marked on the LPC fan

blade dovetail root with a suffix code depicting the number of DFL treatments.

(2) An affected fan blade is an LPC fan blade, P/N JR31911, P/N JR33865, or P/N JR33866, and with an S/N listed in Appendix 1 of RRD Alert NMSB TAY–72–A1833, Revision 1, dated January 8, 2018.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Wego Wang, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0079, dated April 11, 2018, for more information. You may examine the EASA AD in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2018–0993.

(l) Material Incorporated by Reference

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

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

(i) Rolls-Royce Deutschland Ltd & Co KG (RRD) Alert Non-Modification Service Bulletin TAY–72–A1833, Revision 1, dated January 8, 2018.

(ii) [Reserved]

(3) For RRD service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone; +49 (0) 33–7086–1200; fax: +49 (0) 33–086–3276.

(4) You may view this service information at FAA, Engine & Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(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 Burlington, Massachusetts, on July 12, 2019.

Robert J. Ganley,

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

[FR Doc. 2019–15486 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 643

[Docket ID: USA–2019–HQ–0008]

RIN 0702–AA93

Real Estate

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes Department of the Army's regulation concerning granting use of real property under the jurisdiction or control of the Department of the Army. The rule is being removed because its content is internal to the Department. Current policy and procedures on this subject can be found in internal documents.

DATES: Effective July 22, 2019.

ADDRESSES: Department of the Army, Office of the Deputy Chief of Staff, G–1, DAPE–HR, 200 Army Pentagon, Washington, DC 20310–0300.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Moman, (703) 325–0050.

SUPPLEMENTARY INFORMATION: This final rule removes the Department of Army regulation at 32 CFR part 643 which was codified on July 10, 1978 (43 FR 29748) and has not since been updated. The content of the rule is internal to the Department, and current internal policy and procedures are maintained in Army Regulation 405–80—Management of Title and Granting of Use of Real Property, (available at *https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r405_80.pdf*) which was most recently updated on October 10, 1997.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing internal Army policy and procedures.

This rule is not significant under Executive Order (E.O.) 12866, Sec 3, ''Regulatory Planning and Review,'' therefore; E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs'' does not apply.

List of Subjects in 32 CFR Part 643

Engineers Corps, Federal buildings and facilities, Intergovernmental relations, Rights-of-way.

PART 643—[REMOVED AND RESERVED]

■ Accordingly, for reasons stated in the preamble, under the authority of 5 U.S.C. 301 and 10 U.S.C. 3012, 32 CFR part 643 is removed and reserved.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–15514 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 644

[Docket ID: USA–2019–HQ–0009]

RIN 0702–AA94

Real Estate Handbook

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes Department of the Army's regulation containing the real estate procedures of the United States Corps of Engineers governing all military and civil works projects. The rule is being removed because its content is internal to the Department, and current policy is maintained in an internal Engineering Regulation used by Corps of Engineers personnel.

DATES: Effective July 22, 2019.

ADDRESSES: Department of the Army, Office of the Deputy Chief of Staff, G–1, DAPE–HR, 200 Army Pentagon, Washington, DC 20310–0300.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Moman, (703) 325–0050.

SUPPLEMENTARY INFORMATION: This final rule removes the Department of Army regulation at 32 CFR part 644 which was codified on January 15, 1979 (44 FR 3168) and has not since been updated. The content of the rule is internal to the Department, and current internal policy and procedures are maintained in Army Corps of Engineers Regulation ER 405–1–12, which is not available to the public and was most recently updated on September 30, 1994.

It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing internal Army policy and procedures.

This rule is not significant under Executive Order (E.O.) 12866, Sec 3, ''Regulatory Planning and Review,'' therefore; E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs'' does not apply.

List of Subjects in 32 CFR Part 644

Administrative practice and procedure, Energy Department, Engineers Corps, Federal buildings and facilities, Flood control, Government employees, Government property, Military personnel, National Aeronautics and Space Administration, Public lands, Reservoirs, Rights-of-way, Surplus Government property, Water resources, Waterways.

PART 644—[REMOVED AND RESERVED]

■ Accordingly, for reasons stated in the preamble, under the authority of 5 U.S.C. 301 and 10 U.S.C. 3012, 32 CFR part 644 is removed and reserved.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–15513 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–1096]

RIN 1625–AA08

Special Local Regulations; Charlevoix Venetian Night Boat Parade

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the special local regulation for the Charlevoix Venetian Night Boat Parade to increase the length of effective period of the existing special local regulation to allow the Patrol Commander additional time to clear vessels from transiting or anchoring in the regulated area. In order for the Coast Guard to clear vessel traffic to ensure safety in sufficient time in advance of the event, the Coast Guard changes the effective period broadly to ''a date in late July.''

DATES: This rule is effective July 22, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–1096 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 Blackledge, Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906–253–2443, email *Onnalee.A.Blackledge@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Charlevoix Venetian Night Boat Parade Charlevoix, MI event features a parade on the perimeter of Round Lake with a low fireworks show in the middle of the lake. In order to ensure safety in sufficient time of the event the Coast Guard Patrol Commander clears any vessel traffic and any vessels anchored in Round Lake from the fireworks fallout zone and the parade route. Prior to this regulation change, the effective time and date did not allow adequate time for the Patrol Commander to ensure the safety of any anchored vessels in the regulated area. The Coast Guard Patrol Commander needed additional time to contact vessel owners to relocate their vessels out of the affected area.

In response, on April 1, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Charlevoix Venetian Night Boat Parade (84 FR 12178). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this marine event. During the comment period that ended July 1, 2019, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because timely action is needed to ensure the safety of vessels transiting and anchoring inside the regulated area from the fireworks fallout zone and parade route.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041; 33 CFR 1.05–1. The Captain of the Sault Sainte Marie (COTP) has determined that potential hazards associated with the fireworks and the congestion caused by the parade route in the late July Charlevoix Venetian Night Boat Parade will be a safety concern for event participants and spectators. The purpose of this rule is to ensure safety of vessels and the navigable waters in the regulated area before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM April 1, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule change provides additional time for the Patrol Commander to clear vessels from transiting or anchoring within the regulated area for the Charlevoix Venetian Night Boat Parade. The duration of the special local regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after the late July Charlevoix Venetian Night Boat Parade.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day for the regulated area. Vessel traffic will be able to safely transit through the regulated area, which will impact a small designated area within the COTP zone for a short duration of time, with permission from the Patrol Commander. Moreover, the Coast Guard will issue Broadcast Notice

to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involved creating a regulated area for several days each year in a small area. It is categorically excluded from further review under paragraph L61 in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Memorandum for the Record 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 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. In § 100.908, revise paragraph (c) to read as follows:

§ 100.908 Charlevoix Venetian Night Boat Parade; Charlevoix, MI.

* * * * *

(c) *Effective date.* These regulations are effective annually on a date in late July. The Coast Guard will publish a document in the **Federal Register** announcing the date.

Dated: July 17, 2019.

P.S. Nelson,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2019–15538 Filed 7–19–19; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 84, No. 140
Monday, July 22, 2019

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

[NRC–2017–0081]

RIN 3150–AK00

Greater-Than-Class-C and Transuranic Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory basis; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comments on a draft regulatory basis to support the development of a rulemaking for the disposal of certain types of greater-than-Class-C waste in a low-level radioactive waste land disposal facility. Greater-than-Class-C waste may include transuranic radionuclides (*e.g.,* isotopes of plutonium) that contaminate nuclear fuel cycle waste. In addition, the NRC plans to hold a public meeting to promote understanding of the draft regulatory basis and to facilitate public comment.

DATES: Submit comments by September 20, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received 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–2017–0081. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

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: Cardelia Maupin, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–4127; email: *Cardelia.Maupin@nrc.gov;* or Gary Comfort, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–8106; email: *Gary.Comfort@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0081 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–2017–0081.
- *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.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0081 in your comment submission.

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

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

Please note that the NRC will not provide formal written responses to each of the comments received on the draft regulatory basis. However, the NRC will consider all comments received in the development of the final regulatory basis.

II. Discussion

Part 61 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for Land Disposal of Radioactive Waste'' was originally promulgated in 1982. Section 61.2, ''Definitions,'' provides that waste as used in 10 CFR part 61 means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. The definition also states that low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of byproduct material in 10 CFR 20.1003, ''Definitions.''

In 10 CFR 61.55, ''Waste classification,'' the U.S. Nuclear Regulatory Commission (NRC)

developed a classification system for those types of low-level radioactive waste that are suitable for near-surface disposal. Under the 10 CFR part 61 regulations, near-surface disposal is a subset of land disposal that involves disposal in the uppermost portion of the earth, approximately 30 meters below the surface. The NRC classification system categorizes waste as Class A, Class B, or Class C waste. This provision also describes low-level radioactive waste that is not generally acceptable for near-surface disposal, namely, waste for which form and disposal methods must be different and generally more stringent than those specified for Class C waste. This waste is referred to as greater-than-Class C (GTCC) waste.

GTCC waste is generated by nuclear power reactors, facilities supporting the nuclear fuel cycle, and other facilities and licensees outside of the nuclear fuel cycle. This class of wastes include: (1) Plutonium-contaminated nuclear fuel cycle wastes; (2) activated metals; (3) sealed sources; and (4) radioisotope product manufacturing wastes (*i.e.,* certain wastes occasionally generated as part of the manufacture of sealed sources, radiopharmaceutical products, and other materials used for industrial, educational, and medical applications).

GTCC waste may include transuranic waste, which is waste containing transuranic radionuclides (*e.g.,* isotopes of plutonium). Transuranic waste is a byproduct of nuclear research and power production and is primarily produced from spent fuel recycling, or medical isotope production. The NRC's current 10 CFR part 61 definition of ''waste'' in 10 CFR 61.2 excludes transuranic waste; thus, transuranic waste is not considered to be a form of low-level radioactive waste. The NRC's 10 CFR 61.2 definition is based upon a 1980 law, the Low-Level Radioactive Waste Policy Act, which excluded transuranic waste from the definition of low-level radioactive waste.[1] The 1980 law, however, was superseded by the Low-Level Radioactive Waste Policy Amendments Act of 1985, which did not exclude transuranic waste from the definition of low-level radioactive waste.[2] Given this statutory change, the NRC has a basis to amend its 10 CFR 61.2 definition of waste to include transuranic waste.

The identification and evaluation of regulatory concerns associated with the land disposal of GTCC waste will largely depend on the characteristics of the wastes (*e.g.,* isotopes, concentrations and volumes of waste, physical and chemical properties). The variable characteristics of the waste can influence the decision regarding the appropriate regulatory approach to use for management and disposal of these wastes. Overly conservative assumptions regarding the inventory and the physical characteristics of a potential site for a land disposal facility, such as the site's hydrogeologic and geomorphic conditions, could significantly limit disposal options, whereas overly optimistic assumptions with respect to site characteristics could lead to a disposal facility that may not provide adequate protection of public health and safety.

The draft regulatory basis, ''Regulatory Basis for the Disposal of Greater-than-Class C (GTCC) Waste,'' can be obtained at ADAMS Accession No. ML19059A403. The draft regulatory basis evaluates which GTCC waste streams could be safely disposed in a near-surface disposal facility and what type of regulatory changes would need to be considered to permit such action. In addition, the draft regulatory basis evaluates whether disposal of GTCC waste presents a hazard such that the NRC should retain authority over its disposal and not allow any Agreement State licensing over such a disposal.[3]

In the draft regulatory basis, the NRC staff concluded that most GTCC waste streams would be acceptable for near-surface disposal under the existing 10 CFR part 61 regulatory framework with the addition of new requirements, including requirements to protect an inadvertent intruder[4] by showing that such an individual would not likely exceed a radiation dose of 5 mSv/yr (500 mrem/yr) limit. In particular, the NRC staff has determined that an applicant for a near-surface disposal facility that can accept GTCC waste must: (1) Prepare and submit, as part of its application, a site-specific intruder assessment demonstrating that the 10 CFR part 61, subpart C performance requirements for inadvertent intruder protection will be met; and (2) must dispose of GTCC waste at a minimum depth of 5 meters below the surface of the earth and install or construct a barrier to inadvertent intrusion that is effective for a minimum of 500 years. Other regulatory amendments recommended by the NRC staff include: (1) Removing language from certain provisions of 10 CFR 61.55 that preclude a generic near-surface disposal pathway for GTCC waste; (2) revising the definition of ''waste'' in 10 CFR 61.2, to remove the exclusion of TRU waste; and (3) amending the labeling requirements at 10 CFR 61.57, ''Labeling,'' to include a reference to GTCC waste.

In the draft regulatory basis, the NRC staff also concluded that most GTCC waste could be safely regulated by an Agreement State, although certain regulatory changes to the 10 CFR part 150 regulations, ''Exemptions and Continued Regulatory Authority in Agreement States and Offshore Waters under Section 274,'' are recommended if the regulatory goal is to accommodate Agreement State regulatory oversight. Section 150.14, ''Commission regulatory authority for physical protection,'' requires that persons in Agreement States who possess, use, or transport quantities of special nuclear material above certain mass thresholds must comply with the NRC's regulation, 10 CFR 73.67, ''Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic consequence.'' The NRC promulgated 10 CFR 73.67 as a ''common defense and security'' regulation and as such, it can only be enforced by the NRC. In order to avoid the necessity of an Agreement State licensee having to obtain and comply with an NRC license or be otherwise subject to NRC regulatory oversight in addition to complying with the applicable Agreement State requirements, a potential rulemaking could amend 10 CFR 150.14 to change the requirement to give Agreement State near-surface disposal facility licensees the option to comply with the applicable Agreement State's compatible regulations for the NRC's regulations set forth in 10 CFR part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material,'' in lieu of complying with 10 CFR 73.67.

Similarly, the NRC's regulation at 10 CFR 150.15, ''Persons not exempt,'' requires that persons in Agreement States engaging in certain categories of activities are subject to NRC licensing and regulatory requirements. A potential rulemaking could amend 10 CFR 150.15 to relieve Agreement State licensees receiving and storing two categories of GTCC waste covered by 10

[1] Sec. 2(2), Public Law 96–573, 94 Stat. 3347.

[2] 42 U.S.C. 2021b *et seq.*

[3] Section 274b of the AEA (42 U.S.C. 2021) authorizes the Commission to enter into an agreement with the Governor of a State whereby the Commission relinquishes its regulatory authority, and the State assumes that authority, for the regulation of certain types of radioactive materials. A State that has entered into such an agreement with the NRC is defined as an ''Agreement State.''

[4] An inadvertent intruder is a person who might occupy the disposal site after site closure and engage in normal activities, such as agriculture, dwelling construction, drilling for water and other reasonably foreseeable pursuits that might unknowingly expose the person to radiation from the waste included in or generated from a low-level radioactive waste facility.

CFR 150.15 from having to comply with NRC licensing and regulatory requirements in addition to those of the applicable Agreement State. The two categories are GTCC waste resulting from the separation in a production facility of special nuclear material from irradiated nuclear reactor fuel (10 CFR 150.15(a)(4)), and reactor-related GTCC waste (10 CFR 150.15(a)(8)).

III. Specific Request for Comments

The NRC considers a draft regulatory basis to be a pre-rulemaking document. If the NRC decides to pursue rulemaking, the NRC will publish a proposed rule that will seek public comment. Presently, the NRC is seeking advice and recommendations from the public on the draft regulatory basis. We are particularly interested in comments and supporting rationale from the public on the following:

(1) Are there any characteristics of GTCC waste not identified in the draft regulatory basis that should be considered when evaluating the near surface disposal of GTCC?

(2) In addition to the potential regulatory changes identified in this notice, should the NRC consider other potential changes or additions to the existing technical requirements for low-level radioactive waste disposal in evaluating GTCC waste disposal?

(3) Are there any additional issues that should be addressed to enhance public or occupational safety regarding the disposal of GTCC waste, either by rulemaking or through the development of guidance documents, that were not addressed in the draft regulatory basis?

(4) Are there any issues that should be addressed to establish a relatively uniform set of requirements for GTCC waste disposal in Agreement States and in non-Agreement States that were not addressed in the draft regulatory basis?

(5) Are there any other changes to the NRC's regulations that are not addressed in the draft regulatory basis that should be considered to facilitate the disposal of GTCC waste and better align the requirements with current health and safety standards?

(6) Are there other alternatives that are more cost effective, while adhering to the requirements of 10 CFR part 61, that the NRC should consider for implementing requirements for GTCC waste disposal in the near surface that were not addressed in Section 7 of the draft regulatory basis?

(7) Are there any additional advantages or disadvantages or applicable cost information that the NRC should have considered as part of its evaluation of alternatives in Section 7 of the draft regulatory basis that are pertinent to the NRC or any stakeholders including the public, industry, Agreement States, Indian Tribes, the U.S. Department of Energy, or other government agencies?

(8) Are there any other issues, not identified in the above questions, that the NRC should have considered in the draft regulatory basis?

IV. Cumulative Effects of Regulation

The cumulative effects of regulation (CER) describe the challenges that licensees or other impacted entities (such as Agreement State regulatory agencies) may face while implementing new regulatory positions, programs, and requirements (*e.g.,* rules, generic letters, backfits, inspections). The CER is an organizational challenge that results from a licensee or impacted entity implementing a number of complex positions, programs, or requirements within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The NRC has implemented CER enhancements to the rulemaking process to facilitate public involvement throughout the rulemaking process. Therefore, the NRC is specifically requesting comment on the cumulative effects that may result from a proposed rule related to the actions discussed in the draft regulatory basis. In developing comments on the draft regulatory basis, and assuming the NRC were to pursue rulemaking, consider the following questions:

(1) In light of any current or projected CER challenges, what should be a reasonable effective date, compliance date, or submittal date(s) from the time the final rule is published to the actual implementation of any new proposed requirements, including changes to programs, procedures, or the facility?

(2) If current or projected CER challenges exist, what should be done to address this situation (*e.g.,* if more time is required to implement the new requirements, what period of time would be sufficient, and why such a time frame is necessary)?

(3) Do other regulatory actions (*e.g.,* orders, generic communications, license amendment requests, and inspection findings of a generic nature) by the NRC or other agencies influence the implementation of the potential proposed requirements?

(4) Are there unintended consequences? Would a rule based upon the recommendations described in the draft regulatory basis create conditions that would be contrary to the purpose and objectives of 10 CFR part 61? If so, what are the consequences and how should they be addressed?

(5) Please consider providing information on the estimates of the costs and benefits of the NRC promulgating a rule based upon the recommendations described in the draft regulatory basis, which can be used to support any additional regulatory analysis by the NRC.

V. Public Meeting

The NRC plans to conduct a public meeting to describe the draft regulatory basis and to give the public an opportunity to ask questions about the draft regulatory basis.

The NRC will publish a notice of the location, time, and agenda for the meeting on the NRC's public meeting website at least 10 calendar days before the meeting. Stakeholders should monitor the NRC's public meeting website for information about the public meeting at: *http://www.nrc.gov/public-involve/public-meetings/index.cfm.* The meeting notice will also be added to the Federal rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2017–0081. See the ''Availability of Documents'' section of this document for instructions on how to subscribe to receive email notifications when documents are added to the docket folder on the Federal rulemaking website.

VI. Availability of Documents

The documents identified in this **Federal Register** notice are available to interested persons through one or more of the methods listed in the **ADDRESSES** section of this document.

The NRC may post documents related to this rulemaking activity to the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2017–0081. These documents will inform the public of the current status of this activity and/or provide additional material for use at future public meetings.

The Federal rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2017–0081); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain

Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

Dated at Rockville, Maryland, this 16th day of July 2019.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Division of Rulemaking, Office of Nucler Material Safety and Safeguards.

[FR Doc. 2019–15434 Filed 7–19–19; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 430 and 431

[EERE–2019–BT–NOA–0011]

RIN 1904–AE24

Test Procedure Interim Waiver Process

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Proposed rule; re-opening of public comment period.

SUMMARY: On May 1, 2019, the U.S. Department of Energy (DOE) published a Notice of Proposed Rulemaking (NOPR) that proposed amendments to streamline its test procedure interim waiver decision-making process. The comment period for the NOPR ended on July 1, 2019. As a result of stakeholder requests, on June 26, 2019, DOE published a notice of webinar and an extension of the public comment period through July 15, 2019. During the webinar and shortly thereafter, stakeholders requested additional time to comment. Therefore, DOE has decided to reopen the comment period. This document announces that the period for submitting comments on the NOPR is to be re-opened.

DATES: The comment period for the proposed rule published on May 1, 2019 (84 FR 18414) is reopened. DOE will accept comments, data, and information regarding this NOPR received no later than midnight on August 6, 2019, and deems any comments received prior to that date to be timely filed.

ADDRESSES: Interested persons are encouraged to submit comments, identified by docket number [EERE–2019–BT–NOA–0011], and/or Regulation Identification Number (RIN) 1904–AE24, by any one of the following methods:

1. *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: TPWaiver Process2019NOA0011@ee.doe.gov.* Include docket number [EERE–2019–BT–NOA–0011] and/or RIN 1904–AE24 in the subject line of the message. Please include the full body of your comments in the text of the message or as an attachment. If you have additional information such as studies or journal articles and cannot attach them to your electronic submission, please send them on a CD or USB flash drive to the address listed in paragraph 4. The additional material must clearly identify your electronic comments by name, date, subject, and docket number [EERE–2019–BT–NOA–0011].

3. *Mail:* Address written comments to Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121 (due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt). If possible, please submit all items on a CD or USB flash drive, in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone (202) 287–1445. If possible, please submit all items on a CD or USB flash drive, in which case it is not necessary to include printed copies.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. A link to the docket web page can be found at: *http://www.regulations.gov/docket?D=EERE-2019-BT-NOA-0011.* The *http://www.regulations.gov* web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On May 1, 2019, DOE published a NOPR in the **Federal Register** that proposed amendments to its regulations to streamline its test procedure interim waiver decision-making process. (84 FR 18414) The proposed amendments would require the Department to notify, in writing, an applicant for an interim waiver of the disposition of the request within 30 business days (*i.e.,* approximately 45 days) of receipt of the application. Should DOE fail to satisfy this requirement, the request for interim waiver would be deemed granted based on the criteria in DOE regulations. Specifically, DOE regulations require that DOE grant an interim waiver if it determines that it is desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. An interim waiver would remain in effect until a waiver decision is published or until DOE publishes a new or amended test procedure that addresses the issues presented in the application, whichever is earlier. If the alternate test procedure ultimately required by DOE differs from what is specified in the interim waiver, manufacturers would have a 180-day grace period to begin using the alternate test procedure specified in the decision and order on the petition. This proposal is intended to address delays in DOE's current process for considering requests for interim waivers and waivers from the DOE test method. These delays impose costs on manufacturers, as they cannot certify and distribute their products while they wait for DOE to respond to their petitions.

The NOPR provided for the submission of comments by July 1, 2019. DOE received requests to hold a public meeting and to extend the comment period on the proposal. As a result, on June 26, 2019, DOE published a notice of webinar and an extension of the public comment period through July 15, 2019. DOE held a webinar on July 11, 2019. During the webinar and shortly thereafter, stakeholders requested additional time to prepare comments.

Given the importance to DOE of receiving public input, DOE is re-opening the comment period. DOE will consider any comments received by midnight on August 6, 2019, and deems any comments received prior to that date to be timely filed.

Signed in Washington, DC, on July 16, 2019.

Daniel R. Simmons,

Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, U.S. Department of Energy.

[FR Doc. 2019–15506 Filed 7–19–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2019–0488; Notice No. 25–19–09–SC]

Special Conditions: Voyageur Aerotech Inc., Bombardier DHC–8–100, DHC–8–200, DHC–8–300 and DHC–8–400 Series Airplanes; Installed Rechargeable Lithium Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Bombardier Model No. DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes. These airplanes, as modified by Voyageur Aerotech Inc. (Voyageur), will have novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a rechargeable lithium battery pack inside the Emergency Backup Power Supply. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before September 5, 2019.

ADDRESSES: Send comments identified by Docket No. FAA–2019–0488 using any of the following methods:

- *Federal eRegulations 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: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

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 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: Nazih Khaouly, Airplane and Flight Crew Interface Section, AIR–671, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3160; email *Nazih.Khaouly@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On September 10, 2018, Voyageur applied for a supplemental type certificate for a rechargeable lithium battery pack inside the Emergency Backup Power Supply in the Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes. The Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes are twin engine powered airplanes with standard seating provisions for up to 86 passengers, depending on model, and a maximum takeoff weight of between 33,000 lbs. and 65,200 lbs., depending on series model.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Voyageur must show that the Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A13NM or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes will incorporate the following novel or unusual design feature:

The installation of a rechargeable lithium battery pack inside the Emergency Backup Power Supply. Known uses of rechargeable and non-rechargeable lithium batteries on airplanes include:

- Flightdeck and avionics systems such as displays, global positioning systems, cockpit voice recorders, flight data recorders, underwater-locator-beacons, navigation computers, integrated avionics computers, satellite network/communication systems, communication management units, and remote monitor electronic line replaceable units;
- Cabin safety, entertainment and communications equipment including emergency locator transmitters, life

rafts, escape slides, seat belt air bags, cabin management systems, Ethernet switches, routers and media servers, wireless systems, internet/in-flight entertainment systems, satellite televisions, remotes and handsets; and

- Systems in cargo areas including door controls, sensors, video surveillance equipment and security systems.

Discussion

Rechargeable lithium batteries are considered to be a novel or unusual design feature in transport category airplanes, with respect to the requirements in § 25.1353. This type of battery has certain failure, operational, and maintenance characteristics that differ significantly from those of the nickel-cadmium and lead-acid rechargeable batteries currently approved for installation on transport category airplanes. These batteries introduce higher energy levels into airplane systems through new chemical compositions in various battery-cell sizes and construction. Interconnection of these cells in battery packs introduces failure modes that require unique design considerations, such as provisions for thermal management.

These proposed special conditions are substantively similar to special conditions the FAA has released in the past. The special conditions proposed have been drafted into a plain English format, reorganized for clarity, and provide more prescriptive instructions than previously released special conditions.

Special Condition 1 requires that each individual cell within a battery be designed to maintain safe temperatures and pressures. Special Condition 2 addresses these same issues but for the entire battery. Special Condition 2 requires that the battery be designed to prevent propagation of a thermal event, such as self-sustained, uncontrolled increases in temperature or pressure from one cell to adjacent cells.

Special Conditions 1 and 2 are intended to ensure that the cells and battery are designed to eliminate the potential for uncontrollable failures. However, a certain number of failures will occur due to various factors beyond the control of the designer. Therefore, other special conditions are intended to protect the airplane and its occupants if failure occurs.

Special Conditions 3, 7, and 8 are self-explanatory, and the FAA does not provide further explanation for them at this time.

Special Condition 4 clarifies that the flammable-fluid fire-protection requirements of 14 CFR 25.863 apply to rechargeable lithium battery installations. Section 25.863 is applicable to areas of the airplane that could be exposed to flammable fluid leakage from airplane systems. Rechargeable lithium batteries contain electrolyte that is a flammable fluid.

Special Condition 5 requires each rechargeable lithium battery installation to not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more severe failure condition. Special Condition 6 requires each rechargeable lithium battery installation to have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells. The means of meeting special conditions 5 and 6 may be the same, but they are independent requirements addressing different hazards. Special Condition 5 addresses corrosive fluids and gases, whereas special condition 6 addresses heat.

Special Condition 9 requires rechargeable lithium batteries to have automatic means, for charge rate and disconnect, due to the fast acting nature of lithium battery chemical reactions. Manual intervention would not be timely or effective in mitigating the hazards associated with these batteries.

Although these special conditions require specific functionalities and capabilities, and address certain critical failure modes of rechargeable lithium batteries and their installations, the applicant must also meet the requirements of §§ 25.1301, 25.1309, and 25.1709, when applicable, in addition to these special conditions. To date, in-service experience has shown that rechargeable lithium battery thermal/pressure runaway conditions are not extremely improbable. Applicants must assume such failures could occur sometime during the life of the battery installation when demonstrating compliance with § 25.1309.

If an applicant proposes to install a rechargeable lithium battery in a rotor burst zone, the applicant must assess the rotor burst induced damage to the battery to show compliance with § 25.903(d)(1) in conjunction with showing compliance with the rechargeable lithium battery special condition.

These special conditions apply to all rechargeable lithium battery installations in lieu of § 25.1353(b)(1) through (4) at amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments. Those regulations remain in effect for other battery installations.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes. Should Voyageur apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A13NM to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Bombardier Model DHC–8–100, DHC–8–200, DHC–8–300, and DHC–8–400 series airplanes, as modified by Voyageur Aerotech Inc.

In lieu of title 14, Code of Federal Regulations (14 CFR) 25.1353(b)(1) through (4) at amendment 25–123 or § 25.1353(c)(1) through (4) at earlier amendments, each rechargeable lithium battery installation must:

1. Be designed to maintain safe cell temperatures and pressures under all foreseeable operating conditions to prevent fire and explosion.

2. Be designed to prevent the occurrence of self-sustaining, uncontrollable increases in temperature or pressure, and automatically control the charge rate of each cell to protect against adverse operating conditions,

such as cell imbalance, back charging, overcharging, and overheating.

3. Not emit explosive or toxic gases, either in normal operation or as a result of its failure that may accumulate in hazardous quantities within the airplane.

4. Meet the requirements of § 25.863.

5. Not damage surrounding structure or adjacent systems, equipment, or electrical wiring from corrosive fluids or gases that may escape in such a way as to cause a major or more-severe failure condition.

6. Have provisions to prevent any hazardous effect on airplane structure or systems caused by the maximum amount of heat it can generate due to any failure of it or its individual cells.

7. Have a failure sensing and warning system to alert the flightcrew if its failure affects safe operation of the airplane.

8. Have a monitoring and warning feature that alerts the flightcrew when its charge state falls below acceptable levels if its function is required for safe operation of the airplane.

9. Have a means to automatically disconnect from its charging source in the event of an over-temperature condition, cell failure or battery failure.

Note: A battery system consists of the battery, battery charger and any protective, monitoring and alerting circuitry or hardware inside or outside of the battery. It also includes vents (where necessary) and packaging. For the purpose of this special condition, a battery and the battery system is referred to as a battery.

Issued in Des Moines, Washington, on July 16, 2019.

Victor Wicklund,

Acting Manager, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2019–15478 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0550; Airspace Docket No. 19–AGL–23]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; St. James, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at St. James Municipal Airport, St. James, MN. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Fairmont VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before September 5, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0550; Airspace Docket No. 19–AGL–23, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at St. James Municipal Airport, St. James, MN, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0550; Airspace Docket No. 19–AGL–23.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments

received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (decreased from a 7-mile radius) of the St. James Municipal Airport, St. James, MN; adding an extension 1.1 miles each side of the 147° bearing from the airport extending from the 6.4-mile radius to 10.4 miles southeast of the airport; and adding an extension 1 mile each side of the 327° bearing from the airport extending from the 6.4-mile radius to 10.2 miles northwest of the airport.

This action is necessary due to an airspace review caused by the decommissioning of the Fairmont VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL MN E5 St. James, MN [Amended]

St. James Municipal Airport, MN
(Lat. 43°59′11″ N, long. 94°33′29″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the St. James Municipal Airport, and within 1.1 miles each side of the 147° bearing from the airport extending from the 6.4-mile radius to 10.4 miles southeast of the airport, and within 1 mile each side of the 327° bearing from the airport extending from the 6.4-mile radius to 10.2 miles northwest of the airport.

Issued in Fort Worth, Texas, on July 15, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–15442 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0109; Airspace Docket No. 19–ASO–2]

RIN 2120–AA66

Proposed Amendment of the Class D and Class E Airspace, Establishment of Class E Airspace, and Revocation of Class E Airspace; Louisville, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace and Class E surface airspace at Bowman Field, Louisville, KY; establish Class E surface airspace designated as an extension to a Class C surface area at Louisville Muhammad Ali International Airport, Louisville, KY; revoke the Class E airspace designated as an extension to a Class D or Class E surface area at Bowman Field Airport; and amend Class E airspace extending upward from 700 feet above the surface at Louisville Muhammad Ali International Airport and Bowman Field Airport. The FAA is proposing this action as the result of the decommissioning of the Bowman VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. The name of the Louisville Muhammad Ali International Airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before September 5, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–

0109; Airspace Docket No. 19–ASO–2, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace and Class E surface airspace at Bowman Field, Louisville, KY; establish Class E surface airspace designated as an extension to a Class C surface area at Louisville Muhammad Ali International Airport, Louisville, KY; revoke the Class E airspace designated as an extension to a Class D or Class E surface area at Bowman Field Airport; and amend Class E airspace extending upward from 700 feet above the surface at Louisville Muhammad Ali International Airport and Bowman Field Airport to support instrument flight rule operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0109/Airspace Docket No. 19–ASO–2.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class D airspace to within a 4-mile radius (previously a 3.9-mile radius) of Bowman Field Airport, Louisville, KY; and updating the name of the Louisville Muhammad Ali International Airport (previously Louisville International Airport), Louisville, KY, to coincide with the FAA's aeronautical database;

Amending the Class E surface airspace to within a 4-mile radius (previously a 3.9-mile radius) of Bowman Field Airport to 2,200 feet MSL; adding an exclusion area above 2,200 MSL; and updating the name of the Louisville Muhammad Ali International Airport (previously Louisville International Airport) to coincide with the FAA's aeronautical database;

Establishing Class E surface airspace designated as an extension to a Class C surface area at Louisville Muhammad Ali International Airport extending within 1 mile each side of the 165° bearing of the Louisville Muhammad Ali International: RWY 35R–LOC extending from the 5-mile radius of Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International: RWY 35R–LOC; and within 1 mile each side of the 165° bearing of the Louisville Muhammad Ali International: RWY 35L–LOC extending from the 5-mile radius of Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International: RWY 35L–LOC; and within 1 mile each side of the 165° bearing of the Louisville Muhammad Ali International Airport extending from the 5-mile radius of Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International Airport;

Removing the Class E airspace designated as an extension to Class D and Class E surface area at Bowman Field Airport, as it is no longer required;

And amending the Class E airspace extending upward from 700 feet above the surface to within a 7.5-mile radius (decreased from a 10-mile radius) of Louisville Muhammad Ali International Airport; and within a 6.5-mile radius (reduced from a 10-mile radius) of Bowman Field Airport; and would update the name of Louisville Muhammad Ali International Airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review caused by the decommissioning of the Bowman VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraph 5000, 6002, 6003, 6004, and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO KY D Louisville, KY [Amended]

Bowman Field Airport, KY
(Lat. 38°13′41″ N, long. 85°39′49″ W)
Louisville Muhammad Ali International Airport, KY
(Lat. 38°10′27″ N, long. 85°44′11″ W)

That airspace extending upward from the surface to but not including 2,200 feet MSL within a 4-mile radius of Bowman Field Airport, excluding that portion within the Louisville Muhammad Ali International Airport Class C airspace area, and excluding that portion south of the 081° bearing from Louisville Muhammad Ali International Airport, and also excluding that portion north of the Louisville Muhammad Ali International Airport Class C airspace area and west of a line drawn from lat. 38°11′28″ N, long. 85°42′01″ W direct thru the point where the 030° bearing from Louisville Muhammad Ali International Airport intersects the 5-mile radius from Louisville Muhammad Ali International Airport to the point of intersection with the 4-mile radius from Bowman Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

ASO KY E2 Louisville, KY [Amended]

Bowman Field Airport, KY
(Lat. 38°13′41″ N, long. 85°39′49″ W)
Louisville Muhammad Ali International Airport, KY
(Lat. 38°10′27″ N, long. 85°44′11″ W)

That airspace extending upward from the surface to but not including 2,200 feet MSL within a 4-mile radius of Bowman Field Airport, excluding that portion within the Louisville Muhammad Ali International Airport Class C airspace area, and excluding that portion south of the 081° bearing from Louisville Muhammad Ali International Airport, and also excluding that portion north of the Louisville Muhammad Ali International Airport Class C airspace area and west of a line drawn from lat. 38°11′28″ N, long. 85°42′01″ W direct thru the point where the 030° bearing from Louisville Muhammad Ali International Airport intersects the 5-mile radius from Louisville Muhammad Ali International Airport to the point of intersection with the 4-mile radius from Bowman Field Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6003 Class E Airspace Areas Designated as an Extension to a Class C Surface Area.

* * * * *

ASO KY E3 Louisville, KY [Established]

Louisville Muhammad Ali International Airport, KY
(Lat. 38°10′27″ N, long. 85°44′11″ W)
Louisville Muhammad Ali International: RWY 35R–LOC
(Lat. 38°11′21″ N, long. 85°43′55″ W)
Louisville Muhammad Ali International: RWY 35L–LOC
(Lat. 38°11′17″ N, long. 85°44′57″ W)

That airspace extending upward from the surface within 1 mile each side of the 165° bearing from the Louisville Muhammad Ali International: RWY 35R–LOC extending from the 5-mile radius of the Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International: RWY 35R–LOC, and within 1 mile each side of the 165° bearing from the Louisville Muhammad Ali International: RWY 35L–LOC extending from the 5-mile radius of the Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International: RWY 35L–LOC, and within 1 mile each side of the 165° bearing from the Louisville Muhammad Ali International Airport extending from the 5-mile radius of the Louisville Muhammad Ali International Airport to 5.5 miles south of the Louisville Muhammad Ali International Airport.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ASO KY E4 Louisville Bowman Field, KY [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO KY E5 Louisville, KY [Amended]

Louisville Muhammad Ali International Airport, KY
(Lat. 38°10′27″N, long. 85°44′11″W)
Bowman Field Airport, KY
(Lat. 38°13′41″ N, long. 85°39′49″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Louisville Muhammad Ali International Airport, and within 2.4 miles each side of the ILS localizer east course, extending from the 10-mile radius to 7 miles east of the LOM, and within a 6.5-mile radius of Bowman Field Airport.

Issued in Fort Worth, Texas, on July 15, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–15445 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0549; Airspace Docket No. 19–AGL–22]

RIN 2120–AA66

Proposed Amendment of Class D and E Airspace; Alpena, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace, the Class E surface airspace, the Class E airspace designated as an extension to Class D and Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Alpena County Regional Airport, Alpena, MI. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Au Sable VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The name of MidMichigan Medical Center-Alpena, Alpena MI, would also be updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Comments must be received on or before September 5, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0549; Airspace Docket No. 19–AGL–22, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace, the Class E surface airspace, the Class E airspace designated as an extension to Class D and Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Alpena County Regional Airport, Alpena, MI, and support IFR operations at the this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0549; Airspace Docket No. 19–AGL–22.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11C, Airspace

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class D airspace to within a 4.3-mile radius (decreased from a 4.4-mile radius) of Alpena County Regional Airport, Alpena, MI; and updating the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E surface airspace to within a 4.3-mile radius (decreased from a 4.4-mile radius) of Alpena County Regional Airport; adding a 3,200 MSL altitude limit to the airspace legal description; removing the Alpena VORTAC and associated extensions from the airspace legal description; and updating the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E airspace designated as an extension to Class D and Class E surface areas at Alpena County Regional Airport by amending the extension to the north to within 4.8 mile west and 3 miles east of the Alpena VORTAC 355° radial extending from the 4.3 mile radius of the Alpena County Regional Airport to 7 miles north of the Alpena VORTAC; and removing the extension to the south from the airspace legal description, as it is no longer needed;

And amending the Class E airspace extending upward from 700 feet above the surface to within a 6.8-mile radius (decreased from a 7-mile radius) of the Alpena County Regional Airport; removing the FELPS NDB and associated extension from the airspace legal description; adding an extension 10 miles west and 6 miles east of the Alpena VORTAC 355° radial extending from the 6.8-mile radius of the Alpena County Regional Airport to 10 miles north of the Alpena VORTAC; adding an extension 3.9 miles each side of the Alpena VORTAC 194° radial extending from the 6.8-mile radius of the Alpena County Regional Airport to 14.3 miles south of the Alpena VORTAC; and updating the name of MidMichigan Medical Center-Alpena, Alpena, MI (previously Alpena General Hospital), to coincide with the FAA's aeronautical database.

This action is necessary due to an airspace review caused by the decommissioning of the Au Sable VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AGL MI D Alpena, MI [Amended]

Alpena County Regional Airport, MI
(Lat. 45°04′41″ N, long. 83°33′37″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.3-mile radius of Alpena County Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL MI E2 Alpena, MI [Amended]

Alpena County Regional Airport, MI
(Lat. 45°04′41″ N, long. 83°33′37″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.3-mile radius of Alpena County Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL MI E4 Alpena, MI [Amended]

Alpena County Regional Airport, MI
(Lat. 45°04′41″ N, long. 83°33′37″ W)
Alpena VORTAC
(Lat. 45°04′58″ N, long. 83°33′25″ W)

That airspace extending upward from the surface within 4.8 miles west and 3 miles east of the Alpena VORTAC 355° radial extending from the 4.3-mile radius of the Alpena County Regional Airport to 7 miles north of the Alpena VORTAC.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

AGL MI E5 Alpena, MI [Amended]

Alpena County Regional Airport, MI
(Lat. 45°04′41″ N, long. 83°33′37″ W)
Alpena VORTAC
(Lat. 45°04′58″ N, long. 83°33′25″ W)
MidMichigan Medical Center-Alpena, MI,
Point in Space Coordinates
(Lat. 45°04′38″ N, long. 83°26′53″ W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Alpena County Regional Airport, and within 10 miles west and 6 miles east of the Alpena VORTAC 355° radial extending from the 6.8-mile radius of Alpena County Regional Airport to 10 miles north of the Alpena VORTAC, and within 3.9 miles each side of the Alpena VORTAC 194° radial extending from the 6.8-mile radius of the Alpena County Regional Airport to 14.3 miles from the Alpena VORTAC, and within a 6-mile radius of the Point in Space serving MidMichigan Medical Center-Alpena.

Issued in Fort Worth, Texas, on July 15, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–15443 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0503; Airspace Docket No. 19–AGL–19]

RIN 2120–AA66

Proposed Amendment of Class D and E Airspace and Establishment of Class E Airspace; La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface and establish a Class E airspace area designated as an extension to Class D and Class E surface areas at La Crosse Regional Airport, La Crosse, WI. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the La Crosse VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of La Crosse Regional Airport and the name of La Crosse Regional Airport and Mayo Clinic Health System-Franciscan Healthcare, La Crosse, WI, would also be updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations this airport.

DATES: Comments must be received on or before September 5, 2019.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0503; Airspace Docket No. 19–AGL–19, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface and establish a Class E airspace area designated as an extension to Class D and Class E surface areas at La Crosse Regional Airport, La Crosse, WI, to support IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0503; Airspace Docket No. 19–AGL–19.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101

Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending the Class D airspace at La Crosse Regional Airport, La Crosse, WI, by updating the name (previously La Crosse Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replace the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E surface airspace at La Crosse Regional Airport by updating the name (previously La Crosse Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; adding an altitude limit of 3,200 feet MSL; and replacing the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

Establishing a Class E airspace area designated as an extension to Class D and Class E surface areas at La Crosse Regional Airport within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport; and within 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the La Crosse Regional Airport to 5.3 miles north of the La Crosse Regional: RWY 18–LOC; and within 1 mile each side of the 036° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport; and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.7 miles east of the airport; and within 1 mile each side of the 216° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport;

And amending the Class E airspace extending upward from 700 feet above the surface at La Crosse Regional Airport by updating the name (previously La Crosse Municipal Airport) and geographic coordinates of La Crosse Regional Airport to coincide with the FAA's aeronautical database; removing the La Crosse VOR/DME and the associated extension from the airspace legal description; updating the name of Mayo Clinic Health System-Franciscan Healthcare (previously Saint Francis Medical Center) to coincide with the FAA's aeronautical database; adding an extension 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 7.1 miles north of the airport; adding an extension within 2.9 miles each side of the 036° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 9.6 miles northeast of the airport; adding an extension 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 7.4 miles southeast of the airport; and adding an extension 2 miles each side of the 216° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius of the airport to 11.3 miles southwest of the airport.

This action is necessary due to an airspace review caused by the decommissioning of the La Crosse VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AGL WI D La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.4-mile radius of La Crosse Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL WI E2 La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.4-mile radius of La Crosse

Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AGL WI E4 La Crosse, WI [Establish]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)
La Crosse Regional: RWY 18–LOC
(Lat. 43°52′01″ N, long. 91°15′31″ W)

That airspace extending upward from the surface within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.3 miles north of the airport, and within 1 mile each side of the 359° bearing from the La Crosse Regional: RWY 18–LOC extending from the 4.4-mile radius of the La Crosse Regional Airport to 5.3 miles north of the La Crosse Regional: RWY 18–LOC, and within 1 mile each side of the 036° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 6.2 miles northeast of the airport, and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.7 miles east of the airport, and within 1 mile each side of the 216° bearing from the La Crosse Regional Airport extending from the 4.4-mile radius of the airport to 5.6 miles southwest of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL WI E5 La Crosse, WI [Amended]

La Crosse Regional Airport, WI
(Lat. 43°52′45″ N, long. 91°15′24″ W)
Mayo Clinic Health System-Franciscan Healthcare, WI, Point In Space Coordinates
(Lat. 43°47′39″ N, long. 91°14′00″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of La Crosse Regional Airport, and within 1 mile each side of the 359° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius to 7.1 miles north of the airport, and within 2.9 miles each side of the 036° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius to 9.6 mile northeast of the airport, and within 1 mile each side of the 119° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius from the airport to 7.4 mile southeast of the airport, and within 2 miles each side of the 216° bearing from the La Crosse Regional Airport extending from the 6.9-mile radius to 11.3 miles southwest of the airport, and within a 6-mile radius of the point in space serving Mayo Clinic Health System-Franciscan Healthcare.

Issued in Fort Worth, Texas, on July 15, 2019.

John Witucki,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2019–15444 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 401, 404, 413, 414, 415, 417, 420, 431, 433, 435, 437, 440, and 450

[Docket No.: FAA–2019–0229]

Streamlined Launch and Reentry Licensing Requirements; Notice of Availability and Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The FAA announces the availability of the FAA's first set of clarifications to commenters' questions regarding the Notice of Proposed Rulemaking (NPRM) entitled ''Streamlined Launch and Reentry Licensing Requirements,'' which published in the **Federal Register** on April 15, 2019; a due date for submitting clarifying questions; and an extension of the comment period to allow commenters sufficient time to review the FAA's clarifications.

DATES: The comment period for the proposed rule published on April 15, 2019 at 84 FR 15296 is extended from July 30, 2019, to August 19, 2019.

ADDRESSES: You may send comments identified by docket number FAA–2019–0229 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 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 Randy Repcheck, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 205914; telephone (202) 267–8760; email *Randy.Repcheck@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2019, the FAA published a Notice of Proposed Rulemaking (NPRM) entitled ''Streamlined Launch and Reentry Licensing Requirements (SLR2).'' [1] In that NPRM, the FAA proposed streamlining and increasing flexibility in the FAA's commercial space regulations and removing obsolete requirements. The action would consolidate and revise multiple regulatory parts and apply a single set of licensing and safety regulations across several types of operations and vehicles. The proposed rule would describe the requirements to obtain a vehicle operator license, the safety requirements, and the terms and conditions of a vehicle operator license.

Subsequent to its publication, the FAA received requests from the industry to hold a public meeting or reconvene the SLR2 Aviation Rulemaking Committee, as a means to further engage with the industry regarding the NPRM. In response, on June 14, 2019, the FAA posted a document to the docket entitled, ''Ex Parte Correspondence to Michael Lopez-Algeria, MLA Space, LLC.'' [2] In this document, the FAA stated that, in place of a public meeting, it will accept written questions seeking clarification on specific parts of the NPRM.

[1] 84 FR 15296 (April 15, 2019).

[2] FAA–2019–0229–0088.

Notice of Availability

The FAA has received questions seeking clarification from several entities. The FAA has reviewed the questions it has received to date and, on July 16, 2019, posted its first set of clarifying responses to the docket. The FAA notes that it has responded to those questions for which clarification was appropriate. The FAA concluded that some questions constituted comments to the proposal, and it will consider those comments in the development of the final rule. The FAA may post additional clarifications between now and the close of the comment period, as appropriate, and advises commenters to review the docket periodically for these clarifications.

Due Date for Submitting Clarifying Questions

The deadline for submitting clarifying questions is July 29, 2019.

Extension of the Comment Period

The FAA recognizes that the public will benefit from adequate time to review the FAA's clarifications. Therefore, in accordance with § 11.47(c) of Title 14, Code of Federal Regulations, the FAA is extending the comment period for an additional 20 days to August 19, 2019.

Accordingly, the comment period for Notice No. 19–01 is extended until August 19, 2019.

Issued in Washington, DC, on July 16, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

[FR Doc. 2019–15465 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0278; FRL–9996–91–Region 4]

Air Plan Approval; KY; Existing Indirect Heat Exchangers for Jefferson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to approve revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet), through a letter dated March 15, 2018. The revisions were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District, also referred to herein as Jefferson County). The SIP revision includes changes to Jefferson County Regulations regarding existing indirect heat exchangers.

DATES: Comments must be received on or before August 21, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0278 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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: D. Brad Akers, 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. Mr. Akers can be reached via electronic mail at *akers.brad@epa.gov* or via telephone at (404) 562–9089.

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP that were provided to EPA through KDAQ via a letter dated March 15, 2018.[1] [2] EPA is proposing to approve the portions of this SIP revision that make changes to the District's Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers.*[3] The March 15, 2018, SIP revision makes minor and ministerial changes to Regulation 6.07 that do not alter the meaning of the regulation or the emissions levels for sources regulated under the Jefferson County Regulations, such as clarifying changes to its applicability. In addition, the changes strengthen the SIP by adding specific test methods and procedures applicable to existing indirect heat exchangers. The SIP revision updates the current SIP-approved version of Regulation 6.07 (version 3) to version 4. The changes to this rule and EPA's rationale for proposing approval are described in more detail in Section II.

II. EPA's Analysis of the State Submittal

As mentioned in Section I of this proposed action, the portion of Jefferson County's March 15, 2018, SIP revision that EPA is proposing to approve makes changes to Jefferson County Air Quality Regulations at Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers.*

The changes to Section 1, *Applicability,* and Section 2, *Definitions,* are intended to provide consistency with other Jefferson County Air Quality Regulations by defining the affected facility within the *Definitions* section and relying on that definition in the *Applicability* section. Specifically, Section 1 of the current SIP-approved version of Regulation 6.07 (version 3) provides that this regulation apply to indirect heat exchangers at or above 1 million British thermal units per hour (MMBtu/hr) that ''was in being or under construction before April 19, 1972.'' The amendments included in the March 15, 2018, SIP revision simplify Section 1, *Applicability,* to refer to affected facilities ''in being or commenced construction, modification, or reconstruction on or before the applicable classification date defined [in Section 2].''

[1] EPA notes that the Agency received the SIP revision on March 23, 2018.

[2] In 2003, the City of Louisville and Jefferson County governments merged and the ''Jefferson County Air Pollution Control District'' was renamed the ''Louisville Metro Air Pollution Control District.'' *See* The History of Air Pollution Control in Louisville, *available at https://louisvilleky.gov/government/air-pollution-control-district/history-air-pollution-control-louisville.* However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading ''Air Pollution Control District of Jefferson County.'' Thus, to be consistent with the terminology used in the SIP, we refer throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the ''Jefferson County'' regulations.

[3] EPA notes that the Agency received several submittals revising the Jefferson County portion of the Kentucky SIP transmitted with the same March 15, 2018, cover letter. EPA will be considering action for these other SIP revisions in separate rulemakings.

Section 2 then defines ''Affected facility'' as those indirect heat exchangers with a capacity of 1 MMBtu/hr heat input. Therefore, the size of such facilities subject to the Regulation is not changed. Next, the classification date is defined in Section 2 as August 17, 1971 for facilities with a capacity greater than 250 MMBtu/hr heat input, and April 9, 1972 for those with a capacity of 250 MMBtu/hr or less, which correspond to applicability dates for these sizes of sources in Regulation 7.06, *Standards of Performance for New Indirect Heat Exchangers.* EPA notes that the revised dates are earlier than the current-SIP approved date, however, as Regulation 6.07 regulates sources that would not otherwise be covered under regulations requiring greater emissions reductions (for example, Regulation 7.06 or a relevant NSPS), EPA expects no emissions increases associated with this revision. EPA has preliminarily concluded that the changes to Sections 1 and 2 serve to correct and clarify the existing SIP.

Section 3, *Standard for Particulate Matter,* specifies the applicable emissions standards for particulate matter and opacity, and Section 4, *Standard for Sulfur Dioxide,* specifies the applicable standards for sulfur dioxide. The changes made to both of these Sections in the March 15, 2018, SIP submittal are minor and ministerial (for example, moving the term particulate matter from subsections to the prefatory text of the corresponding section and moving the allowable sulfur dioxide emissions descriptor from before the equation and including it as a defined term in the equation), and no changes are made to the applicable emissions standards, nor the calculations for determining the standards. Minor and ministerial changes are also made to Table 1, *Allowable Particulate Matter Emission Rates,* and Table 2, *Allowable Sulfur Dioxide Emissions Based on Heat Input Capacity,* appended to Regulation 6.07 and corresponding to Sections 3 and 4, respectively. EPA has preliminarily concluded that these changes do not modify the scope or meaning of the provisions.

Finally, the March 15, 2018, SIP revision adds Section 5, *Test Methods and Procedures,* to provide specific instruction on how to determine compliance with the applicable emissions limits for the affected facilities. This section requires compliance with standards for particulate matter and sulfur dioxide be demonstrated using EPA reference methods included in 40 CFR part 60, Appendix A, except as provided in Regulation 1.04, *Performance Tests.* Regulation 1.04 stipulates that if a facility is subject to 40 CFR parts 60, 61, or 63, then specified procedures for test requirements are to be used unless EPA and LMAPCD have agreed upon an alternative or have agreed to a waiver from the applicable test procedures. The addition of section 5 provides specificity in testing requirements for the set of affected facilities under Regulation 6.07 that would not otherwise be subject to 40 CFR part 60 or part 63 (for example, for a source that commenced construction or modification prior to the applicability date for 40 CFR part 60). EPA proposes that the use of federal reference methods is appropriate and sufficient to determine compliance with the applicable standards in Regulation 6.07, and that the inclusion of Section 5 in the SIP is clarifying and SIP-strengthening.

As noted above, these rule changes do not relax the emissions reductions to applicable sources, nor do they change any applicable emissions limitations. With respect to the changes related to test methods and procedures, EPA proposes that the changes serve to strengthen the SIP. Therefore, EPA has made the preliminary determination that the aforementioned changes will not have a negative impact on air quality in the area and is therefore proposing to approve version 4 of Regulation 6.07 into the Jefferson County portion of the Kentucky SIP.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Jefferson County's Regulation 6.07, *Standards of Performance for Existing Indirect Heat Exchangers,* version 4, state effective January 17, 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).

IV. Proposed Action

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP included in a March 15, 2018, submittal. Specifically, EPA is proposing to approve the District's Regulation 6.07 version 4 into the SIP. The March 15, 2018, SIP revision makes minor and ministerial changes such as clarifying the applicability of the regulation, and includes more specific requirements for test methods and procedures for affected facilities. EPA believes these changes are consistent with the CAA and EPA policy, and these rule adoptions will not impact the NAAQS or interfere with any other applicable requirement of the Act.

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. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: July 11, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–15418 Filed 7–19–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2017–0543; FRL–9994–33]

RIN 2070–AK49

Notification of Submission to the Secretary of Agriculture; Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) a draft regulatory document concerning ''Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements.'' The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0543, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Jackie Mosby, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 347–0224; email address: *OPP_NPRM_AgWorkerProtection@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

Section 25(a)(2)(A) of FIFRA requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft proposed rule at least 60 days before signing it in proposed form for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft proposed rule within 30 days after receiving it, the EPA Administrator shall include the comments of the Secretary of USDA and the EPA Administrator's response to those comments with the proposed rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 30 days after receiving the draft proposed rule, the EPA Administrator may sign the proposed rule for publication in the **Federal Register** any time after the 30-day period.

II. Do any Statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submission to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 170

Agricultural worker, Employer, Environmental protection, Farms, Forests, Greenhouses pesticides, Nurseries, Pesticide handler, Worker protection standard.

Dated: July 12, 2019.

Edward Messina,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2019–15371 Filed 7–19–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0010; FRL–9996–76–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Townsend Saw Chain Co. Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer of this Site with the exception of a limited area (5,000–8,000 square feet) of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site (Site) located in Pontiac, South Carolina, 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 State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), have determined that all appropriate response actions at these identified media and/or parcels under CERCLA except for five-year reviews, operations and maintenance and monitoring have been completed. However, this deletion does not preclude future actions under Superfund. All Site areas and media will be included in this partial deletion except for the groundwater in the intermediate aquifer as specified above which will remain on the NPL and are not being considered for deletion as part of this action.

DATES: Comments must be received by August 21, 2019.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0010, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*
- *Email:* Joydeb Majumder, Remedial Project Manager, *majumder.joydeb@epa.gov*.
- *Mail:* Joydeb Majumder, Remedial Project Manager, Superfund and Emergency Management Division, Superfund Restoration and Sustainability Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960.
- *Hand delivery:* USEPA Region 4 Superfund Record Center, Attention: Tina Terrell, Records Center, Superfund and Emergency Management Division, Superfund Enforcement Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Monday to Friday 7:30 a.m. to 4:30 p.m.; Phone: 404–562–9121.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0010. EPA policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://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 *http://www.regulations.gov* or in hard copy at:

(1) USEPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960, Monday–Friday 7:30 a.m.–4:30 p.m., Contact Tina Terrell 404–562–8835; and

(2) Northeast Regional Library, 7490 Parklane Road, Columbia, South Carolina, Monday—Thursday: 9:00 a.m.–9:00 p.m., and Friday–Saturday: 9:00 a.m.–6:00 p.m., Phone: (803) 736–6575.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder, Remedial Project Manager, Superfund Restoration and Sustainability Branch, Superfund and Emergency Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960, phone 404–562–9121, email: *majumder.joydeb@epa.gov*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 4 announces its intent to delete the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of a limited area (5000–8000 square feet) of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site (Site), from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of Site 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). This partial deletion of the Townsend Saw Chain Co. Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a Site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially 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 the EPA is using for this action. Section IV discusses the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the 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 State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. 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. The EPA conducts such five-year reviews even if a Site is deleted from the NPL. The 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 soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Site:

(1) The EPA consulted with the State of South Carolina before developing this Notice of Intent for Partial Deletion.

(2) The EPA has provided the state 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, the EPA has determined that no further response is appropriate.

(4) The State of South Carolina, through the SC DHEC, has concurred with the deletion of the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site, from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in a major local newspaper, the Greenville News. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) The EPA placed copies of documents supporting the proposed partial deletion in the deletion docket, made these items available for public inspection, and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, EPA will evaluate and respond accordingly to the comments before making a final decision to partially delete the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site. If necessary, the 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 soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Townsend Saw Chain Co. Superfund Site, the Regional Administrator will publish a final Notice of Partial 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 included in the Site information repositories listed above.

Deletion of a portion of a Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a Site from the NPL does not in any way alter the 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 Partial Site Deletion

The following information provides the EPA's rationale for deleting the soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143 of the Site:

Site Background and History

Due to contaminated soils, sediments, groundwater, and surface water, the EPA, EPA proposed listing the Site on the National Priorities List (EPA ID: SCD980558050) on June 24, 1988 (53 FR 23988), and finalized the listing on February 21, 1990, (55 FR 6154), under CERCLA, 42 U.S.C. 9601. The 50-acre Site located in Pontiac, Richland County, South Carolina was a small manufacturing facility located approximately two miles south of Pontiac, South Carolina. Starting in 1971, Textron Inc., began utilizing the facility for manufacturing the saw chain component of chain saws. Between 1964 and 1981, under the Townsend Division of Textron, Inc. and a previous owner, Dictaphone Inc., waste rinse waters from on-site plating and parts-assembly processes were discharged to the ground surface in a low-lying area adjacent to the facility. These discharges are the origin of the groundwater and soil contamination. There is one sitewide operable unit that includes soils, sediments, and groundwater associated with the waste water rinse releases from the previous operation.

The Site consists of a 50-acre area associated with a former metal products Manufacturing facility and is referred to as ''the Site'' in this report. The leading edge of the contaminated groundwater plume has also migrated to a 350-acre parcel of undeveloped land located to the northeast across Spears Creek Church Road, which includes a 113-acre Conservation Easement through the Congaree Land Trust. This 350-acre parcel is referred to as the ''off-Site area.'' While the off-Site area is technically part of the Superfund site, for ease of understanding, the 50 acre parcel is referred to as ''off-Site'' to distinguish from the 50-acre area. The Site has 2 underlying aquifers.

The portion of the Site being proposed for deletion in today's action are soil, sediment, surface water, surficial aquifer, and the intermediate aquifer with the exception of the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143, for a limited area (5000–8000 square feet) in the vicinity of the three wells. Since June 2016, all of the contaminated groundwater plume has been remediated to levels below the Safe Drinking Water Act Maximum Contaminant Levels (MCLs) except for a limited area (5000–8000 square feet) in the vicinity of three wells located in the on-site area (IMW–01B, MW–128, OW–143).

Site-specific geological and stratigraphic information was developed during the installation of test borings and monitoring well boring. Soils underlying the Site can be divided into three units; Unit I exposed at the surface and consists of alternating layers of sand, silty or clayey sand, and silt or clay lenses. These various layers appear to be hydraulically connected. Perched water zones occur within the upper part of Unit I. Unit II is a low-permeability confining unit consisting of hard, dry, kaolinitic silty clays or clayey silt. Unit II appears to be laterally continuous on the Site property. Unit III consists of slightly silty, fine-to medium-grained sand. Because only a few Site well borings have penetrated into Unit III, its hydrogeologic and stratigraphic characteristics are not as well known. Units II and III and the lower portion of Unit I are part of the Middendorf Formation. Sand strata within the Middendorf are productive aquifers, and the formation serves as a major aquifer in South Carolina.

There is potential redevelopment of the western portion of the Site west of Spears Creek Church Road to commercial property including retail and other commercial uses. AMBAC Intermodal (formerly American Bosch), a manufacturer and supplier of fuel injection equipment operates on approximately five acres of the fifty-acre Site. The remaining portion of the Site east of Spears Creek Church Road has been redeveloped to various commercial uses.

Remedial Investigation and Feasibility Study (RI/FS)

In August 1991, the EPA entered into an Administrative Order on Consent with Homelite Division of Textron, Inc. to perform a Remedial Investigation/Feasibility Study (RI/FS). Investigation results indicated that hazardous substances, including chromium and volatile organic compounds (VOC) were present in soil and groundwater at the Site and groundwater and surface water in the off-Site area.

A Baseline Risk Assessment (BRA) was conducted in 1993. The BRA concluded that, under the industrial land use scenario that existed at the Site in 1993, the Site did not present any unacceptable human health risks via any medium. However, under the anticipated future land use scenario, which assumed residential and commercial land uses in the off-Site area and continued industrial land uses on the Site, excess human health risks existed through contact with contaminated ground water (*e.g.* ingestion, inhalation, and dermal exposure).

The Feasibility Study, completed on August 19, 1996, considered remedial options including a Resource Conservation and Recovery Act (RCRA) cap, solidification/stabilization, in-situ chemical treatment, and excavation/offsite disposal as alternatives to address contaminated soils. The FS considered groundwater use restrictions/institutional controls, groundwater extraction/treatment/spray field discharge, groundwater extraction/treatment/publicly-owned treatment works (POTW) discharge, and in-situ chemical treatment to address contaminated groundwater.

Selected Remedy

On December 22, 1993, an Interim Record of Decision (IROD) was issued for the Site. The interim remedy selected in the IROD was intended to prevent the continued off-Site migration of the chromium-contaminated groundwater plume. The interim action consisted of the following remedial components:

(1) Planning and execution of a hydrogeologic investigation that would support the remedial design of an Interim Action Pump and Treat System (IAPTS). This system would, at a minimum, prevent further off-Site migration and enlargement of the contaminant plume; and

(2) Expeditious design and construction of such a system and initiation of ground water pump-and-treat operations.

The EPA issued the ROD for the Site on December 19, 1996. Based on the results of the RI/FS and the Baseline Risk Assessment, the EPA determined that remediation of soils, groundwater, and sediments would be required for the protection of human health and the environment.

The remedial action objectives includes:

Soils

Prevent the leaching of contamination into groundwater, which can contribute to human health risk via groundwater;

Groundwater

(1) Prevent exposure to chemicals of concern in groundwater which pose an unacceptable human health risk;

(2) Reduce concentrations of chemicals of concern, thereby restoring potential use of the aquifer as a potable water source; and

(3) Prevent or reduce the continued discharge of contaminated groundwater to surface water, such that surface water quality standards are not exceeded.

Surface Water

(1) Reduce contamination to levels which (a) cannot pose ecological risk to tributary flora and fauna, and (b) are incapable of recontaminating tributary sediment;

(2) Prevent exposure of the tributary ecosystem to chemicals of concern, and/or reduce the concentrations of chemicals of concern such that no unacceptable ecological risks are present. The selected remedy, as stated in the ROD, included several major components and a contingency remedy. The selected remedy includes:

Soil Treatment

(1) Excavation and removal of the uppermost highly contaminated soils, and treatment of surficial soils through in-situ chemical treatment.

Groundwater Remediation

(1) In-situ chemical treatment of ground water;

(2) Continued operation of IAPTS; and

(3) Sediment removal action at the off-Site area seep (to be performed upon completion of the chromium ground water cleanup.

Site Monitoring

(1) Continued quarterly sampling/analysis of Site ground water.

(2) Additional quarterly sampling of surface water in the unnamed off-Site tributary. and

(3) Periodic sampling of treated Site soils.

Response Actions

The Remedial Design and Remedial Action were implemented by Textron, Inc. through two Unilateral Administrative Orders. The Site's principal exposure pathway of concern was ingestion of groundwater.

Therefore, the soil cleanup goal was based upon leachability to groundwater. Although not prescribed in the Site's Interim Record of Decision, approximately 75 tons of soils from hotspot areas contaminated with chromium, lead, and several other heavy metals, were excavated and disposed of properly in 1995 and 1996. The excavations were located near the northeast and northwest corners of the manufacturing facility. Soils with contamination above the cleanup goal for hexavalent chromium had been removed and no further soil remediation was required based on currently available data. Between June and December 1995, a five-well IAPTS was constructed and new treatment equipment installed for the wastewater treatment system. The system consisted

of the three original recovery wells located along Spears Creek Church Road, and two new recovery wells located in the off-Site area. The IAPTS began operating in December 1995. Groundwater from these wells was pumped to a treatment facility at the manufacturing facility and treated in electrochemical precipitation cells. Treated groundwater was then discharged to an on-Site, South Carolina DHEC-permitted spray field.

Remedial design work for the in-situ chemical treatment technology began in May 1997 and was completed in September 1999. Injection lines of wells on 40-foot centers were used to place a ferrous sulfate solution in contact with chromium contaminated groundwater. The solution converted the main contaminant, hexavalent chromium, into an inert and harmless type of chromium mineral, which remains safely in the subsurface. The 2001 ESD established an updated chromium soil cleanup number. Based upon this ESD, no additional soil cleanup was necessary.

In April 2002, the IAPTS was shut down as a trial measure because it was thought to be affecting groundwater flow pathways and potentially affecting chemical treatment activities. The system has remained shut down since this time. While in operation, the IAPTS recovered over 550 pounds of chromium from groundwater. During 2000–2003, the in-situ treatment was implemented along successive injection well lines, proceeding northeastward across Spears Creek Church Road and into the off-Site area. Since 2002, the off-Site area was largely the focus of treatment; however, spot treatments have been performed on small resistant areas within the former plume area onsite. In September to October 2004, seven additional monitoring wells were installed in four locations in the off-Site area. The wells were installed to better characterize groundwater flow direction both above and below the 1C clay.

The Explanation of Significant Difference (ESD) issued in April 2007, was to add two remedy components to the original remedy to enhance remedy performance and to place the IAPTS into stand-by mode. The two new remedy components were institutional controls (ICs) over the 39.79 acres portion of the Site on the western side of Spears Creek Church Road including parcel 28800–01–03 and a portion of parcel 28800–01–22 and installation of a Permeable Reactive Barrier (PRB) in the off-Site area to prevent discharge of TCE and chromium contaminated groundwater to surface water. The objectives for ICs were to (1) restrict the use of ground water as a drinking water source until MCLs are met for the Site and off-Site area; (2) restrict the use of the Site (property associated with original facility operations) to commercial, industrial, or light industrial land uses only; and (3) restrict the use of the off-Site area in order to protect the future PRB from damage. The IAPTS would remain in stand-by mode until determined that it needed to be reactivated or dismantled.

To enhance groundwater cleanup, a bio-stimulation approach and a pilot test of a combination of fatty acids and ferrous sulfate injection system (creating a BioBarrier) was conducted in 2009. Based on the results of the pilot study, construction of the BioBarrier by injection was initiated in 2010 in lieu of the PRB proposed in the 2007 ESD. The initial BioBarrier consisted of twelve new wells for injection of the carbon source substrate that were installed along the top of the slope (upgradient area) and three new injection wells in the downgradient area in late 2011.

As of 2012, the BioBarrier had reduced chromium concentrations in the leading edge of the plume to below MCLs. A second round of Phase 2 ferrous sulfate injections were conducted in 2012 and completed by April 2013. By mid-2013, the combination of the BioBarrier and upgradient ferrous sulfate injections, the overall plume area had been reduced to 53,400 square feet from an original size of 400,250 square feet. Since that time, remedial activities at the Site have largely consisted of installation of injection wells and injection of the carbon source amendment to address residual areas of the plume. Since June 2016, all of the plume has been remediated to levels below the MCL except for a limited area (5000–8000 square feet) in the vicinity of three wells located in the ''on-Site area'' (IMW–01B, MW–128, OW–143).

In 2013, fourteen new injection wells were installed. Seven injection wells were installed in the perched groundwater table in the western area of the Site and seven injection wells were installed in the BioBarrier area to augment existing injection wells.

Cleanup Levels

The Remedial Design for the Soil/Sediment remedy began in 1995 and was completed in 1997 by the PRP with EPA oversight. Soil cleanup levels for chromium were attained by soil removals conducted in 1996. As of April 2017, all groundwater monitoring wells with the exception of IMW–01B, MW–128, and OW–143 in the intermediate aquifer below the 1C clay had attained and maintained the groundwater cleanup goals for a period of at least eight separate and distinct sampling rounds pursuant to the February 24, 2015, Textron Verification Monitoring Strategy.

Semi-annual sampling of surface water and sediments in the tributary to Spears Creek have demonstrated a declining trend in (contaminant or chromium) concentrations over the past eight years as groundwater remediation progressed. The ESD did not establish a chromium cleanup goal for sediment. The 2010 Five-Year review referenced the Ecotox threshold of 81 mg/kg for total chromium. Chromium concentrations are below screening values in 11 of 12 samples analyzed at 4 locations and any sporadic exceedances do not present significant risks to ecological receptors. No additional response action for chromium in sediments was required.

The Ambient Water Quality Criteria (AWQC) for surface water for ecological protection for hexavalent chromium is 11 ug/L and the AWQC for trivalent chromium is 74 ug/L which are typically adjusted for hardness. The 2001 ESD set the stream cleanup goal as 40 ug/L which was retained in the 2010 and 2015 five-year reviews. As of July 2016, surface water sampling results for total and hexavalent chromium had been well below that level for eight sampling events and below detection levels for six sampling events.

Operation and Maintenance

EPA approved an Operations, Maintenance, and Performance Monitoring Plan for the Site in August 2001. This plan encompasses the operation and maintenance of both the in-situ chemical injection treatment and pump-and-treat systems. The Plan was revised in March 2002, to shut down the IAPTS as a trial measure. The Site's 2007 ESD further stipulated that the IAPTS should be maintained in a stand-by condition for reactivation, if needed. The 2010 five-year review listed as one recommendation the evaluation of the need to continue holding the lAPTS in stand-by condition at the Site due to the improved performance of the in-situ treatment. The November 22, 2010, semiannual groundwater results demonstrated two years of consecutive reduction in the contaminant plume size and contaminant concentrations.

In 2012, an assessment of historic and recent volatile organic chemical concentration data at the Site was conducted for the three chlorinated VOCs that had been detected over time (perchloroethylene, trichloroethylene, and 1,1 dichloroethylene). The data

evaluation determined that the initially low concentrations observed at the Site had declined over time due to attenuation and the in-situ reductive processes employed in the remediation. Groundwater MCLs for the 3 VOCs are met. The potential for vapor intrusion issues was also evaluated using the most conservative (95th percentile) and median attenuation factors for soil types. Allowable groundwater concentrations were back-calculated from USEPA indoor air Regional Screening Levels, the indicated attenuation factors, and Henry's Law Constants. All detections of perchloroethylene and 1,1 DCE in the most recent data were below the allowable groundwater concentrations calculated using the most conservative attenuation factors. The most recent TCE groundwater concentrations were an order of magnitude below with the allowable concentrations derived from the median attenuation factors for depths of greater than 5 meters which corresponds with Site groundwater depths (approximately 30 ft bgs). Additionally, all VOC detections were from wells screened below the middle clay layer which provides a barrier to vertical vapor migration or adjacent to the Congaree Land Trust where development would be prohibited. There is no vapor intrusion pathway of concern at the Site.

The monitoring wells located on and around the Site are regularly sampled at designated quarterly or semi-annual intervals. Groundwater sampling at monitoring wells will continue until all the remedial goals for all contaminants are achieved at the three remaining monitoring wells that have not yet attained Site cleanup standards. Future groundwater restoration activities may include additional subsurface injections of ferrous sulfate and a blend of fatty acids to address chromium MCL exceedances in the intermediate aquifer below the 1C clay in the vicinity of monitoring wells IMW–01B, MW–128, and OW–143.

Institutional Controls (ICs)

The 2007 ESD required ICs over the 39.79 acres portion of the Site on the western side of Spears Creek Church Road including parcel 28800–01–03 and a portion of parcel 28800–01–22. The restrictions limit soil and groundwater use and restrict the property use to commercial, industrial or light industrial uses. Groundwater use is prohibited for potable, irrigation or other uses except with express written consent of Textron, Inc. This was implemented in a Declaration of Covenants and Restrictions recorded on Deeds recorded at the Richland County Register of Deeds on February 9, 2007 in Instrument #2007011804. The ICs are recorded on the deed, are transmitted to successors, and are verified during the five-year Review process.

Five-Year Review

Previous five-year reviews were conducted because hazardous substances remained on Site above levels which allowed for Unlimited Use/Unrestricted Exposure and the Site groundwater had not attained all cleanup levels contemplated in the Record of Decision (ROD) and subsequent Explanation of Significant Difference (ESD). Five year Reviews will no longer be conducted at the portions of the Site deleted from the NPL which achieved Unrestricted Use/Unlimited Exposure (UU/UV). Five-year reviews will continue to be conducted for that portion of the Site designated for industrial and commercial uses. A 39.79-acre portion of the Site including parcel 28800–01–03 and a portion of parcel 28800–01–22 meets clean up criteria, but has Institutional Controls, requires five-year reviews and does not meet Unlimited Use/Unrestricted Exposure criteria. Five-year reviews will continue for that portion of the groundwater of the Site still on the NPL. The last five-year Review was completed in July 2015 and found the remedy protective of human health and the environment. There were no Issues or Recommendations in the Five-Year Review. The next Five-Year Review is scheduled to be completed in July 2020.

Community Involvement

On June 12, 1991, April 14, 1992, August 23, 2001, and June 6, 2006, EPA, SC DHEC, and Textron representatives conducted public availability sessions for RI/FS kickoff, the interim groundwater remedy ROD, and two Explanation of Significant Difference proposals addressing groundwater. On August 31, 1993 and September 17, 1996, EPA, DHEC, and Textron representatives conducted proposed plan meetings. EPA conducted community interviews during December 10–13, 1991, prior to the Site National Priority Listing. EPA and DHEC conducted community interviews for the three Five-Year reviews in 2005, 2010, and 2015.

Determination That the Criteria for Deletion Have Been Met

The EPA has followed procedures required by 40 CFR 300.425(e) regarding requirements for deletions. EPA consulted with the State of South Carolina through the SC DHEC. South Carolina issued a May 12, 2017, concurrence letter indicating its agreement with today's proposed action.

The implemented remedy achieves the degree of cleanup or protection specified in the ROD and ESD for the areas proposed for deletion. The selected remedial and removal action objectives and associated cleanup levels for the areas proposed for deletion are consistent with agency policy and guidance. No further Superfund response in the areas proposed for deletion are needed to protect human health and the environment.

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 19, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–15419 Filed 7–19–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1994–0001; FRL–9996–74–Region 4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Escambia Wood—Pensacola Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete 50 acres of the Escambia Wood—Pensacola Superfund Site (Site) located in Pensacola, Florida, 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 State of Florida, through the Florida

Department of Environmental Protection (FDEP), have determined that all appropriate response actions at these identified parcels under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to 50 acres of former residential property in the former neighborhoods of Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle, part of Operable Unit One (soils). The remaining areas of Operable Unit One (about 50 acres) and Operable Unit Two (groundwater) will remain on the NPL and are not being considered for deletion as part of this action.

DATES: Comments must be received by August 21, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1994–0001, by one of the following methods:

- *http://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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*
- *Email:* Erik Spalvins at *spalvins.erik@epa.gov* or LaTonya Spencer at *Spencer.LaTonya@epa.gov.*
- *Mail:* Erik Spalvins, US EPA Region 4—Superfund & Emergency Management Divison, 61 Forsyth Street SW, Atlanta, Georgia 30303.
- *Hand delivery:* US EPA Region 4, Superfund & Emergency Management Divison Records Center, 61 Forsyth Street SW, Atlanta, Georgia 30303. 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–1994–0001. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means The EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://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 *http://www.regulations.gov* or in hard copy at:

US EPA Region 4, Superfund & Emergency Management Divison Records Center, 61 Forsyth Street SW, Atlanta, Georgia 30303. (800) 435–9234 Hours of operation: Monday–Friday 8 a.m. to 4:30 p.m.

West Florida Genealogy Branch Library, 5740 N Ninth Ave., Pensacola, Florida 32504. (850) 494–7373 Hours of operation: Tuesday–Saturday 10 a.m. to 6 p.m.

FOR FURTHER INFORMATION CONTACT: Erik Spalvins, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303, (404) 562–8938, email: *spalvins.erik@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The EPA announces its intent to delete 50 acres of former residential property (in the former neighborhoods of Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle) from Operable Unit One (soils) of the Escambia Wood—Pensacola Superfund Site (Site), from the National Priorities List (NPL) and request public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The EPA maintains the NPL as those 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). This partial deletion of the Escambia Wood—Pensacola Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

EPA will accept comments on the proposal to partially 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 the EPA is using for this action. Section IV discusses the 50 acres of former residential property in the former neighborhoods of Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle, part of Operable Unit One of the Escambia Wood—Pensacola Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the 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), the EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. 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, the 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. The EPA conducts such five-year reviews even if a site is deleted from the NPL. The 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 these 50 acres from Operable Unit One of the Site:

(1) EPA consulted with the State before developing this Notice of Intent for Partial Deletion.

(2) EPA has provided the state 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, the EPA has determined that no further response is appropriate.

(4) The State of Florida, through the Florida Department of Environmental Protection, has concurred with the deletion of the 50 acres of parcels from Operable Unit One (soils) of the Escambia Wood—Pensacola Superfund Site, from the NPL.

(5) Concurrently, with the publication of this Notice of Intent for Partial Deletion in the **Federal Register**, a notice is being published in a major local newspaper, the Pensacola News Journal. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(6) EPA placed copies of documents supporting the proposed partial deletion in the deletion docket, made these items available for public inspection, and copying at the Site information repositories identified above.

If comments are received within the 30-day comment period on this document, the EPA will evaluate and respond accordingly to the comments before making a final decision to delete the 50 acres of parcels from Operable Unit One. If necessary, the EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if the EPA determines it is still appropriate to delete the 50 acres of parcels from Operable Unit One of the Escambia Wood—Pensacola Superfund Site, the Regional Administrator will publish a final Notice of Partial 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 included in the site information repositories listed above.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter the 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 Partial Site Deletion

The following information provides the EPA's rationale for deleting the 50 acres of parcels from Operable Unit One (soils) of the Escambia Wood—Pensacola Superfund Site from the NPL:

The Site (CERCLIS ID: FLD008168346) is located in the City of Pensacola in Escambia County, Florida. The Site consists of a former wood-treating facility (about 30 acres) and about 70 acres of former residential neighborhoods, which were acquired by the EPA. The street address of the former facility is 3910 North Palafox Street. The former residential areas include most of the Rosewood Terrace, Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle neighborhoods. From 1942 to 1982, the facility treated wood with creosote and pentachlorophenol, which resulted in contamination of soil and groundwater with creosote, pentachlorophenol, and dioxins. The facility was abandoned in 1991. From October 1991 into 1992, the EPA conducted a removal action to address three surface impoundments, to stop immediate exposure, and to stabilize the Site. The EPA excavated about 225,000 cubic yards of contaminated materials and secured it under a heavy-duty geomembrane cover. The EPA completed the removal action in 1992. The EPA proposed the Site to the NPL on August 23, 1994 (59 FR 43314) and the Site was added (final) on the NPL on December 16, 1994 (59 FR 65206). The EPA manages the soils at the Site as Operable Unit One and manages the groundwater as Operable Unit Two. Operable Unit One consists of the relocated residential properties and the former facility and encompasses more than 100 acres. The partial deletion consists of the 50 or so acres of residential properties acquired by the EPA in the Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle neighborhoods.

Interim Remedial Action

EPA's first Remedial Action was an Interim Remedial Action of voluntary residential relocation. In June 1995, the EPA selected the Site for the EPA's National Relocation Evaluation Pilot. The Pilot explored the use of permanent relocations under CERCLA. The EPA selected relocation as an interim remedial action in a February 12, 1997 Interim Record of Decision. From 1997 to 2001, over 350 households and over 500 people were successfully relocated from the Rosewood Terrace, Oak Park, Escambia Arms and Herman & Pearl neighborhoods to comparable replacement housing in and around Pensacola. The February 13, 2006 Record of Decision (ROD) added the Clarinda Triangle neighborhood to the Interim remedy. The Clarinda Triangle relocation began in December 2006, was finished in August 2008, and included 38 properties. From 1997 to 2008, more than 400 households were successfully relocated as part of the Interim Remedial Action.

Remedial Investigation

The Remedial Investigation found risk from contaminated soil for current and future users of the Site. The Feasibility Study evaluated off-site disposal and on-site disposal of contaminated soil

with different treatment options for both low-level and principal threat wastes. Site soils were found to be contaminated with dioxins, furans, pentachlorophenol, a variety of polynuclear aromatics and methyl napthalenes, arsenic and lead. Site soils posed an unacceptable human health risk through exposure to dermal contact, ingestion, and inhalation of soils. The future anticipated land use is commercial and industrial and was developed through a master planning process by the community, local governments and the State. Cleanup concentrations were developed to be protective to human health and are based on the future anticipated land use.

Selected Remedy

EPA issued the final Operable Unit One ROD in 2006, selecting excavation and on-site disposal in a containment cell, treatment of principal threat waste by solidification/stabilization, monitoring and institutional controls to restrict future use of the Site. The Remedial Action Objectives were: (1) Prevent ingestion, inhalation, or direct contact with surface soil that contains concentrations of contaminants in excess of the remedial cleanup goals; (2) Control migration and leaching of contaminants in surface and subsurface soil to ground water that could result in ground water contamination in excess of EPA drinking water standards (Maximum Contaminant Levels); (3) Prevent ingestion or inhalation of soil particulates that contain contaminant concentrations in excess of remedial cleanup goals; and, (4) Control future releases of contaminants to ensure protection of human health and the environment. In 2012, the EPA issued an Explanation of Significant Differences to update the 2006 Final ROD's soil cleanup goals to reflect the appropriate level of protectiveness for potential exposure pathways at the Site and to change construction requirements in the ROD that were over-specific and found to be impractical once construction was underway.

The 2006 ROD included an 18-acre containment cell on the former facility and on the former Rosewood Terrace Neighborhood, bounded by Hickory Street to the North. The area for the partial deletion does not include the former facility or the former Rosewood Terrace neighborhood. The proposed partial deletion consists of the 50 acres of former residential property in the former neighborhoods of Oak Park, Escambia Arms, Herman & Pearl and Clarinda Triangle.

Response Action

The Interim Remedial Action was designed and implemented by the EPA and the United States Army Corps of Engineers (USACE) via an Interagency Agreement. The USACE conducted the purchase of properties and relocation of residents in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The Final Remedial Action for Operable Unit One began in September 2007. The EPA contractor excavated and stockpiled contaminated soil and debris on site. The EPA also collected confirmation samples from the floors and sidewalls of excavations and continued excavating soil if confirmation samples exceeded cleanup goals. This process was repeated until cleanup goals were no longer exceeded. The contractor constructed an 18-acre containment cell with about 20 feet of compacted contaminated soil and 2 to 3 feet of cement-stabilized soil. Once filled, the cell was capped with a composite liner, overlaid by a drainage system, and covered with at least 6 feet of clean fill soil. Excavation areas were limed, fertilized and seeded to prevent wind and water erosion. The final cell contains about 527,000 cubic yards of contaminated soil, debris and solidification/stabilization-treated soil. The State of Florida began the Operations & Maintenance phase of the Operable Unit One Interim Remedial Action and most of the Operable Unit One Final Remedial Action on March 1, 2013.

Cleanup Levels

On March 5, 2012, the EPA issued an ESD to update the 2006 Final ROD's soil cleanup goals to reflect the appropriate level of protectiveness for potential exposure pathways at the Site and to change construction requirements in the ROD that were over-specific and found to be impractical once construction was underway. The 2006 Final ROD cleanup goals were updated because they were not developed for all potential pathways for all contaminants (some cleanup levels were solely leaching-based, some were solely direct exposure-based) and the Summers model used for the leaching-based cleanup levels resulted in cleanup goals that were overly conservative. The 2012 ESD established cleanup goals for all COCs based on both the direct exposure and leaching-based groundwater protection pathways. They also replaced the Summers model-derived cleanup goals with updated site-specific cleanup goals for groundwater protection.

The completion of Remedial Actions was documented in three reports and documented in a Superfund Remedial Action Completion memorandum signed on July 30, 2018 (Superfund Enterprise Management System (SEMS) document identification number 11106221). The reports and the memorandum are available in the deletion docket and they describe the cleanup techniques, cleanup concentrations for COCs, confirmation testing results, and QA/QC methodologies. The interim action is documented in a Remedial Action Report approved on September 30, 2009 (SEMS number 11096422). The final action, excluding the dewatering phase of the containment cell construction, is documented in an Interim Remedial Action Report approved on September 30, 2010 (SEMS number 11096426). The last component of the final action was the dewatering phase of the remedial action construction and is documented in a Remedial Action Report Addendum (Leachate) (SEMS number 11106220) and approved by Superfund Remedial Action Completion memorandum signed on July 30, 2018.

Operation and Maintenance

The Site's 2012 Operable Unit One O&M Plan requires the following activities: (1) Semi-annual inspections of the containment cell, the subsurface water drainage system, the soil cover, the Operable Unit One remedy verification groundwater monitoring wells, the surface water management system and site security features; (2) Groundwater elevation monitoring in Operable Unit One remedy verification monitoring wells, annual sampling of Operable Unit One remedy verification groundwater monitoring wells, leachate removal, sampling and monitoring, and settlement monitoring for buildings constructed on the containment cell; and (3) Preventative maintenance for the vegetative cover, erosion and grading, and stormwater management system. The State of Florida is responsible for the Operations and Maintenance activities at the Site.

Institutional Controls

Restrictive covenants are in place on the 50 or so acres that are proposed for partial deletion. The restrictions limit use of property to commercial, industrial, or manufacturing purposes, except that the property shall not be used for any business involving temporary or permanent housing of individuals. The instrument is a 2013 Declaration of Restrictive Covenants, Escambia County Instrument Number

2014029669, recorded in Official Record Book 7164 at Pages 358–388.

Five Year Reviews

EPA conducts reviews every five years to determine if remedies are functioning as intended and if they continue to be protective of human health and the environment. Because contaminants remain in Site soil above levels that would allow for unlimited use and unrestricted exposure, the EPA will continue to conduct five-year reviews, as required by statute. The EPA issued the Fourth statutory Five-Year Review Report on September 27, 2017, and concluded that the remedy at the Site is functioning as intended and is protective of human health and the environment in the short-term (SEMS number 11070132). There were three issues and recommendations that do not change the protectiveness of the remedy. The issues are related to: Institutional controls on the former facility parcels; leaching-based cleanup levels on the former facility parcels; and preventing uses not allowed by restrictive covenants. Two of the unresolved issues identified in the Five-Year Review are limited to the former facility portion of the site, which is not included in this proposed partial deletion. The third recommendation is to prevent uses not allowed by restrictive covenants, which is being implemented by the local government. The EPA will conduct the next Five-Year Review in 2022.

Community Involvement

The EPA held numerous community meetings before and during the residential relocation and the soil cleanup. The EPA issued fact sheets and maintained a public website during remedial construction. The EPA provided Site tours during cleanup to local government staff, elected officials, and the community's Technical Advisor, provided through an EPA Technical Advisor Grant. After the cleanup was complete, the EPA released reuse fact sheets and met with local government to facilitate redevelopment planning.

Determination That the Criteria for Deletion Have Been Met

The EPA has followed all procedures required by 40 CFR 300.425(e), Partial Deletion from the NPL. The EPA consulted with the State of Florida prior to developing this Notice. The EPA determined that both the EPA and FDEP have conducted all appropriate response actions required and that no further response action for this portion of the Site is appropriate. The EPA is publishing a notice in a major local newspaper, The Pensacola News Journal, of its intent to partially delete the Site and how to submit comments. The EPA placed copies of documents supporting the proposed partial deletion in the Site information repository; these documents are available for public inspection and copying.

The implemented Operable Unit One remedy achieved the degree of cleanup and protection specified in the ROD. The selected remedial action objectives and associated cleanup levels for the surface soil are consistent with agency policy and guidance. Based on information currently available to the EPA, no further Superfund response in the area proposed for deletion is needed to protect human health and the environment.

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 26, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–15420 Filed 7–19–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MB Docket No. 19–177; FCC 19–54]

Review of EEO Compliance and Enforcement in Broadcast and Multichannel Video Programming Industries

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Proposed Rule seeks comment on how the Commission can make improvements to equal employment opportunity (EEO) compliance and enforcement and responds to issues raised in comments filed in a recent proceeding to eliminate the obligation to file the Broadcast Mid-term Report (FCC Form 397). In that proceeding, the Commission committed to seek comment on these issues.

DATES: Comments Due: August 21, 2019. Replies Due: September 5, 2019.

ADDRESSES: Interested parties may submit comments and replies, identified by MB Docket No. 19–177, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Website: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For more detailed filing instructions, see the Procedural Matters section below.

FOR FURTHER INFORMATION CONTACT: Radhika Karmarkar, Industry Analysis Division, Media Bureau, *Radhika.Karmarkar@fcc.gov,* (202) 418–1523.

SUPPLEMENTARY INFORMATION: This *Proposed Rule* in MB Docket No. 19–177 was adopted June 12, 2018, and released June 21, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554, or online at *https://docs.fcc.gov/public/attachments/FCC-18-179A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. *Background.* The Commission has administered regulations governing the EEO responsibilities of broadcast licensees since 1969, and of cable television operators since 1972. The Commission's EEO rules prohibit discrimination on the basis of race, color, religion, national origin or sex (and for Multichannel Video Programming Distributors, or MVPDs, also age), and require broadcasters and MVPDs to provide equal employment opportunities. In addition to these broad

dictates applicable to all full-power radio and television broadcasters, Low Power TV, Class A TV and MVPDs, employment units of a specific size in each industry must also follow an EEO program. Specifically, the rules require that each broadcast station (or station employment unit) with five or more full-time employees, and each MVPD employment unit with six or more full-time employees establish, maintain, and carry out a positive continuing program to ensure equal opportunity and nondiscrimination in employment policies and practice.

2. Among other things, EEO recruitment rules require an employment unit to use recruitment sources for each full-time vacancy that, in its reasonable and good faith judgment, are sufficient to widely disseminate information about the job opening. Broadcasters and MVPDs must use a three-pronged approach to recruit for full-time vacancies: (1) Widely disseminate information concerning each full time (30 hours or more) job vacancy, except for a vacancy filled in exigent circumstances, (2) provide vacancy notices to recruiting organizations that request them, and (3) complete longer-term recruitment initiatives within a two-year period. In 2017, in response to a broadcaster petition that received wide support from the industry and other stakeholders, the Commission updated its EEO policy to allow online job postings to be used as a sole recruitment tool to meet the ''widely disseminate'' prong of its recruiting rules.

3. In addition to general EEO efforts, the Commission requires broadcasters and MVPDs to undertake specific EEO recruiting initiatives and keep records sufficient to show compliance with these initiatives. To enforce its EEO rules, the Commission may conduct inquiries of broadcasters and MVPDs at random or if it has evidence of a violation. In addition, the Commission conducts random audits each year of approximately five percent of broadcasters and conducts more intensive reviews of MVPD compliance practices once every five years. The Commission can issue appropriate sanctions and remedies for violations of its EEO rules. The public can also file EEO complaints with the Commission based on the contents of broadcaster and MVPD public files or allegations of rule violations. The Commission's EEO enforcement and associated auditing responsibilities are key priorities.

4. *EEO Enforcement and Compliance.* The Commission seeks comment on the agency's track record on EEO enforcement and whether it should make improvements to EEO compliance and enforcement. While the relevant comments in the Form 397 proceeding focused primarily on EEO enforcement and compliance in the broadcast industry, today's *Proposed Rule* seeks comment on improvements to EEO compliance and enforcement for both broadcasters and MVPDs as well as the Commission's track record on EEO enforcement with respect to both categories of regulated entities.

5. With respect to its current EEO enforcement efforts, the Commission invites commenters to assess their effectiveness. What elements of the Commission's EEO enforcement program are effective? What elements of the program are not effective? What elements could be improved and how could they be improved? Are there elements that should be added to the EEO enforcement program to increase its effectiveness? Are there elements that should be removed from the program because they are not effective?

6. In the Form 397 proceeding, a group of 34 organizations (EEO Supporters) offered several suggestions for improving the Commission's EEO enforcement. The Commission already has implemented one of these suggestions, namely the relocation of the Commission's EEO staff from the Media Bureau to the Enforcement Bureau.

7. With respect to enforcement, the EEO Supporters also suggested that the Commission evaluate its audit program ''to ensure that auditors have sufficient information to verify that hiring decisions were made *after* the job postings were made, not before-hand, and that audits are allowed to uncover discrimination at the points of recruitment, interviewing, and selection.'' We invite comment on this proposal. Is it necessary for us to modify our audit program to verify that hiring decisions were made after job openings were posted? If so, what modifications would be necessary? Are our current auditing procedures sufficient to uncover discrimination at the points of recruitment, interviewing, and selection? If not, how could we modify those procedures so that they would be sufficient? Any commenters should describe proposed modifications to our audit program with specificity, supply any data or studies indicating that such proposals would further the Commission's goal of nondiscrimination in employment, provide suggestions for overcoming any implementation difficulties, and compare the relative costs and benefits of such proposals.

8. Aside from exploring modifications to our audit program, are there other types of enforcement and compliance initiatives the Commission should explore to ensure that its EEO rules are an effective deterrent to discrimination in the broadcast and MVPD industries, including other initiatives previously suggested by the EEO Supporters in other Commission proceedings? Again, commenters should explain any initiatives with specificity, supply any data or studies indicating that such proposals would be consistent with the U.S. Constitution and further the Commission goal of nondiscrimination in broadcaster and MVPD employment, and provide suggestions for overcoming any implementation difficulties.

Procedural Matters

9. *Ex Parte Rules—Permit-But-Disclose.* The proceeding that this *Proposed Rule* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) List all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules, or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Commission's Electronic Comment Filing System (ECFS) available for that proceeding, and must be filed in their

native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

10. *Filing Requirements—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using ECFS.

- Commenting parties may file comments in response to this *Proposed Rule* in MB Docket No. 19–177.
- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

11. *Initial Regulatory Flexibility Act Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

12. Written public comments are requested on the IFRA and must be filed in accordance with the same filing deadlines as comments on this *Proposed Rule,* with a distinct heading designating them as responses to the IRFA. In addition, a copy of this *Proposed Rule* and the IRFA will be sent to the Chief Counsel for Advocacy of the SBA.

13. *Paperwork Reduction Act.* This *Proposed Rule* seeks comment on whether the Commission should adopt new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, invites the public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

14. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

15. *Additional Information.* For additional information on this proceeding, please contact Radhika Karmarkar of the Media Bureau, Industry Analysis Division, *Radhika.Karmarkar@fcc.gov,* (202) 418–1523.

Initial Regulatory Flexibility Analysis

16. *Need for, and Objective of, the Proposed Rules.* This *Notice* seeks comment on how the Commission can make improvements to equal employment opportunity (EEO) compliance and enforcement.

17. *Legal Basis.* The proposed action is authorized under sections 1, 4(i), 4(j), 334, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 334, and 554.

18. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

19. *Television Broadcasting.* This U.S. Economic Census category comprises establishments primarily engaged in broadcasting images together with sound. These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in the establishment's own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25 million or less, 25 had annual receipts between $25 million and $49,999,999 and 70 had annual receipts of $50 million or more. Based on these data, we estimate that the majority of commercial television broadcast stations are small entities under the applicable size standard.

20. Additionally, the Commission has estimated the number of licensed commercial television stations as of March 31, 2019, to be 1383. Of this total, 1,282 stations (or 94.2%) had revenues of $38.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 15, 2019, and therefore these stations qualify as small entities under the SBA definition. In addition, the Commission estimates the number of non-commercial educational (NCE) stations to be 378. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 387 Class A stations. Given the nature of this service, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard.

21. *Radio Broadcasting.* This U.S. Economic Census category comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in the establishment's own studio, from an affiliated network, or from external sources. The SBA has created the

following small business size standard for such businesses: Those having $38.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 firms in this category operated in that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Based on these data, we estimate that the majority of commercial radio broadcast stations qualify as small entities under the applicable SBA size standard.

22. As of March 31, 2019, the Commission has estimated the number of licensed commercial AM radio stations to be 4,613 and the number of commercial FM radio stations to be 6,762 for a total of 11,375 commercial stations. Of this total, 11,366 stations (or 99.9%) had revenues of $38.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 15, 2019, and therefore these stations qualify as small entities under the SBA definition. In addition, there were 4,139 NCE FM stations. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

23. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules may apply does not exclude any radio or television station from the definition of small business on this basis and is therefore possibly over-inclusive.

24. *Cable Companies and Systems (Rate Regulation Standard).* The Commission has also developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that there are currently 4,300 active cable systems in the United States. Of this total, 3,550 cable systems have fewer than 15,000 subscribers, and 750 systems have 15,000 or more subscribers. Thus, we estimate that most cable systems are small entities.

25. *Cable System Operators (Telecommunications Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for a small cable system operator, which is a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250 million. There are approximately 50,504,642 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 505,046 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but six incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

26. We also note that there currently are 182 cable antenna relay service (CARS) licensees. The Commission, however, neither requests nor collects information on whether CARS licensees are affiliated with entities whose gross annual revenues exceed $250 million. Although some CARS licensees may be affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of CARS licensees that would qualify as small cable operators under the definition in the Communications Act.

27. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs).* SMATV systems or PCOs are video distribution facilities that use closed transmission paths not using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. U.S. Economic Census data for 2012 indicate that in that year there were 3,117 firms operating businesses as wired telecommunications carriers. Of that 3,117, 3,059 operated with 999 or fewer employees. Based on this data, we estimate that a majority of operators of SMATV/PCO companies were small under the applicable SBA size standard.

28. *Direct Broadcast Satellite (DBS) Service.* DBS Service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. DBS is now included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The same SBA and Economic census data criterial apply to DBS Service as apply to SMATV/PCO companies described in the preceding paragraph. Currently only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we conclude that, in

general, DBS service is provided only by large firms.

29. *Description of Projected Reporting, Recordkeeping, and other Compliance Requirements.* The *Notice* seeks comment on the Commission's track record on EEO enforcement and whether the agency should make improvements to EEO compliance and enforcement.

30. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The *Proposed Rule* seeks comment on the Commission's track record on EEO enforcement and whether the agency should make improvements to EEO compliance and enforcement. The Commission is open to consideration of alternatives that will minimize the burden on small entities.

Federal Rules that May Duplicate, Overlap or Conflict with the Proposed Rule. None.

31. *Ordering Clauses.* Accordingly, it is ordered that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 334, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 334, and 554, this *Notice of Proposed Rulemaking* is adopted.

32. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–15505 Filed 7–19–19; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 84, No. 140
Monday, July 22, 2019

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–SC–19–0061]

Meeting of the Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), is announcing a meeting of the Fruit and Vegetable Industry Advisory Committee (Committee). The meeting is being convened to examine the full spectrum of fruit and vegetable industry issues and provide recommendations and ideas to the Secretary of Agriculture on how the U.S. Department of Agriculture (USDA) can tailor programs and services to better meet the needs of the U.S. produce industry.

DATES: The Committee will meet in-person on Wednesday, August 14, 2019, from 8:30 a.m. to 5:00 p.m. Eastern Time (ET), and Thursday, August 15, 2019, from 8:30 a.m. to 1:00 p.m., ET. In person oral comments will be heard on Wednesday, August 14, 2019. The deadline to submit written comments and/or sign up for oral comments is 11:59 p.m. ET, July 31, 2019.

ADDRESSES: The Committee meeting will be held at the Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, Virginia 22202. Detailed information pertaining to the meeting can be found at: *https://www.ams.usda.gov/about-ams/facas-advisory-councils/fviac.*

FOR FURTHER INFORMATION CONTACT: Darrell Hughes, Fruit and Vegetable Industry Advisory Committee, USDA, AMS, Specialty Crop Program, 1400 Independence Avenue SW, Room 2083–S, STOP 0235, Washington, DC 20250–0235; Telephone: (202) 378–2576; Email: *SCPFVIAC@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), the Secretary of Agriculture (Secretary) established the Committee in 2001 to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The committee was reestablished in March 2018 for a two-year period.

The AMS Deputy Administrator for the Specialty Crops Program serves as the Committee's Executive Secretary, leading the effort to administer the Committee's activities. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry are periodically called upon to participate in the Committee's meetings as determined by the Committee. AMS is giving notice of the Committee meeting to the public so that they may attend and present their views. The meeting is open to the public.

Agenda items may include, but are not limited to, welcome and introductions, administrative matters, consideration of topics for potential working group discussion and proposal, and presentations by subject matter experts as requested by the Committee.

Public Comments: Comments should address specific topics noted on the meeting agenda.

Written Comments: Written public comments will be accepted on or before 11:59 p.m. ET on July 31, 2019, via *http://www.regulations.gov:* Document #AMS–SC–19–0061. Comments submitted after this date will be provided to AMS, but the Committee may not have adequate time to consider those comments prior to the meeting. AMS, Specialty Crop Program, strongly prefers that comments be submitted electronically. However, written comments may also be submitted (*i.e.,* postmarked) via mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

Oral Comments: The Committee is providing the public an opportunity to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, July 31, 2019, and can register for only one speaking slot. Instructions for registering and participating in the meeting can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

Meeting Accommodations: The Hyatt Regency Crystal City is ADA compliant and the USDA provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this public meeting, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Determinations for reasonable accommodations will be made on a case-by-case basis.

Dated: July 17, 2019.

Bruce Summers,

Administrator.

[FR Doc. 2019–15520 Filed 7–19–19; 8:45 am]

BILLING CODE 3410–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of planning meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Colorado Advisory Committee to the Commission will convene by conference call at 2:00 p.m. (MDT) on Friday, August 2, 2019. The purpose of the meeting is to review and vote on the draft report on the naturalization backlog and decide next steps for the report. An update on the potential to hold a community forum will also be provided.

DATES: Friday, August 2, 2019, at 2:00 p.m. (MDT).

Public Call-In Information: Conference call number: 1–800–682–0995 and conference call ID: 7996743.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, *ebohor@usccr.gov* or by phone at 303–866–1040.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the

discussion by calling the following toll-free conference call number: 1–800–682–0995 and conference call ID: 7996743.

Please be advised that, before being placed into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number provided.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–800–682–0995 and conference call 7996743.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1040, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzksAAA;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain 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 Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda: Friday, August 2, 2019; 2:00 p.m. (MDT)

I. Roll Call
II. Discuss and Vote on Report: Naturalization Backlog
III. Next Steps for the Report
IV. Community Forum Update
V. Other Business
VI. Open Comment
VII. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: July 16, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–15473 Filed 7–19–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–16–2019]

Foreign-Trade Zone (FTZ) 151—Findlay, Ohio Authorization of Production Activity Whirlpool Corporation (Dishwashers) Findlay, Ohio

On March 18, 2019, Whirlpool Corporation submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 151, in Findlay, Ohio.

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 11282–11283, March 26, 2019). On July 16, 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: July 16, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–15509 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that exporters and/or producers subject to this administrative review received countervailable subsidies during the period of review (POR) January 1, 2017 through December 31, 2017.

DATES: Applicable July 22, 2019.

FOR FURTHER INFORMATION CONTACT: Davina Friedmann AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0698.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** on March 15, 2019.[1] We invited parties to comment on the *Preliminary Results.* No interested party submitted comments or requested a hearing in this administrative review. Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act).

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.[2] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the final results of this administrative review is now July 15, 2019.

Scope of the Order

The product covered by the Order is aluminum extrusions from the People's Republic of China. The complete description of the scope is provided at Appendix I of this notice.

Methodology

For each of the subsidy programs we found to be countervailable, we determined that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is

[1] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of the Countervailing Duty Administrative Review, Rescission of Review, in Part, and Intent to Rescind, in Part; 2017,* 84 FR 9487 (March 15, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

specific.[3] For additional details, *see* the *Preliminary Results* and accompanying Preliminary Decision Memorandum.

Changes Since the Preliminary Results

As no party submitted comments on the methodology used in calculating the adverse facts available subsidy rates assigned in the *Preliminary Results,* Commerce made no adjustments to that methodology in the final results of this review.

Rescission of Review

In the *Preliminary Results,* we stated our intention to rescind the review with respect to companies named in the *Initiation Notice* for which all review requests were timely withdrawn in accordance with 19 CFR 351.213(d)(1). These companies are listed in the Appendix II to this notice. No interested party commented on our intent to rescind with respect to these companies. Therefore, we are rescinding the administrative review of the countervailing duty order on aluminum extrusions from China, in part, covering the period January 1, 2017 through December 31, 2017, for the companies listed in Appendix II. For these companies, Commerce will assess duties at rates equal to the rates of the cash deposits for estimated countervailing duties required at the time of entry, or withdrawn from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(2).[4]

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), we determine the following final net subsidy rates for the 2017 administrative review: [5]

Company	Final *ad valorem* rate
Anshan Zhongjda Industry Co. Ltd	216.61
Foshan Sanshui Fenglu Aluminum Co	216.61
Jangho Curtain Wall Hong Kong Ltd	216.61
Sihui Shi Guoyao Aluminum Co., Ltd	216.61
Sincere Profit Ltd	216.61

[3] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution, section 771(5)(E) of the Act regarding benefit, and section 771(5A) of the Act regarding specificity.

[4] *See Preliminary Results,* 84 FR at 9485, 9487.

[5] *See Preliminary Results; see also* Memorandum, ''Administrative Review of Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: AFA Calculation Memorandum for the Final Results of Review; 2017.''

Assessment Rates

Commerce intends to issue appropriate assessment instructions directly to Customs and Border Protection (CBP), 15 days after publication of these final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2017 through December 31, 2017, at the *ad valorem* rates listed above.

Cash Deposit Requirements

Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated above for each company listed on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not examined in this administrative review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 15, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

The merchandise covered by the order is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.,* without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.,* prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.,* by welding or fasteners) to form subassemblies, *i.e.,* partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence

posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: Aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a ''finished goods kit.'' A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled ''as is'' into a finished product. An imported product will not be considered a ''finished goods kit'' and therefore excluded from the scope of the orders merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) Length of 37 millimeters (''mm'') or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of this order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8541.90.00.00, 8708.10.30.50, 8708.99.68.90, 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Appendix II

List of Companies for Which We Are Rescinding This Administrative Review

1. Acro Import and Export Co.
2. Activa International Inc.
3. Activa Leisure Inc.
4. Allied Maker Limited
5. Alnan Aluminum Co., Ltd.
6. Alnan Aluminum Ltd.
7. Aluminicaste Fundicion de Mexico
8. AMC Ltd.
9. AMC Limited
10. Anji Chang Hong Chain Manufacturing
11. Aoda Aluminum (Hong Kong) Co., Limited
12. AsiaAlum Group
13. Atlas Integrated Manufacturing Ltd.
14. Belton (Asia) Development Limited
15. Belton (Asia) Development Ltd.
16. Birchwoods (Lin'an) Leisure Products Co., Ltd.
17. Bolnar Hong Kong Ltd.
18. Bracalente Metal Products (Suzhou) Co., Ltd.
19. Brilliance General Equipment Co., Ltd.
20. Changshu Changshen Aluminum Products Co., Ltd.
21. Changshu Changsheng Aluminum Products Co., Ltd.
22. Changzhou Changzhen Evaporator Co., Ltd.
23. Changzhou Changzheng Evaporator Co., Ltd.
24. Changzhou Tenglong Auto Accessories Manufacturing Co. Ltd
25. Changzhou Tenglong Auto Parts Co., Ltd.
26. Changzhou Tenglong Auto Parts Co Ltd
27. China Square
28. China Square Industrial Co.
29. China Square Industrial Ltd.
30. China Zhongwang Holdings, Ltd.
31. Chiping One Stop Industrial & Trade Co., Ltd.
32. Classic & Contemporary Inc.
33. Clear Sky Inc.
34. Cosco (J.M.) Aluminum Co., Ltd.
35. Cosco (JM) Aluminum Development Co. Ltd
36. Dalian Huacheng Aquatic Products
37. Dalian Liwang Trade Co., Ltd.
38. Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.
39. Daya Hardware Co. Ltd.
40. Dongguan Dazhan Metal Co., Ltd.
41. Dongguang Aoda Aluminum Co., Ltd.
42. Dongguan Golden Tiger Hardware Industrial Co., Ltd.
43. Dragonluxe Limited
44. Dynabright International Group (HK) Ltd.
45. Dynamic Technologies China
46. ETLA Technology (Wuxi) Co. Ltd.
47. Ever Extend Ent. Ltd.
48. Fenghua Metal Product Factory
49. First Union Property Limited
50. FookShing Metal & Plastic Co. Ltd.
51. Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone
52. Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.
53. Foshan Golden Source Aluminum Products Co., Ltd.
54. Foshan Guangcheng Aluminium Co., Ltd
55. Foshan Jinlan Aluminum Co. Ltd.
56. Foshan JinLan Aluminum Co., Ltd.
57. Foshan JMA Aluminum Company Limited
58. Foshan Nanhai Niu Yuan Hardware Product Co., Ltd.
59. Foshan Shunde Aoneng Electrical Appliances Co., Ltd
60. Foshan Yong Li Jian Aluminum Co., Ltd.
61. Fujian Sanchuan Aluminum Co., Ltd.
62. Fukang Aluminum & Plastic Import and Export Co., Ltd.

63. Fuzhou Sunmodo New Energy Equipment
64. Gaotang Xinhai Economy & Trade Co., Ltd.
65. Genimex Shanghai, Ltd.
66. Global Hi-Tek Precision Co. Ltd
67. Global PMX Dongguan Co., Ltd.
68. Global Point Technology (Far East) Limited
69. Gold Mountain International Development, Ltd.
70. Golden Dragon Precise Copper Tube Group, Inc.
71. Gran Cabrio Capital Pte. Ltd.
72. Gree Electric Appliances
73. GT88 Capital Pte. Ltd.
74. Guang Ya Aluminium Industries Co. Ltd.
75. Guang Ya Aluminum Industries Company Ltd
76. Guang Ya Aluminium Industries (HK) Ltd.
77. Guangcheng Aluminum Co., Ltd.
78. Guangdong Hao Mei Aluminum Co., Ltd.
79. Guangdong Jianmei Aluminum Profile Company Limited
80. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.
81. Guangdong Midea
82. Guangdong Midea Microwave and Electrical Appliances
83. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.
84. Guangdong Weiye Aluminum Factory Co., Ltd.
85. Guangdong Whirlpool Electrical Appliances Co., Ltd.
86. Guangdong Xingfa Aluminum Co., Ltd.
87. Guangdong Xin Wei Aluminum Products Co., Ltd.
88. Guangdong Yonglijian Aluminum Co., Ltd.
89. Guangdong Zhongya Aluminum Company Ltd.
90. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.
91. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.
92. Hangzhou Xingyi Metal Products Co., Ltd.
93. Hanwood Enterprises Limited
94. Hanyung Alcoba Co., Ltd.
95. Hanyung Alcobis Co., Ltd.
96. Hanyung Metal (Suzhou) Co., Ltd.
97. Hao Mei Aluminum Co., Ltd.
98. Hao Mei Aluminum International Co., Ltd.
99. Hebei Xusen Wire Mesh Products Co., Ltd.
100. Henan New Kelong Electrical Appliances Co., Ltd.
101. Henan Zhongduo Aluminum Magnesium New Material Co., Ltd.
102. Hong Kong Gree Electric Appliances Sales Limited
103. Hong Kong Modern Non-Ferrous Metal
104. Honsense Development Company
105. Houztek Architectural Products Co., Ltd.
106. Hui Mei Gao Aluminum Foshan Co., Ltd.
107. Huixin Aluminum
108. IDEX Dinglee Technology (Tianjin) Co., Ltd.
109. IDEX Health
110. IDEX Technology Suzhou Co., Ltd.
111. Innovative Aluminum (Hong Kong) Limited
112. iSource Asia
113. Jackson Travel Products Co., Ltd.
114. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd.
115. Jiangmen Jianghai Foreign Ent. Gen.
116. Jiangmen Qunxing Hardware Diecasting Co., Ltd.
117. Jiangsu Changfa Refrigeration Co.
118. Jiangyin Suncitygaylin
119. Jiangyin Trust International Inc.
120. Jiangyin Xinhong Doors and Windows Co., Ltd.
121. Jiaxing Jackson Travel Products Co., Ltd.
122. Jiaxing Taixin Metal Products Co., Ltd.
123. Jiuyan Co., Ltd.
124. JMA (HK) Company Limited
125. Johnson Precision Engineering (Suzhou) Co., Ltd.
126. Justhere Co., Ltd.
127. Kam Kiu Aluminum Products Sdn Bhd
128. Kanal Precision Aluminum Product Co., Ltd.
129. Karlton Aluminum Company Ltd.
130. Kong Ah International Company Limited
131. Kromet International Inc.
132. Kromet Intl Inc.
133. Kromet International
134. Kunshan Giant Light Metal Technology Co., Ltd.
135. Liaoning Zhong Da Industrial Aluminum Co., Ltd.
136. Liaoning Zhongwang Group Co., Ltd.
137. Liaoyang Zhongwang Aluminum Profile Co. Ltd.
138. Longkou Donghai Trade Co., Ltd.
139. Metal Tech Co Ltd.
140. Metaltek Group Co., Ltd.
141. Metaltek Metal Industry Co., Ltd.
142. Midea Air Conditioning Equipment Co., Ltd.
143. Midea Electric Trading Co., Pte Ltd.
144. Midea International Trading Co., Ltd.
145. Midea International Training Co., Ltd.
146. Miland Luck Limited
147. Nanhai Textiles Import & Export Co., Ltd.
148. New Asia Aluminum & Stainless Steel Product Co., Ltd.
149. New Zhongya Aluminum Factory
150. Nidec Sankyo (Zhejang) Corporation
151. Nidec Sankyo Zhejiang Corporation
152. Nidec Sankyo Singapore Pte. Ltd.
153. Ningbo Coaster International Co., Ltd.
154. Ningbo Hi Tech Reliable Manufacturing Company
155. Ningbo Innopower Tengda Machinery
156. Ningbo Ivy Daily Commodity Co., Ltd.
157. Ningbo Yili Import and Export Co., Ltd.
158. North China Aluminum Co., Ltd.
159. North Fenghua Aluminum Ltd.
160. Northern States Metals
161. PanAsia Aluminum (China) Limited
162. Pengcheng Aluminum Enterprise Inc.
163. Permasteelisa Hong Kong Limited
164. Permasteelisa South China Factory
165. Pingguo Aluminum Company Limited
166. Pingguo Asia Aluminum Co., Ltd.
167. Popular Plastics Company Limited
168. Precision Metal Works Ltd.
169. Press Metal International Ltd.
170. Samuel, Son & Co., Ltd.
171. Sanchuan Aluminum Co., Ltd.
172. Sanhua (Hangzhou) Micro Channel Heat Exchanger Co., Ltd.
173. Shandong Fukang Aluminum & Plastic Co. LTD.
174. Shandong Huajian Aluminum Group
175. Shangdong Huasheng Pesticide Machinery Co.
176. Shangdong Nanshan Aluminum Co., Ltd.
177. Shanghai Automobile Air-Conditioner Accessories Co Ltd.
178. Shanghai Automobile Air Conditioner Accessories Ltd.
179. Shanghai Canghai Aluminum Tube Packaging Co., Ltd.
180. Shanghai Dofiberone Composites Co. Ltd.
181. Shanghai Dongsheng Metal
182. Shanghai Shen Hang Imp & Exp Co., Ltd.
183. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co. Ltd.
184. Shanghai Top-Ranking Aluminum Products Co., LTD.
185. Shanghai Top-Ranking New Materials Co., Ltd.
186. Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.
187. Shenzhen Hudson Technology Development Co.
188. Shenzhen Jiuyuan Co., Ltd.
189. Skyline Exhibit Systems (Shanghai) Co. Ltd.
190. Southwest Aluminum (Group) Co., Ltd.
191. Summit Heat Sinks Metal Co., Ltd.
192. Summit Plastics Nanjing Co. Ltd.
193. Suzhou JRP Import & Export Co., Ltd.
194. Suzhou New Hongji Precision Part Co.
195. Tai-Ao Aluminum (Taishan) Co. Ltd.
196. Taishan City Kam Kiu Aluminium Extrusion Co., Ltd.
197. Taitoh Machinery Shanghai Co. Ltd.
198. Taizhou Lifeng Manufacturing Co., Ltd.
199. Tiazhou Lifeng Manufacturing Corporation
200. Taizhou United Imp. & Exp. Co., Ltd.
201. tenKsolar (Shanghai) Co., Ltd.
202. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
203. Tianjin Jinmao Import & Export Corp., Ltd.
204. Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd.
205. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.
206. Top-Wok Metal Co., Ltd.
207. Traffic Brick Network, LLC
208. Union Aluminum (SIP) Co.
209. Union Industry (Asia) Co., Ltd.
210. USA Worldwide Door Components (Pinghu) Co., Ltd.
211. Wenzhou Shengbo Decoration & Hardware
212. Wenzhou Yongtai Electric Co., Ltd.
213. Whirlpool (Guangdong)
214. Whirlpool Canada L.P.
215. Whirlpool Microwave Products Development Ltd.
216. Worldwide Door Components, Inc.
217. WTI Building Products, Ltd.
218. Wuxi Lutong Fiberglass Doors Co., Ltd.
219. Xin Wei Aluminum Co.
220. Xin Wei Aluminum Company Limited
221. Xinya Aluminum & Stainless Steel Product Co., Ltd.
222. Yuyao Fanshun Import & Export Co., Ltd.
223. Yuyao Haoshen Import & Export
224. Zahoqing China Square Industry

Limited
225. Zhaoqing Asia Aluminum Factory Company Ltd.
226. Zhaoqing China Square Industrial Ltd.
227. Zhaoqing China Square Industry Limited
228. Zhaoqing New Zhongya Aluminum Co., Ltd.
229. Zhejiang Anji Xinxiang Aluminum Co., Ltd.
230. Zhejiang Lilies Industrial and Commercial Co.
231. Zhejiang Yili Automobile Air Condition Co., Ltd.
232. Zhejiang Yongkang Listar Aluminum Industry Co., Ltd.
233. Zhejiang Zhengte Group Co., Ltd.
234. Zhenjiang Xinlong Group Co., Ltd.
235. Zhongshan Daya Hardware Co., Ltd.
236. Zhongshan Gold Mountain Aluminum Factory Ltd.
237. Zhongya Shaped Aluminum (HK) Holding Limited
238. Zhuhai Runxingtai Electrical Equipment Co., Ltd.

[FR Doc. 2019–15510 Filed 7–19–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA) Binational Panel Review Precluded

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: NAFTA Binational Panel Review is precluded in the matter of Large Diameter Welded Pipe from Canada.

SUMMARY: Notice of the Department of Commerce's Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value (Final Determination) was published in the **Federal Register** on February 27, 2019. On May 8, 2019, the NAFTA Secretariat received a Notice of Intent to Commence Judicial Review (Notice of Intent). No action is required by the Secretariat in response to the Notice of Intent. On May 22, 2019, the Secretariat also received a Conditional Request for Panel Review (Conditional Request). The Conditional Request was submitted after the deadline for requests for panel review provided by NAFTA Article 1904(4). Panel review is therefore precluded.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Notice of the Department of Commerce's Final Determination was published in the **Federal Register** (84 FR 6378) on February 27, 2019. In the event a party wished to challenge the Final Determination, pursuant to NAFTA Article 1904(15)(c)(ii), the deadline for the submission of a Notice of Intent to Commence Judicial Review was March 19, 2019 (10 days prior to the latest date on which a panel may be requested), and pursuant to NAFTA Article 1904(4), the deadline for the submission of a Request for Panel Review was March 29, 2019 (within 30 days of publication of the Final Determination in the **Federal Register**).

On May 8, 2019, the American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, and Stupp Corporation, individually and as members of the American Line Pipe Producers Association (''ALPPA''); Greens Bayou Pipe Mill, LP; JSW Steel (USA) Inc.; Skyline Steel; Trinity Products LLC; and Welspun Tubular LLC filed a Notice of Intent with the NAFTA Secretariat, specifying an intention to seek judicial review at the United States Court of International Trade. The Notice of Intent was submitted 50 days after the deadline established by Article 1904(15). No further action is required by the Secretariat in response to the Notice of Intent.

On May 22, 2019, Evraz Inc. NA (''Evraz'') submitted a Conditional Request to the NAFTA Secretariat, ''for the purpose of challenging Petitioners' untimely attempt to appeal the underlying agency determination.'' The Conditional Request for Panel Review was submitted 54 days after the deadline established by Article 1904(4). Accordingly, review by a panel is precluded.

NAFTA Article 1904(4) provides:

> A request for a panel shall be made in writing to the other involved Party within 30 days following the date of publication of the final determination in question in the official journal of the importing Party. In the case of final determinations that are not published in the official journal of the importing Party, the importing Party shall immediately notify the other involved Party of such final determination where it involves goods from the other involved Party, and the other involved Party may request a panel within 30 days of receipt of such notice. Where the competent investigating authority of the importing Party has imposed provisional measures in an investigation, the other involved Party may provide notice of its intention to request a panel under this Article, and the Parties shall begin to establish a panel at that time. Failure to request a panel within the time specified in this paragraph shall preclude review by a panel.

Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. For the complete text of the NAFTA Agreement and the NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, please see *https://www.nafta-sec-alena.org/Home/Legal-Texts.*

Dated: July 16, 2019.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2019–15489 Filed 7–19–19; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG948

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Geophysical Surveys in the Northeast Pacific Ocean

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Lamont-Doherty Earth Observatory (L-DEO) to incidentally harass, by Level A and Level B harassment, marine mammals during seismic activities associated with a marine geophysical survey in the Northeast Pacific Ocean.

DATES: This Authorization is effective from July 10, 2019 through July 9, 2020.

FOR FURTHER INFORMATION CONTACT: Amy Fowler, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the 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 incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

Summary of Request

On December 21, 2018, NMFS received a request from L-DEO for an IHA to take marine mammals incidental to a marine geophysical survey of the Axial Seamount in the Northeast Pacific Ocean. The application was deemed adequate and complete on May 3, 2019. L-DEO's request is for take of a small number of 26 species of marine mammals by Level B harassment and Level A harassment. Neither L-DEO nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Specified Activity

Researchers from the University of Texas at Austin, University of Nevada Reno, University of California San Diego, with funding from the U.S. National Science Foundation (NSF), plan to conduct high-energy seismic surveys from Research Vessel (R/V) *Marcus G. Langseth* (*Langseth*) in the Northeast Pacific Ocean during summer 2019. The NSF-owned *Langseth* is operated by Columbia University's L-DEO under an existing Cooperative Agreement. The planned two-dimensional (2–D) and three-dimensional (3–D) seismic surveys would occur in International Waters outside of the U.S. Exclusive Economic Zone (EEZ). The 2–D survey would use a 36-airgun towed array with a total discharge volume of ~6,600 cubic inches (in^3); the 3–D survey would employ an 18-airgun array with a discharge volume of ~3,300 in^3. The total survey duration would be approximately 35 days. A total of ~3,760 kilometers (km) of transect lines would be surveyed in the Northeast Pacific Ocean: ~3,196 km during the 3–D survey and 564 km during the 2–D survey.

A detailed description of the planned geophysical survey is provided in the **Federal Register** notice for the proposed IHA (84 FR 26940; June 10, 2019). Since that time, no changes have been made to the planned survey activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to L-DEO was published in the **Federal Register** on June 10, 2019 (84 FR 26940). That notice described, in detail, L-DEO's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission).

Comment: The Commission recommended that NMFS require L-DEO to re-estimate the proposed Level A and Level B harassment zones and associated takes of marine mammals using (1) both operational (including number/type/spacing of airguns, tow depth, source level/operating pressure, operational volume) and site-specific environmental (including sound speed profiles, bathymetry, and sediment characteristics at a minimum) parameters, (2) a comprehensive source model (*i.e.,* Gundalf Optimizer or AASM) and (3) an appropriate sound propagation model for the proposed incidental harassment authorization. Specifically, the Commission reiterates that L-DEO should be using the ray-tracing propagation model BELLHOP—which is a free, standard propagation code that readily incorporates all environmental inputs listed herein, rather than the limited, in-house MATLAB code currently in use.

Response: NMFS acknowledges the Commission's concerns about L-DEO's current modeling approach for estimating Level A and Level B harassment zones and takes. L-DEO's application and the **Federal Register** notice of the proposed IHA (84 FR 26940; June 10, 2019) describe the applicant's approach to modeling Level A and Level B harassment zones. The model L-DEO currently uses does not allow for the consideration of environmental and site-specific parameters as requested by the Commission.

L-DEO's application describes their approach to modeling Level A and Level B harassment zones. In summary, L-DEO acquired field measurements for several array configurations at shallow, intermediate, and deep-water depths during acoustic verification studies conducted in the northern Gulf of Mexico in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from those studies, L-DEO developed a sound propagation modeling approach that predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. For this survey, L-DEO modeled Level A and Level B harassment zones based on the empirically-derived measurements from the Gulf of Mexico calibration survey (Appendix H of NSF–USGS 2011). L-DEO used the deep-water radii obtained from model results down to a maximum water depth of 2,000 meters (m) (Figures 2 and 3 in Appendix H of NSF–USGS 2011).

In 2015, LDEO explored the question of whether the Gulf of Mexico calibration data described above adequately informs the model to predict exclusion isopleths in other areas by conducting a retrospective sound power analysis of one of the lines acquired during L-DEO's seismic survey offshore New Jersey in 2014 (Crone, 2015). NMFS presented a comparison of the predicted radii (*i.e.,* modeled exclusion zones) with radii based on in situ measurements (*i.e.,* the upper bound [95th percentile] of the cross-line prediction) in a previous notice of issued Authorization for LDEO (see 80 FR 27635, May 14, 2015, Table 1). Briefly, the analysis presented in Crone (2015), specific to the survey site offshore New Jersey, confirmed that in-situ, site specific measurements and estimates of 160 decibel (dB) and 180 dB isopleths collected by the hydrophone streamer of the R/V *Langseth* in shallow water were smaller than the modeled (*i.e.,* predicted) zones for two seismic surveys conducted offshore New Jersey in shallow water in 2014 and 2015. In that particular case, Crone's (2015) results showed that L-DEO's modeled 180 decibel (dB) and

160 dB zones were approximately 28 percent and 33 percent larger, respectively, than the in-situ, site-specific measurements, thus confirming that L-DEO's model was conservative in that case.

The following is a summary of two additional analyses of in-situ data that support L-DEO's use of the modeled Level A and Level B harassment zones in this particular case. In 2010, L-DEO assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements acquired in the Gulf of Mexico study to their model predictions (Diebold *et al.,* 2010). They reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (*i.e.,* greater than 1,000 m; 3,280.8 ft) (Diebold *et al.,* 2010). In 2012, L-DEO used a similar process to model distances to isopleths corresponding to Level A and Level B harassment thresholds for a shallow-water seismic survey in the northeast Pacific Ocean offshore Washington State. LDEO conducted the shallow-water survey using a 6,600 in^3 airgun configuration aboard the R/V *Langseth* and recorded the received sound levels on both the shelf and slope using the *Langseth's* 8 km hydrophone streamer. Crone *et al.* (2014) analyzed those received sound levels from the 2012 survey and confirmed that in-situ, site specific measurements and estimates of the 160 dB and 180 dB isopleths collected by the *Langseth's* hydrophone streamer in shallow water were two to three times smaller than L-DEO's modeling approach had predicted. While the results confirmed the role of bathymetry in sound propagation, Crone *et al.* (2014) were also able to confirm that the empirical measurements from the Gulf of Mexico calibration survey (the same measurements used to inform L-DEO's modeling approach for the planned surveys in the northwest Atlantic Ocean) overestimated the size of the exclusion and buffer zones for the shallow-water 2012 survey off Washington State and were thus precautionary, in that particular case.

NMFS continues to work with L-DEO to address the issue of incorporating site-specific information for future authorizations for seismic surveys. However, L-DEO's current modeling approach (supported by the three data points discussed previously) represents the best available information for NMFS to reach determinations for this IHA. As described earlier, the comparisons of L-DEO's model results and the field data collected at multiple locations (*i.e.,* the Gulf of Mexico, offshore Washington State, and offshore New Jersey) illustrate a degree of conservativeness built into L-DEO's model for deep water, which NMFS expects to offset some of the limitations of the model to capture the variability resulting from site-specific factors. Based upon the best available information (*i.e.,* the three data points, two of which are peer-reviewed, discussed in this response), NMFS finds that the Level A and Level B harassment zone calculations are appropriate for use in this particular IHA.

The use of models for calculating Level A and Level B harassment zones and for developing take estimates is not a requirement of the MMPA incidental take authorization process. Further, NMFS does not prescribe specific model parameters nor a specific model for applicants as part of the MMPA incidental take authorization process at this time, although we do review methods to ensure they adequately predict take. There is a level of variability not only with parameters in the models, but also the uncertainty associated with data used in models, and therefore, the quality of the model results submitted by applicants. NMFS considers this variability when evaluating applications and the take estimates and mitigation measures that the model informs. NMFS takes into consideration the model used, and its results, in determining the potential impacts to marine mammals; however, it is just one component of the analysis during the MMPA authorization process as NMFS also takes into consideration other factors associated with the activity (*e.g.,* geographic location, duration of activities, context, sound source intensity, etc.).

Comment: Given the shortcomings noted for L-DEO's source and sound propagation modeling and the requirements that other action proponents are obliged to fulfill, the Commission recommended that NMFS require L-DEO to archive, analyze, and compare the in-situ data collected by the hydrophone streamer and ocean bottom seismometers (OBSs) to L-DEO's modeling results for the extents of the Level A and B harassment zones based on the various water depths to be surveyed and provide the data and results to NMFS.

Response: Based on information presented by the applicant and supported by published analysis such as Diebold *et al.* 2010, Tolstoy *et al.* 2009, Crone *et al.* 2014, Crone *et al.* 2017, Barton *et al.* 2006, and Diebold *et al.* 2006, L-DEO modeling results and predicted distances to harassment zones are likely more conservative than actual distances measured from data collected in situ for depths from shallow to deep. The Commission stated one reason for recommending that NMFS require L-DEO to conduct sound source verification efforts was due to the shortcomings of the L-DEO model. However, as previously noted, the L-DEO model is conservative and is viewed appropriate for R/V *Langseth* operations. Use of the L-DEO model is further supported by ten years of successful operations with no observed harm to marine life. For these reasons, additional sound source verification efforts are not warranted at this time.

Comment: The Commission recommended that NMFS recalculate the densities (and thus, estimated take) of Guadalupe fur seals, northern fur seals, and northern elephant seals to include more recent data and population growth through 2019 rather than 2017.

Response: Through discussions with the Commission, NMFS has recalculated the densities of these species. The density of Guadalupe fur seals increased to 0.00343 animals per square kilometer (km^2), the density of northern fur seals increased to 0.01065 animals per km^2, and the density of northern elephant seals increased to 0.03333 animals per km^2. Estimated take of these three species increased accordingly. Further detail regarding these changes is included in the Estimated Take section later in this document.

Comment: The Commission recommended that NMFS use a consistent approach for requiring all geophysical and seismic survey operators to abide by the same general mitigation measures, including prohibiting L-DEO from using power downs and the mitigation airgun during its geophysical surveys.

Response: NMFS is in the process of developing protocols that could be applied to geophysical and seismic surveys. The protocols are being developed on the basis of detailed review of available literature, including peer-reviewed science, review articles, gray literature, and protocols required by other countries around the world. NMFS will share the protocols with the Commission when they are ready for external comment and review.

Note that power downs to the single 40 in^3 airgun are only allowed/required in lieu of shutdown when certain species of dolphins, specifically identified in the *Mitigation* section below, enter the shutdown zone. In all other cases, shutdown would be implemented under conditions as described in the IHA.

Comment: The Commission noted that monitoring and reporting requirements adopted need to be

sufficient to provide a reasonably accurate assessment of the manner of taking and the numbers of animals taken incidental to the specified activity. Those assessments should account for all animals in the various survey areas, including those animals directly on the trackline that are not detected and how well animals are detected based on the distance from the observer which is achieved by incorporating g(0) and f(0) values. The Commission recommended that NMFS require L-DEO to use the Commission's method as described in the Commission's Addendum to better estimate the numbers of marine mammals taken by Level A and B harassment for the incidental harassment authorization. The Commission stated that all other NSF-affiliated entities and all seismic operators should use this method as well.

Response: NMFS agrees that reporting of the manner of taking and the numbers of animals incidentally taken should account for all animals taken, including those animals that are not detected and how well animals are detected based on the distance from the observer, to the extent practicable. NMFS appreciates the Commission's recommendations and further requires that L-DEO provide an estimate of take, including marine mammals that were not detected in their reporting for this survey, as it has in previous actions. NMFS welcomes L-DEO's input on a method to generate this quantitative method, but in the absence of a new procedure, recommends that use of the Commission's method for marine geophysical surveys, which was attached to the Commission's comment letter. We look forward to engaging further with L-DEO, the Commission and other applicants to refine methods to incorporate consideration of g(0) and f(0) values into post-survey take estimates.

Comment: The commission recommended that NMFS refrain from using the proposed renewal process for L-DEO's authorization based on the complexity of analysis and potential for impacts on marine mammals, and the potential burden on reviewers of reviewing key documents and developing comments quickly. Additionally, the Commission recommends that NMFS use the IHA renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

Response: We appreciate the Commission's input and direct the reader to our recent response to the identical comment, which can be found at 84 FR 31032 (June 28, 2019), pg. 31035–31036

Comment: The Commission noted that the proposed surveys are scheduled to begin immediately after the public comment period closed and expressed concern that NMFS did not have adequate time to consider public comments before issuing the IHA. The Commission recommended NMFS more thoroughly review applications, draft **Federal Register** notices, and draft proposed authorizations prior to submitting any proposed authorizations to the **Federal Register**, as well as require earlier submission of applications and other documentation to ensure sufficient time to prepare the proposed authorization and consider comments received from the public.

Response: NMFS thanks the Commission for its concerns regarding the IHA process. NMFS thoroughly reviewed the comments received and considered all comments in making appropriate revisions to the final IHA. NMFS encourages all applicants to submit applications for IHAs five to eight months in advance of the intended project start date and for rulemakings/LOAs at least nine months, and preferably 15 months, in advance of the intended project start date. More generally, NMFS publishes **Federal Register** notices for proposed IHAs as quickly as possible once the application is received and aims to allow more time on the back end of the comment period, but there are situations where the length of processing times are driven by the exigency of an applicant's activity start date or by the need to work with applicants to ensure we have the necessary information to deem an application adequate and complete. Here, NMFS provided the required 30-day notice for public comment, and has adequately considered the comments received in making the necessary findings for this IHA.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find*-species).

Table 1 lists all species with expected potential for occurrence in the survey area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Pacific and Alaska SARs (Caretta *et al.,* 2018; Muto *et al.,* 2018). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2017 SARs (Caretta *et al.,* 2018; Muto *et al.,* 2018) and draft 2018 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:.						
Gray whale	Eschrichtius robustus	Eastern North Pacific	-/-; N	26,960 (0.05, 25,849, 2016).	801	138.
		Western North Pacific	E/D; Y	175 (0.05, 167, 2016) ..	0.07	Unknown.
Family Balaenidae:						
North Pacific right whale	Eubalaena japonica	Eastern North Pacific	E/D; Y	31 (0.226, 26, 2015)	0.05	0.
Family Balaenopteridae (rorquals):						
Humpback whale	Megaptera novaeangliae	California/Oregon/Washington	-/-; Y	1,918 (0.03, 1,876, 2014).	11	>9.2.
Minke whale	Balaenoptera acutorostrata	California/Oregon/Washington	-/-; N	636 (0.72, 369, 2014) ..	3.5	>1.3.
Sei whale	Balaenoptera borealis	Eastern North Pacific	E/D; Y	519 (0.4, 374, 2014)	0.75	0.
Fin whale	Balaenoptera physalus	California/Oregon/Washington	E/D; Y	9,029 (0.12, 8,127, 2014).	81	>2.0.
Blue whale	Balaenoptera musculus	Eastern North Pacific	E/D; Y	1,647 (0.07, 1,551, 2011).	2.3	>0.2.
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	Physeter macrocephalus	California/Oregon/Washington	E/D; Y	1,967 (0.57, 1,270, 2014).	2.5	0.9.
Family Kogiidae:						
Pygmy sperm whale	Kogia breviceps	California/Oregon/Washington	-/-; N	4,111 (1.12, 1,924, 2014).	19	0.
Dwarf sperm whale	Kogia sima	California/Oregon/Washington	-/-; N	Unknown (Unknown, Unknown, 2014).	Undetermined ..	0.
Family Ziphiidae (beaked whales):						
Cuvier's beaked whale	Ziphius cavirostris	California/Oregon/Washington	-/-; N	3,274 (0.67, 2,059, 2014).	21	<0.1.
Baird's beaked whale	Berardius bairdii	California/Oregon/Washington	-/-; N	2,697 (0.6, 1,633, 2014).	16	0.
Blainville's beaked whale	Mesoplodon densirostris	California/Oregon/Washington	-/-; N	3,044 (0.54, 1,967, 2014).	20	0.1.
Hubbs' beaked whale	Mesoplodon carlshubbi.					
Stejneger's beaked whale	Mesoplodon stejnegeri.					
Family Delphinidae:						
Bottlenose dolphin	Tursiops truncatus	California/Oregon/Washington offshore.	-/-; N	1,924 (0.54, 1,255, 2014).	11	>1.6.
Striped dolphin	Stenella coeruleoalba	California/Oregon/Washington	-/-; N	29,211 (0.2, 24,782, 2014).	238	>0.8.
Short-beaked common dolphin.	Delphinus delphis	California/Oregon/Washington	-/-; N	969,861 (0.17, 839,325, 2014).	8,393	>40.
Pacific white-sided dolphin.	Lagenorhynchus obliquidens	California/Oregon/Washington	-/-; N	26,814 (0.28, 21,195, 2014).	191	7.5.
Northern right whale dolphin.	Lissodelphis borealis	California/Oregon/Washington	-/-; N	26,556 (0.44, 18,608, 2014).	179	3.8.
Risso's dolphin	Grampus griseus	California/Oregon/Washington	-/-; N	6,336 (0.32, 4,817, 2014).	46	>3.7.
False killer whale	Pseudorca crassidens	Hawaii Pelagic	-/-; N	1,540 (0.66, 928, 2010)	9.3	7.6.
Killer whale	Orcinus orca	Offshore	-/-; N	240 (0.49, 162, 2014) ..	1.6	0.
		Southern Resident	E/D; Y	83 (N/A, 83, 2016)	0.14	0.
		Northern Resident	-/-; N	261 (N/A, 261, 2011) ...	1.96	0.
		West Coast Transient	-/-; N	243 (N/A, 243, 2009) ...	2.4	0.
Short-finned pilot whale	Globicephala macrorhynchus	California/Oregon/Washington	-/-; N	836 (0.79, 466, 2014) ..	4.5	1.2.
Family Phocoenidae (porpoises):						
Harbor porpoise	Phocoena phocoena	Northern Oregon/Washington Coast.	-/-; N	21,487 (0.44, 15,123, 2011).	151	>3.0.
Dall's porpoise	Phocoenoides dalli	California/Oregon/Washington	-/-; N	25,750 (0.45, 17,954, 2014).	172	0.3.
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Northern fur seal	Callorhinus ursinus	Eastern Pacific	-/D; Y	620,660 (0.2, 525,333, 2016).	11,295	457.
		California	-/D; N	14,050 (N/A, 7,524, 2013).	451	1.8.
California sea lion	Zalophus californianus	U.S.	-/-; N	257,606 (N/A, 233,515, 2014).	14,011	>197.
Steller sea lion	Eumetopias jubatus	Eastern U.S.	-/-; N	41,638 (see SAR, 41,638, 2015).	2,498	108.

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Guadalupe fur seal	Arctocephalus townsendi	Mexico	T/D; Y	20,000 (N/A, 15,830, 2010).	542	>3.2.
Family Phocidae (earless seals):						
Harbor seal	Phoca vitulina	Oregon/Washington Coastal	-/-; N	Unknown (Unknown, Unknown, 1999).	Undetermined ..	10.6.
Northern elephant seal	Mirounga angustirostris	California Breeding	-/-; N	179,000 (N/A, 81,368, 2010).	4,882	8.8.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note—Italicized species are not expected or authorized to be taken.

All species that could potentially occur in the planned survey areas are included in Table 1. However, the temporal and/or spatial occurrence of gray whales, Southern Resident and Northern Resident killer whales, harbor porpoise, harbor seal, California sea lion, and Steller sea lion is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. These species are found in the eastern North Pacific, but are generally found in coastal waters and are not expected to occur offshore in the survey area.

A detailed description of the species likely to be affected by L-DEO's planned surveys, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 26940; June 10, 2019). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to the NMFS website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range * (kHz)
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. 26 marine mammal species (23 cetacean and three

pinniped (two otariid and one phocid) species) have the reasonable potential to co-occur with the planned survey activities. Please refer to Table 1. Of the cetacean species that may be present, five are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 15 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and three are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Kogia spp.).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from seismic airguns and other associated activities for the Northeast Pacific geophysical surveys have the potential to result in behavioral harassment and a small degree of permanent threshold shift (PTS) in marine mammals in the vicinity of the action area associated direct effects on marine mammals. The project would not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, but may have potential short-term impacts to food sources such as forage fish or zooplankton during the geophysical survey. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (84 FR 26940; June 10, 2019), therefore that information is not repeated here. Please refer to that **Federal Register** notice for that information.

The main impact associated with L-DEO's Northeast Pacific geophysical survey would be temporarily elevated sound levels and the associated direct effects on marine mammals. The project would not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, but may have potential short-term impacts to food sources such as forage fish or zooplankton during the geophysical survey. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (84 FR 26940; June 10, 2019), therefore that information is not repeated here. Please refer to that **Federal Register** notice for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination. Based on input received during the public comment period, minor changes were made to the densities of three species of marine mammals (northern fur seal, Guadalupe fur seal, and northern elephant seal) and the number of Level A takes for sei whales. Takes of these species have been adjusted accordingly, but these changes do not affect any of our findings.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of 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).

Authorized takes would primarily be by Level B harassment, as use of seismic airguns has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) for mysticetes and high frequency cetaceans (*i.e.,* kogiidae spp.), due to larger predicted auditory injury zones for those functional hearing groups. The required mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

Auditory injury is unlikely to occur for mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds given very small modeled zones of injury for those species (up to 43.7 m). Moreover, the source level of the array is a theoretical definition assuming a point source and measurement in the far-field of the source (MacGillivray, 2006). As described by Caldwell and Dragoset (2000), an array is not a point source, but one that spans a small area. In the far-field, individual elements in arrays will effectively work as one source because individual pressure peaks will have coalesced into one relatively broad pulse. The array can then be considered a ''point source.'' For distances within the near-field, *i.e.,* approximately 2–3 times the array dimensions, pressure peaks from individual elements do not arrive simultaneously because the observation point is not equidistant from each element. The effect is destructive interference of the outputs of each element, so that peak pressures in the near-field will be significantly lower than the output of the largest individual element. Here, the 230 dB peak isopleth distances would in all cases be expected to be within the near-field of the array where the definition of source level breaks down. Therefore, actual locations within this distance of the array center where the sound level exceeds 230 dB peak SPL would not necessarily exist. In general, Caldwell and Dragoset (2000) suggest that the near-field for airgun arrays is considered to extend out to approximately 250 m.

In order to provide quantitative support for this theoretical argument, we calculated expected maximum distances at which the near-field would transition to the far-field (Table 5). For a specific array one can estimate the distance at which the near-field transitions to the far-field by:

$$D = \frac{L^2}{4\lambda}$$

with the condition that $D >> \lambda$, and where D is the distance, L is the longest dimension of the array, and λ is the wavelength of the signal (Lurton, 2002). Given that λ can be defined by:

$$\lambda = \frac{v}{f}$$

where f is the frequency of the sound signal and v is the speed of the sound in the medium of interest, one can rewrite the equation for D as:

$$D = \frac{fL^2}{4v}$$

and calculate D directly given a particular frequency and known speed of sound (here assumed to be 1,500 meters per second in water, although this varies with environmental conditions).

To determine the closest distance to the arrays at which the source level predictions in Table 1 are valid (*i.e.,* maximum extent of the near-field), we calculated D based on an assumed frequency of 1 kHz. A frequency of 1 kHz is commonly used in near-field/far-field calculations for airgun arrays (Zykov and Carr, 2014; MacGillivray, 2006; NSF and USGS, 2011), and based on representative airgun spectrum data and field measurements of an airgun array used on the R/V Marcus G. Langseth, nearly all (greater than 95 percent) of the energy from airgun arrays is below 1 kHz (Tolstoy *et al.,* 2009). Thus, using 1 kHz as the upper cut-off for calculating the maximum extent of the near-field should reasonably represent the near-field extent in field conditions.

If the largest distance to the peak sound pressure level threshold was equal to or less than the longest dimension of the array (*i.e.,* under the array), or within the near-field, then received levels that meet or exceed the threshold in most cases are not expected

to occur. This is because within the near-field and within the dimensions of the array, the source levels specified in Table 1 are overestimated and not applicable. In fact, until one reaches a distance of approximately three or four times the near-field distance the average intensity of sound at any given distance from the array is still less than that based on calculations that assume a directional point source (Lurton, 2002). The 6,600 in^3 airgun array used in the 2D survey has an approximate diagonal of 28.8 m, resulting in a near-field distance of 138.7 m at 1 kHz (NSF and USGS, 2011). Field measurements of this array indicate that the source behaves like multiple discrete sources, rather than a directional point source, beginning at approximately 400 m (deep site) to 1 km (shallow site) from the center of the array (Tolstoy *et al.,* 2009), distances that are actually greater than four times the calculated 140-m near-field distance. Within these distances, the recorded received levels were always lower than would be predicted based on calculations that assume a directional point source, and increasingly so as one moves closer towards the array (Tolstoy *et al.,* 2009). Similarly, the 3,300 in^3 airgun array used in the 3D survey has an approximate diagonal of 17.9 m, resulting in a near-field distance of 53.5 m at 1 kHz (NSF and USGS, 2011). Given this, relying on the calculated distances (138.7 m for the 2D survey and 53.5 m for the 3D survey) as the distances at which we expect to be in the near-field is a conservative approach since even beyond this distance the acoustic modeling still overestimates the actual received level. Within the near-field, in order to explicitly evaluate the likelihood of exceeding any particular acoustic threshold, one would need to consider the exact position of the animal, its relationship to individual array elements, and how the individual acoustic sources propagate and their acoustic fields interact. Given that within the near-field and dimensions of the array source levels would be below those in Table 5, we believe exceedance of the peak pressure threshold would only be possible under highly unlikely circumstances.

Therefore, we expect the potential for Level A harassment of mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors (*e.g.,* Nachtigall *et al.,* 2018) are considered. We do not believe that Level A harassment is a likely outcome for any mid-frequency cetacean, otariid pinniped, or phocid pinniped and do not propose to authorize any Level A harassment for these species.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the authorized take.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 micropascal (μPa) (root mean square (rms)) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. L-DEO's planned activity includes the use of impulsive seismic sources. Therefore, the 160 dB re 1 μPa (rms) criteria is applicable for analysis of Level B harassment.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive. L-DEO's planned seismic survey includes the use of impulsive (seismic airguns) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS Onset acoustic thresholds * (Received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT—Continued

Hearing group	PTS Onset acoustic thresholds * (Received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The planned 3D survey would acquire data with the 18-airgun array with a total discharge of 3,300 in³ towed at a depth of 10 m. The planned 2D survey would acquire data using the 36-airgun array with a total discharge of 6,600 in³ at a maximum tow depth of 12 m. L-DEO model results are used to determine the 160-dBrms radius for the 18-airgun array, 36-airgun array, and 40-in³ airgun in deep water (>1,000 m) down to a maximum water depth of 2,000 m. Received sound levels were predicted by L-DEO's model (Diebold *et al.,* 2010) which uses ray tracing for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from the 36-airgun array at a tow depth of 6 m have been reported in deep water (approximately 1,600 m), intermediate water depth on the slope (approximately 600–1,100 m), and shallow water (approximately 50 m) in the Gulf of Mexico in 2007–2008 (Tolstoy *et al.* 2009; Diebold *et al.* 2010).

For deep and intermediate-water cases, the field measurements cannot be used readily to derive Level A and Level B isopleths, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–500 m, which may not intersect all the sound pressure level (SPL) isopleths at their widest point from the sea surface down to the maximum relevant water depth for marine mammals of ~2,000 m. At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data recorded at the deep and slope sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant.

In deep and intermediate-water depths, comparisons at short ranges between sound levels for direct arrivals recorded by the calibration hydrophone and model results for the same array tow depth are in good agreement (Fig. 12 and 14 in Appendix H of NSF–USGS, 2011). Consequently, isopleths falling within this domain can be predicted reliably by the L-DEO model, although they may be imperfectly sampled by measurements recorded at a single depth. At greater distances, the calibration data show that seafloor-reflected and sub-seafloor-refracted arrivals dominate, whereas the direct arrivals become weak and/or incoherent. Aside from local topography effects, the region around the critical distance is where the observed levels rise closest to the model curve. However, the observed sound levels are found to fall almost entirely below the model curve. Thus, analysis of the Gulf of Mexico calibration measurements demonstrates that although simple, the L-DEO model is a robust tool for conservatively estimating isopleths.

For deep water (>1,000 m), L-DEO used the deep-water radii obtained from model results down to a maximum water depth of 2000 m. The radii for intermediate water depths (100–1,000 m) were derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (See Fig. 16 in Appendix H of NSF–USGS, 2011).

Measurements have not been reported for the single 40-in³ airgun. L-DEO model results are used to determine the 160-dB (rms) radius for the 40-in³ airgun at a 12 m tow depth in deep water (See LGL 2018, Figure A–2). For intermediate-water depths, a correction factor of 1.5 was applied to the deep-water model results.

L-DEO's modeling methodology is described in greater detail in the IHA application (LGL 2018). The estimated distances to the Level B harassment isopleth for the *Langseth's* 18-airgun array, 36-airgun array, and single 40-in³ airgun are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM R/V *Langseth* SEISMIC SOURCES TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Source and volume	Tow depth (m)	Distance (m) [a]
Single Bolt airgun (40 in³)	12	431
2 strings, 18 airguns (3,300 in³)	10	3,758

TABLE 4—PREDICTED RADIAL DISTANCES FROM R/V *Langseth* SEISMIC SOURCES TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD—Continued

Source and volume	Tow depth (m)	Distance (m) [a]
4 strings, 36 airguns (6,600 in^3)	12	6,733

[a] Distance based on L-DEO model results.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L-DEO using the NUCLEUS software program and the NMFS User Spreadsheet, described below. The updated acoustic thresholds for impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL_{cum} and peak SPL for the *Langseth* airgun array were derived from calculating the modified far-field signature (Table 5). The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the large array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. L-DEO used the acoustic modeling methodology as used for Level B harassment with a small grid step of 1 m in both the inline and depth directions. The propagation modeling takes into account all airgun interactions at short distances from the source, including interactions between subarrays which are modeled using the NUCLEUS software to estimate the notional signature and MATLAB software to calculate the pressure signal at each mesh point of a grid.

For a more complete explanation of this modeling approach, please see ''Appendix A: Determination of Mitigation Zones'' in the IHA application.

TABLE 5—MODELED SOURCE LEVELS BASED ON MODIFIED FARFIELD SIGNATURE FOR THE R/V *Langseth* 3,300 IN^3 AIRGUN ARRAY, 6,600 IN^3 AIRGUN ARRAY, AND SINGLE 40 IN^3 AIRGUN

	Low frequency cetaceans ($L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB)	Mid frequency cetaceans ($L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB)	High frequency cetaceans ($L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB)	Phocid pinnipeds (underwater) ($L_{pk,flat}$: 218 dB; $L_{E,HF,24h}$: 185 dB)	Otariid pinnipeds (underwater) ($L_{pk,flat}$: 232 dB; $L_{E,HF,24h}$: 203 dB)
3,300 in^3 airgun array (Peak SPL_{flat})	245.29	250.97	243.61	246.00	251.92
3.300 in^3 airgun array (SEL_{cum})	226.38	226.33	226.66	226.33	227.07
6,600 in^3 airgun array (Peak SPL_{flat})	252.06	252.65	253.24	252.25	252.52
6,600 in^3 airgun array (SEL_{cum})	232.98	232.84	233.10	232.84	232.08
40 in^3 airgun (Peak SPL_{flat})	223.93	224.09	223.92	223.95	223.95
40 in^3 airgun (SEL_{cum})	202.99	202.89	204.37	202.89	202.35

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the Langseth's airgun array (modeled in 1 hertz (Hz) bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation and source

velocities and shot intervals specific to each of the three planned surveys provided in the IHA application, potential radial distances to auditory injury zones were then calculated for SEL_{cum} thresholds.

Inputs to the User Spreadsheets in the form of estimated SLs are shown in Table 5. User Spreadsheets used by L-DEO to estimate distances to Level A harassment isopleths for the 18-airgun array, 36-airgun array, and single 40 in^3 airgun for the surveys are shown in Tables A–3, A–6, and A–10 in Appendix A of the IHA application. Outputs from the User Spreadsheets in the form of estimated distances to Level A harassment isopleths for the surveys are shown in Table 6. As described above, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the dual metrics (SEL_{cum} and Peak SPL_{flat}) is exceeded (*i.e.,* metric resulting in the largest isopleth).

TABLE 6—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Source and volume		LF cetaceans	MF cetaceans	HF cetaceans	Phocid pinnipeds	Otariid pinnipeds
Single Bolt airgun (40 in^3) [a]	PTS SEL_{cum}	0.5	0	0	0	0
	PTS Peak	1.76	0.51	12.5	1.98	0.4
2 strings, 18 airguns (3300 in^3).	PTS SEL_{cum}	75.6	0	0.3	2.9	0
	PTS Peak	23.2	11.8	118.7	25.1	9.9
4 strings, 36 airguns (6600 in^3).	PTS SEL_{cum}	426.9	0	1.3	13.9	0
	PTS Peak	38.9	13.6	268.3	43.7	10.6

Note that because of some of the assumptions included in the methods used, isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimate of Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the planned seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

In developing their IHA application, L-DEO utilized estimates of cetacean densities in the survey area synthesized by Barlow (2016). Observations from NMFS Southwest Fisheries Science Center (SWFSC) ship surveys off of Oregon and Washington (up to 556 km from shore) between 1991 and 2014 were pooled. Systematic, offshore, at-sea survey data for pinnipeds are more limited. To calculate pinniped densities in the survey area, L-DEO utilized methods described in U.S. Navy (2010) which calculated density estimates for pinnipeds off Washington at different times of the year using information on breeding and migration, population estimates from shore counts, and areas used by different species while at sea. The densities calculated by the Navy were updated by L-DEO using stock abundances presented in the latest SARs (*e.g.,* Caretta *et al.,* 2018).

While the IHA application was in review by NMFS, the U.S. Navy published the Marine Species Density Database Phase III for the Northwest Training and Testing (NWTT) Study Area (Navy 2018). The planned geophysical survey area is located near the western boundary of the defined NWTT Offshore Study Area.

For several cetacean species, the Navy updated densities estimated by line-transect surveys or mark-recapture studies (*e.g.,* Barlow 2016). These methods usually produce a single value for density that is an averaged estimate across very large geographical areas, such as waters within the U.S. EEZ off California, Oregon, and Washington (referred to as a ''uniform'' density estimate). This is the general approach applied in estimating cetacean abundance in the NMFS stock assessment reports. The disadvantage of these methods is that they do not provide information on varied concentrations of species in sub-regions of very large areas, and do not estimate density for other seasons or timeframes that were not surveyed. More recently, a newer method called spatial habitat modeling has been used to estimate cetacean densities that address some of these shortcomings (*e.g.,* Barlow *et al.,* 2009; Becker *et al.,* 2010; 2012a; 2014; Becker *et al.,* 2016; Ferguson *et al.,* 2006; Forney *et al.,* 2012; 2015; Redfern *et al.,* 2006). (Note that spatial habitat models are also referred to as ''species distribution models'' or ''habitat-based density models.'') These models estimate density as a continuous function of habitat variables (*e.g.,* sea surface temperature, seafloor depth) and thus, within the study area that was modeled, densities can be predicted at all locations where these habitat variables can be measured or estimated. Spatial habitat models therefore allow estimates of cetacean densities on finer scales than traditional line-transect or mark-recapture analyses.

The methods used to estimate pinniped at-sea densities are typically different than those used for cetaceans, because pinnipeds are not limited to the water and spend a significant amount of time on land (*e.g.,* at rookeries). Pinniped abundance is generally estimated via shore counts of animals on land at known haulout sites or by counting number of pups weaned at rookeries and applying a correction factor to estimate the abundance of the population (for example Harvey *et al.,* 1990; Jeffries *et al.,* 2003; Lowry, 2002; Sepulveda *et al.,* 2009). Estimating in-water densities from land-based counts is difficult given the variability in foraging ranges, migration, and haulout behavior between species and within each species, and is driven by factors such as age class, sex class, breeding cycles, and seasonal variation. Data such as age class, sex class, and seasonal variation are often used in conjunction with abundance estimates from known haulout sites to assign an in-water abundance estimate for a given area. The total abundance divided by the area of the region provides a representative in-water density estimate for each species in a different location, which enables analyses of in-water stressors resulting from at-sea Navy testing or training activities. In addition to using

shore counts to estimate pinniped density, traditional line-transect derived estimates are also used, particularly in open ocean areas.

Because the Navy's density calculations for many species included spatial habitat modeling and demographic information, we utilized the Navy Marine Species Density Database (NMSDD) to estimate densities and resulting take of marine mammals from the planned geophysical survey. Where available, the appropriate seasonal density estimate from the NMSDD was used in the estimation here (*i.e.,* summer). For species with a quantitative density range within or around the planned survey area, the maximum presented density was conservatively used. Background information on the density calculations for each species/guild as well as reported sightings in nearby waters are reported here. Density estimates for each species/guild are found in Table 7.

Humpback Whale

NMFS SWFSC developed a CCE habitat-based density model for humpback whales which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Six humpback whale sightings (8 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey; all were well inshore of the planned survey area (RPS 2012b). There were 98 humpback whale sightings (213 animals) made during the July 2012 L-DEO seismic survey off southern Washington, northeast of the planned survey area (RPS 2012a), and 11 sightings (23 animals) during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c). No sightings were made near the planned survey area in the 2014 NMFS Southwest Fisheries Science Center (SWFSC) California Current Ecosystem (CCE) vessel survey (Barlow 2016).

Minke Whale

Density values for minke whales are available for the SWFSC Oregon/Washington and Northern California offshore strata for summer/fall (Barlow, 2016). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so data from the SWFSC Oregon/Washington stratum were used as representative estimates.

Sightings have been made off Oregon and Washington in shelf and deeper waters (Green *et al.* 1992; Adams *et al.* 2014; Carretta *et al.* 2017). An estimated abundance of 211 minke whales was reported for the Oregon/Washington region based on sightings data from 1991–2005 (Barlow and Forney 2007), whereas a 2008 survey did not record any minke whales while on survey effort (Barlow 2010). The abundance for Oregon/Washington for 2014 was estimated at 507 minke whales (Barlow 2016). There were no sightings of minke whales off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey or during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012b,c). One minke whale was seen during the July 2012 L-DEO seismic survey off southern Washington, north of the planned survey area (RPS 2012a). No sightings of minke whales were made near the planned survey area during the 2014 SWFSC CCE vessel survey (Barlow 2016).

Sei Whale

Density values for sei whales are available for the SWFSC Oregon/Washington and Northern California offshore strata for summer/fall (Barlow, 2016). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so data from the SWFSC Oregon/Washington stratum were used as representative estimates.

Sei whales are rare in the waters off California, Oregon, and Washington (Brueggeman *et al.* 1990; Green *et al.* 1992; Barlow 1994, 1997). Only 16 confirmed sightings were reported for California, Oregon, and Washington during extensive surveys from 1991–2014 (Green *et al.* 1992, 1993; Hill and Barlow 1992; Carretta and Forney 1993; Mangels and Gerrodette 1994; Von Saunder and Barlow 1999; Barlow 2003; Forney 2007; Barlow 2010; Carretta *et al.* 2017). Based on surveys conducted in 1991–2008, the estimated abundance of sei whales off the coasts of Oregon and Washington was 52 (Barlow 2010); for 2014, the abundance estimate was 468 (Barlow 2016). Two sightings of four individuals were made during the June–July 2012 L-DEO Juan de Fuca plate seismic survey off Washington/Oregon (RPS 2012b); these were well inshore of the planned survey area (~125° W). No sei whales were sighted during the July 2012 L-DEO seismic surveys north and south of the planned survey area (RPS 2012a,c).

Fin Whale

NMFS SWFSC developed a CCE habitat-based density model for fin whales which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Fin whales are routinely sighted during surveys off Oregon and Washington (Barlow and Forney 2007; Barlow 2010; Adams *et al.* 2014; Calambokidis *et al.* 2015; Edwards *et al.* 2015; Carretta *et al.* 2017), including in coastal as well as offshore waters. They have also been detected acoustically near the planned study area during June–August (Edwards *et al.* 2015). There is one sighting of a fin whale in the Ocean Biogeographic Information System (OBIS) database within the planned survey area, which was made in August 2005 during the SWFSC Collaborative Survey of Cetacean Abundance and the Pelagic Ecosystem (CSCAPE) Marine Mammal Survey, and several other sightings in adjacent waters (OBIS 2018). Eight fin whale sightings (19 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey, including two sightings (4 animals) in the vicinity of the planned survey area; sightings were made in waters 2,369–3,940 m deep (RPS 2012b). Fourteen fin whale sightings (28 animals) were made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). No fin whales were sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c). Fin whales were also seen off southern Oregon during July 2012 in water >2,000 m deep during surveys by Adams *et al.* (2014).

Blue Whale

NMFS SWFSC developed a CCE habitat-based density model for blue whales which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC

strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

The nearest sighting of blue whales is ~55 km to the southwest (OBIS 2018), and there are several other sightings in adjacent waters (Carretta *et al.* 2018; OBIS 2018). Satellite telemetry suggests that blue whales are present in waters offshore of Oregon and Washington during fall and winter (Bailey *et al.* 2009; Hazen *et al.* 2017).

Sperm Whale

NMFS SWFSC developed a CCE habitat-based density model for sperm whales which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

There is one sighting of a sperm whale in the vicinity of the survey area in the OBIS database that was made in July 1996 during the SWFSC ORCAWALE Marine Mammal Survey (OBIS 2018), and several other sightings in adjacent waters (Carretta *et al.* 2018; OBIS 2018). Sperm whale sightings were also made in the vicinity of the planned survey area during the 2014 SWFSC vessel survey (Barlow 2016). A single sperm whale was sighted during the 2009 ETOMO survey, north of the planned survey area (Holst 2017). Sperm whales were detected acoustically in waters near the planned survey area in August 2016 during the SWFSC Passive Acoustics Survey of Cetacean Abundance Levels (PASCAL) study using drifting acoustic recorders (Keating *et al.* 2018).

Pygmy and Dwarf Sperm Whales (*Kogia* Guild)

Kogia species are treated as a guild off the U.S. West Coast (Barlow & Forney, 2007). Barlow (2016) provided stratified density estimates for *Kogia* spp. for waters off California, Oregon, and Washington; these were used for all seasons for both the Northern California and Oregon/Washington strata. In the absence of other data, the Barlow (2016) Oregon/Washington estimate was also used for the area northwest of the SWFSC strata for all seasons.

Pygmy and dwarf sperm whales are rarely sighted off Oregon and Washington, with only one sighting of an unidentified *Kogia* sp. beyond the U.S. EEZ, during the 1991–2014 NOAA vessel surveys (Carretta *et al.* 2017). This sighting was made in October 1993 during the SWFSC PODS Marine Mammal Survey ~150 km to the south of the planned survey area (OBIS 2018). Norman *et al.* (2004) reported eight confirmed stranding records of pygmy sperm whales for Oregon and Washington, five of which occurred during autumn and winter.

Baird's Beaked Whale

NMFS SWFSC developed a CCE habitat-based density model for Baird's beaked whale which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Green *et al.* (1992) sighted five groups during 75,050 km of aerial survey effort in 1989–1990 off Washington/Oregon spanning coastal to offshore waters: Two in slope waters and three in offshore waters. Two groups were sighted during summer/fall 2008 surveys off Washington/Oregon, in waters >2,000 m deep (Barlow 2010). Acoustic monitoring offshore Washington detected Baird's beaked whale pulses during January through November 2011, with peaks in February and July (Širović *et al.* 2012b *in* USN 2015). Baird's beaked whales were detected acoustically near the planned survey area in August 2016 during the SWFSC PASCAL study using drifting acoustic recorders (Keating *et al.* 2018). There is one sighting of a Baird's beaked whale near the survey area in the OBIS database that was made in August 2005 during the SWFSC CSCAPE Marine Mammal Survey (OBIS 2018).

Small Beaked Whale Guild

NMFS has developed habitat-based density models for a small beaked whale guild in the CCE (Becker *et al.,* 2012b; Forney *et al.,* 2012). The small beaked whale guild includes Cuvier's beaked whale and beaked whales of the genus *Mesoplodon,* including Blainville's beaked whale, Hubbs' beaked whale, and Stejneger's beaked whale. NMFS SWFSC developed a CCE habitat-based density model for the small beaked whale guild which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Four beaked whale sightings were reported in water depths >2,000 m off Oregon/Washington during surveys in 2008 (Barlow 2010). None were seen in 1996 or 2001 (Barlow 2003), and several were recorded from 1991 to 1995 (Barlow 1997). One Cuvier's beaked whale sighting was made east of the planned survey area during 2014 (Barlow 2016). Acoustic monitoring in Washington offshore waters detected Cuvier's beaked whale pulses between January and November 2011 (Širović *et al.* 2012b *in* USN 2015). There is one sighting of a Cuvier's beaked whale near the planned survey area in the OBIS database that was made in July 1996 during the SWFSC ORCAWALE Marine Mammal Survey (OBIS 2018), and several other sightings were made in adjacent waters, primarily to the south and east of the planned survey area (Carretta *et al.* 2018; OBIS 2018). Cuvier's beaked whales were detected acoustically in waters near the planned survey area in August 2016 during the SWFSC PASCAL study using drifting acoustic recorders (Keating *et al.* 2018).

There are no sightings of Blainville's beaked whales near the planned survey area in the OBIS database (OBIS 2018). There is one sighting of an unidentified species of Mesoplodont whale near the survey area in the OBIS database that was made in July 1996 during the SWFSC ORCAWALE Marine Mammal Survey (OBIS 2018). There was one acoustic encounter with Blainville's beaked whales recorded in Quinault Canyon off Washington in waters 1,400 m deep during 2011 (Baumann-Pickering *et al.* 2014). Blainville's beaked whales were not detected acoustically in waters near the planned survey area in August 2016 during the SWFSC PASCAL study using drifting acoustic recorders (Keating *et al.* 2018). Although Blainville's beaked whales could be encountered during the planned survey, an encounter would be unlikely because the planned survey area is beyond the northern limits of this tropical species' usual distribution.

Stejneger's beaked whale calls were detected during acoustic monitoring offshore Washington between January and June 2011, with an absence of calls from mid-July to November 2011 (Ŝirović *et al.* 2012b *in* USN 2015). Analysis of these data suggest that this species could be more than twice as prevalent in this area than Baird's beaked whale (Baumann-Pickering *et al.* 2014). Stejneger's beaked whales were also detected acoustically in waters near the planned survey area in August 2016 during the SWFSC PASCAL study using drifting acoustic recorders (Keating *et al.* 2018). There are no sightings of Stejneger's beaked whales near the planned survey area in the OBIS database (OBIS 2018). There is one sighting of an unidentified species of *Mesoplodont* beaked whale near the survey area in the OBIS database that was made during July 1996 during the SWFSC ORCAWALE Marine Mammal Survey (OBIS 2018).

Baird's beaked whale is sometimes seen close to shore where deep water approaches the coast, but its primary habitat is over or near the continental slope and oceanic seamounts (Jefferson *et al.* 2015). Along the U.S. West Coast, Baird's beaked whales have been sighted primarily along the continental slope (Green *et al.* 1992; Becker *et al.* 2012; Carretta *et al.* 2018) from late spring to early fall (Green *et al.* 1992). The whales move out from those areas in winter (Reyes 1991). In the eastern North Pacific Ocean, Baird's beaked whales apparently spend the winter and spring far offshore, and in June, they move onto the continental slope, where peak numbers occur during September and October. Green *et al.* (1992) noted that Baird's beaked whales on the U.S. West Coast were most abundant in the summer, and were not sighted in the fall or winter. MacLeod *et al.* (2006) reported numerous sightings and strandings of *Berardius* spp. off the U.S. West Coast.

Bottlenose Dolphin

During surveys off the U.S. West Coast, offshore bottlenose dolphins were generally found at distances greater than 1.86 miles (3 km) from the coast and were most abundant off southern California (Barlow, 2010, 2016). Based on sighting data collected by SWFSC during systematic surveys in the Northeast Pacific between 1986 and 2005, there were few sightings of offshore bottlenose dolphins north of about 40° N (Hamilton *et al.,* 2009). NMFS SWFSC developed a CCE habitat-based density model for bottlenose dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Bottlenose dolphins occur frequently off the coast of California, and sightings have been made as far north as 41° N, but few records exist for Oregon/Washington (Carretta *et al.* 2017). Three sightings and one stranding of bottlenose dolphins have been documented in Puget Sound since 2004 (Cascadia Research 2011 *in* USN 2015). It is possible that offshore bottlenose dolphins may range as far north as the planned survey area during warm-water periods (Carretta *et al.* 2017). Adams *et al.* (2014) made one sighting off Washington during September 2012. There are no sightings of bottlenose dolphins near the planned survey area in the OBIS database (OBIS 2018).

Striped Dolphin

Striped dolphin encounters increase in deep, relatively warmer waters off the U.S. West Coast, and their abundance decreases north of about 42° N (Barlow *et al.,* 2009; Becker *et al.,* 2012b; Becker *et al.,* 2016; Forney *et al.,* 2012). Although striped dolphins typically do not occur north of California, there are a few sighting records off Oregon and Washington (Barlow, 2003, 2010; Von Saunder & Barlow, 1999), and multiple sightings in 2014 when water temperatures were anomalously warm (Barlow, 2016). NMFS SWFSC developed a CCE habitat-based density model for striped dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Striped dolphins regularly occur off California (Becker *et al.* 2012), where they have been seen as far as the ~300 n.mi. limit during the NOAA Fisheries vessel surveys (Carretta *et al.* 2017). Strandings have occurred along the coasts of Oregon and Washington (Carretta *et al.* 2016). During surveys off the U.S. West Coast in 2014, striped dolphins were seen as far north as 44° N (Barlow 2016).

Short-Beaked Common Dolphin

Short-beaked common dolphins are found off the U.S. West Coast throughout the year, distributed between the coast and at least 345 miles (556 km) from shore (Barlow, 2010; Becker *et al.,* 2017; Carretta *et al.,* 2017b). The short-beaked common dolphin is the most abundant cetacean species off California (Barlow, 2016; Carretta *et al.,* 2017b; Forney *et al.,* 1995); however, their abundance decreases dramatically north of about 40° N (Barlow *et al.,* 2009; Becker *et al.,* 2012c; Becker *et al.,* 2016; Forney *et al.,* 2012). Short-beaked common dolphins are occasionally sighted in waters off Oregon and Washington, and one group of approximately 40 short-beaked common dolphins was sighted off northern Washington in 2005 at about 48° N (Forney, 2007), and multiple groups were sighted as far north as 44° N during anomalously warm conditions in 2014 (Barlow, 2016). NMFS SWFSC developed a CCE habitat-based density model for short-beaked common dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

There are no sightings of short-beaked dolphins near the planned survey area in the OBIS database (OBIS 2018).

Pacific White-Sided Dolphin

Pacific white-sided dolphins occur year-round in the offshore region of the NWTT Study Area, with increased abundance in the summer/fall (Barlow, 2010; Forney & Barlow, 1998; Oleson *et al.,* 2009). NMFS SWFSC developed a CCE habitat-based density model for Pacific white-sided dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide

representative density estimates for this area.

Fifteen Pacific white-sided dolphin sightings (231 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey; none were near the planned survey area (RPS 2012b). There were fifteen Pacific white-sided dolphin sightings (462 animals) made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c). One group of 10 Pacific white-sided dolphins was sighted during the 2009 ETOMO survey north of the planned survey area (Holst 2017).

Northern Right Whale Dolphin

Survey data suggest that, at least in the eastern North Pacific, seasonal inshore-offshore and north-south movements are related to prey availability, with peak abundance in the Southern California Bight during winter and distribution shifting northward into Oregon and Washington as water temperatures increase during late spring and summer (Barlow, 1995; Becker *et al.,* 2014; Forney *et al.,* 1995; Forney & Barlow, 1998; Leatherwood & Walker, 1979). NMFS SWFSC developed a CCE habitat-based density model for northern right whale dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Seven northern right whale dolphin sightings (231 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey; none were seen near the planned survey area (RPS 2012b). There were eight northern right whale dolphin sightings (278 animals) made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c).

Risso's Dolphin

NMFS SWFSC developed a CCE habitat-based density model for Risso's dolphins which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Two sightings of 38 individuals were recorded off Washington from August 2004 to September 2008 (Oleson *et al.* 2009). Risso's dolphins were sighted off Oregon, in June and October 2011 (Adams *et al.* 2014). There were three Risso's dolphin sightings (31 animals) made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c), or off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey (RPS 2012b).

False Killer Whale

False killer whales were not included in the NMSDD, as they are very rarely encountered in the northeast Pacific. Density estimates for false killer whales were also not presented in Barlow (2016), as no sightings occurred during surveys conducted between 1986 and 2008 (Ferguson and Barlow 2001, 2003; Forney 2007; Barlow 2003, 2010). One sighting was made off of southern California during 2014 (Barlow 2016). There are no sightings of false killer whales near the survey area in the OBIS database (OBIS 2018).

Killer Whale

Due to the difficulties associated with reliably distinguishing the different stocks of killer whales from at-sea sightings, density estimates for the Offshore region of the NWTT Study Area are presented for the species as a whole (*i.e.,* includes the Offshore, West Coast Transient, Northern Resident, and Southern Resident stocks). Density values for killer whales are available for the SWFSC Oregon/Washington and Northern California offshore strata for summer/fall (Barlow, 2016). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so data from the SWFSC Oregon/Washington stratum were used as representative estimates. These values were used to represent density year-round.

Eleven sightings of ~536 individuals were reported off Oregon/Washington during the 2008 SWFSC vessel survey (Barlow 2010). Killer whales were sighted offshore Washington during surveys from August 2004 to September 2008 (Oleson *et al.* 2009). Keating *et al.* (2015) analyzed cetacean whistles from recordings made during 2000–2012; several killer whale acoustic detections were made offshore Washington.

Short-Finned Pilot Whale

Along the U.S. West Coast, short-finned pilot whales were once common south of Point Conception, California (Carretta *et al.,* 2017b; Reilly & Shane, 1986), but now sightings off the U.S. West Coast are infrequent and typically occur during warm water years (Carretta *et al.,* 2017b). Stranding records for this species from Oregon and Washington waters are considered to be beyond the normal range of this species rather than an extension of its range (Norman *et al.,* 2004). Density values for short-finned pilot whales are available for the SWFSC Oregon/Washington and Northern California strata for summer/fall (Barlow, 2016). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so data from the SWFSC Oregon/Washington stratum were used as representative estimates. These values were used to represent density year-round.

Few sightings were made off California/Oregon/Washington in 1984–1992 (Green *et al.* 1992; Carretta and Forney 1993; Barlow 1997), and sightings remain rare (Barlow 1997; Buchanan *et al.* 2001; Barlow 2010). No short-finned pilot whales were seen during surveys off Oregon and Washington in 1989–1990, 1992, 1996, and 2001 (Barlow 2003). A few sightings were made off California during surveys in 1991–2014 (Barlow 2010). Carretta *et al.* (2017) reported one sighting off Oregon during 1991–2008. Several stranding events in Oregon/southern Washington have been recorded over the past few decades, including in March 1996, June 1998, and August 2002 (Norman *et al.* 2004).

Dall's Porpoise

NMFS SWFSC developed a CCE habitat-based density model for Dall's porpoise which provides spatially explicit density estimates off the U.S. West Coast for summer and fall based on survey data collected between 1991 and 2014 (Becker *et al., in prep*). Density data are not available for the NWTT Offshore area northwest of the SWFSC strata, so the habitat-based

density values in the northernmost pixels adjoining this region were interpolated based on the nearest-neighbor approach to provide representative density estimates for this area.

Oleson *et al.* (2009) reported 44 sightings of 206 individuals off Washington during surveys form August 2004 to September 2008. Dall's porpoise were seen in the waters off Oregon during summer, fall, and winter surveys in 2011 and 2012 (Adams *et al.* 2014). Nineteen Dall's porpoise sightings (144 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey; none were in near the planned survey area (RPS 2012b). There were 16 Dall's porpoise sightings (54 animals) made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c). Dall's porpoise was the most frequently sighted marine mammal species (5 sightings of 28 animals) during the 2009 ETOMO survey north of the planned survey area (Holst 2017).

Northern Fur Seal

The Navy estimated the abundance of northern fur seals from the Eastern Pacific stock and the California breeding stock that could occur in the NWTT Offshore Study Area by determining the percentage of time tagged animals spent within the Study Area and applying that percentage to the population to calculate an abundance for adult females, juveniles, and pups independently on a monthly basis. Adult males are not expected to occur within the Offshore Study Area and the planned survey area during the planned geophysical survey as they spend the summer ashore at breeding areas in the Bering Sea and San Miguel Island (Caretta *et al.,* 2017b). Using the monthly abundances of fur seals within the Offshore Study Area, the Navy created strata to estimate the density of fur seals within three strata: 22 km to 70 km from shore, 70 km to 130 km from shore, and 130 km to 463 km from shore (the western Study Area boundary). L-DEO's planned survey is 423 km from shore at the closest point. Based on satellite tag data and historic sealing records (Olesiuk 2012; Kajimura 1984), the Navy assumed 25 percent of the population present within the overall Offshore Study Area may be within the 130 km to 463 km stratum.

During the public comment period, the Commission noted that the Navy's density estimates for northern fur seals did not include abundance data collected from Bogoslof Island in 2015. Incorporating the 2015 Bogoslof counts yielded an increased abundance estimate, and thus an increased density of northern fur seals. The density estimate increased from 0.0103 animals/km^2 to 0.01065 animals/km^2. As a result, the estimated take of northern fur seals increased from 194 takes by Level B harassment to 201. No Level A take of northern fur seals is anticipated nor authorized.

Thirty-one northern fur seal sightings (63 animals) were made off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey north of the planned survey area (RPS 2012b). There were six sightings (6 animals) made during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c).

Guadalupe Fur Seal

As with northern fur seals, adult male Guadalupe fur seals are expected to be ashore at breeding areas over the summer, and are not expected to be present during the planned geophysical survey (Caretta *et al.,* 2017b; Norris 2017b). Additionally, breeding females are unlikely to be present within the Offshore Study Area as they remain ashore to nurse their pups through the fall and winter, making only short foraging trips from rookeries (Gallo-Reynoso *et al.,* 2008; Norris 2017b; Yochem *et al.,* 1987). To estimate the total abundance of Guadalupe fur seals, the Navy adjusted the population reported in the 2016 SAR (Caretta *et al.,* 2017b) of 20,000 seals by applying the average annual growth rate of 7.64 percent over the seven years between 2010 and 2017. The resulting 2017 projected abundance was 33,485 fur seals. Using the reported composition of the breeding population of Guadalupe fur seals (Gallo-Reynoso 1994) and satellite telemetry data (Norris 2017b), the Navy established seasonal and demographic abundances of fur seals expected to occur within the Offshore Study Area.

The distribution of Guadalupe fur seals in the Offshore Study Area was stratified by distance from shore (or water depth) to reflect their preferred pelagic habitat (Norris, 2017a). Ten percent of fur seals in the Study Area are expected to use waters over the continental shelf (approximated as waters with depths between 10 and 200 m). A depth of 10 m is used as the shoreward extent of the shelf (rather than extending to shore), because Guadalupe fur seals in the Offshore Study Area are not expected to haul out and would not be likely to come close to shore. All fur seals (*i.e.,* 100 percent) would use waters off the shelf (beyond the 200-m isobath) out to 300 km from shore, and 25 of percent of fur seals would be expected to use waters between 300 and 700 km from shore (including the planned geophysical survey area). The second stratum (200 m to 300 km from shore) is the preferred habitat where Guadalupe fur seals are most likely to occur most of the time. Individuals may spend a portion of their time over the continental shelf or farther than 300 km from shore, necessitating a density estimate for those areas, but all Guadalupe fur seals would be expected to be in the central stratum most of the time, which is the reason 100 percent is used in the density estimate for the central stratum (Norris, 2017a). Spatial areas for the three strata were estimated in a GIS and used to calculate the densities.

During the public comment period, the Commission noted that the Navy density estimate for Guadalupe fur seals projected the abundance through 2017, while L-DEO's survey will occur in 2019. The Commission recommended calculating the abundance estimate in 2019 using the annual growth rate above. This calculation yielded an increased density estimate of Guadalupe fur seals, from 0.0029 animals/km^2 to 0.00343 animals/km^2. As such, the take estimate increased from 55 takes by Level B harassment to 65. No Level A take of Guadalupe fur seals is anticipated or authorized.

Guadalupe fur seals have not previously been observed in the planned survey area, nor on previous L-DEO surveys off Washington and Oregon.

Northern Elephant Seal

The most recent surveys supporting the abundance estimate for northern elephant seals were conducted in 2010 (Caretta *et al.,* 2017b). By applying the average growth rate of 3.8 percent per year for the California breeding stock over the seven years from 2010 to 2017, the Navy calculated a projected 2017 abundance estimate of 232,399 elephant seals (Caretta *et al.,* 2017b; Lowry *et al.,* 2014). Male and female distributions at sea differ both seasonally and spatially. Pup counts reported by Lowry *et al.,* (2014) and life tables compiled by Condit *et al.,* (2014) were used to determine the proportion of males and females in the population, which was

estimated to be 56 percent female and 44 percent male. Females are assumed to be at sea 100 percent of the time within their seasonal distribution area in fall and summer (Robinson *et al.,* 2012). Males are at sea approximately 90 percent of the time in fall and spring, remain ashore through the entire winter, and spend one month ashore to molt in the summer (*i.e.,* are at sea 66 percent of the summer). Monthly distribution maps produced by Robinson *et al.* (2012) showing the extent of foraging areas used by satellite tagged female elephant seals were used to estimate the spatial areas to calculate densities. Although the distributions were based on tagged female seals, Le Boeuf *et al.* (2000) and Simmons *et al.* (2007) reported similar tracks by males over broad spatial scales. The spatial areas representing each monthly distribution were calculating using GIS and then averaged to produce seasonally variable areas and resulting densities.

Similar to the Guadalupe fur seal above, the Commission suggested using the population growth rate above to calculate the abundance of northern elephant seals in 2019. The resulting density estimate of northern elephant seals increased from 0.0309 animals/km² to 0.03333 animals/km². As such, the estimated take by Level B harassment increased from 583 to 629 animals. Take of northern elephant seals by Level A harassment is not anticipated or authorized.

Off Washington, most elephant seal sightings at sea were made during June, July, and September; off Oregon, sightings were recorded from November through May (Bonnell *et al.* 1992). Several seals were seen off Oregon during summer, fall, and winter surveys in 2011 and 2012 (Adams *et al.* 2014). Northern elephant seals were also taken as bycatch off Oregon in the west coast groundfish fishery during 2002–2009 (Jannot *et al.* 2011). Northern elephant seals were sighted five times (5 animals) during the July 2012 L-DEO seismic surveys off southern Washington, northeast of the planned survey area (RPS 2012a). This species was not sighted during the July 2012 L-DEO seismic survey off Oregon, southeast of the planned survey area (RPS 2012c), or off Washington/Oregon during the June–July 2012 L-DEO Juan de Fuca plate seismic survey that included the planned survey area (RPS 2012b). One northern elephant seal was sighted during the 2009 ETOMO survey north of the planned survey area (Holst 2017).

TABLE 7—MARINE MAMMAL DENSITY VALUES IN THE SURVEY AREA

Species	Reported density (#/km²) [a]
LF Cetaceans:	
Humpback whale	0.001829
Minke whale	0.0013
Sei whale	0.0004
Fin whale	0.004249
Blue whale	0.001096
MF Cetaceans:	
Sperm whale	0.002561
Cuvier's and Mesoplodont beaked whales	0.007304
Baird's beaked whale	0.00082
Bottlenose dolphin	0.000003
Striped dolphin	0.009329
Short-beaked common dolphin	0.124891
Pacific white-sided dolphin	0.017426
Northern right-whale dolphin	0.039962
Risso's dolphin	0.007008
False killer whale	N/A
Killer whale	[b] 0.00092
Short-finned pilot whale	0.00025
HF Cetaceans:	
Kogia spp.	0.00163
Dall's porpoise	0.043951
Otariids:	
Northern fur seal	[b] [c] 0.01065
Guadalupe fur seal	[c] 0.00343
Phocids:	
Northern elephant seal	[c] 0.03333

[a] Navy 2018.

[b] No stock-specific densities are available so densities are presumed equal for all stocks present.

[c] Density estimate increased from that presented in **Federal Register** notice of proposed IHA (84 FR 26940; June 10, 2019).

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A or Level B harassment, radial distances from the airgun array to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A and Level B harassment thresholds. The area estimated to be ensonified in a single day of the survey is then calculated (Table 8), based on the areas predicted to be ensonified around the array and representative trackline distances traveled per day. This number is then multiplied by the number of survey days. The product is then multiplied by 1.25 to account for the additional 25 percent contingency. This results in an estimate of the total areas (km²) expected to be ensonified to the Level A and Level B harassment thresholds.

TABLE 8—AREAS (km²) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS, PER DAY

Survey	Criteria	Relevant isopleth (m)	Daily ensonified area (km²)	Total survey days	25% increase	Total ensonified area (km²)
2-D Survey	Level B Harassment					
	160-dB	6,733	1,346.90	3	1.25	5,050.86
	Level A Harassment					
	LF Cetaceans	426.9	158.67	3	1.25	595.01
	HF Cetaceans	268.3	99.77	3	1.25	374.12
	Phocids	43.7	16.26	3	1.25	60.96
	MF Cetaceans	13.6	5.06	3	1.25	18.97
	Otariids	10.6	3.94	3	1.25	14.79
	Level B Harassment					

TABLE 8—AREAS (km^2) ESTIMATED TO BE ENSONIFIED TO LEVEL A AND LEVEL B HARASSMENT THRESHOLDS, PER DAY—Continued

Survey	Criteria	Relevant isopleth (m)	Daily ensonified area (km^2)	Total survey days	25% increase	Total ensonified area (km^2)
3-D Survey	160-dB	3,758	690.52	16	1.25	13,810.40
	Level A Harassment					
	LF Cetaceans	118.7	47.39	16	1.25	947.74
	HF Cetaceans	75.6	30.13	16	1.25	602.59
	Phocids	25.1	9.98	16	1.25	199.59
	MF Cetaceans	11.2	4.45	16	1.25	89.01
	Otariids	9.9	3.93	16	1.25	78.67

The marine mammals predicted to occur within these respective areas, based on estimated densities, are assumed to be incidentally taken. For species where take by Level A harassment has been requested, the calculated Level A takes have been subtracted from the total exposures within the Level B harassment zone. During the public comment period, the Commission noted that the typical group size for sei whales is two animals (Barlow 2016) and recommended increasing the Level A take to two animals and reducing the Level B takes to six animals. NMFS agreed and has made that change. Authorized takes for the planned survey are shown in Table 9.

TABLE 9—ESTIMATED LEVEL A AND LEVEL B EXPOSURES, AND PERCENTAGE OF STOCK EXPOSED

Species	Stock	Level B	Level A	Total take	Percent of stock
LF Cetaceans:					
Humpback whale	California/Oregon/Washington	32	3	35	1.21
Minke whale	California/Oregon/Washington	23	2	25	3.93
Sei whale	Eastern North Pacific	6	2	8	1.54
Fin whale	California/Oregon/Washington	74	7	81	0.90
Blue whale	Eastern North Pacific	19	2	21	1.28
MF Cetaceans:					
Sperm whale	California/Oregon/Washington	48	0	48	2.40
Cuvier's and Mesoplodont beaked whales.	California/Oregon/Washington	138	0	138	[a] 2.18
Baird's beaked whale	California/Oregon/Washington	15	0	15	0.56
Bottlenose dolphin	California/Oregon/Washington	[b] 13	0	[b] 13	0.68
Striped dolphin	California/Oregon/Washington	176	0	176	0.60
Short-beaked common dolphin	California/Oregon/Washington	2356	0	2356	0.24
Pacific white-sided dolphin	California/Oregon/Washington	329	0	329	1.23
Northern right-whale dolphin	California/Oregon/Washington	754	0	754	2.82
Risso's dolphin	California/Oregon/Washington	132	0	132	2.08
False killer whale	Hawaii Pelagic	[b] 5	0	[b] 5	0.32
Killer whale	Offshore	17	0	17	[c] 5.67
	West Coast Transient				[c] 7.00
Short-finned pilot whale	California/Oregon/Washington	[b] 18	0	[b] 18	2.15
HF Cetaceans:					
Kogia spp.	California/Oregon/Washington	29	2	31	0.71
Dall's porpoise	California/Oregon/Washington	786	43	829	3.05
Otariids:					
Northern fur seal	Eastern Pacific	201	0	201	[c] 0.03
	California				[c] 1.43
Guadalupe fur seal	Mexico	65	0	65	0.33
Phocids:					
Northern elephant seal	California Breeding	629	0	629	0.35

[a] Combined stock abundances for Cuvier's beaked whales and Mesoplodont guild.
[b] Calculated take increased to mean group size (Barlow 2016).
[c] Where multiple stocks are affected, for the purposes of calculating the percentage of stock affected, takes are analyzed as if all takes occurred within each stock.

It should be noted that the authorized take numbers shown in Table 9 are expected to be conservative for several reasons. First, in the calculations of estimated take, 25 percent has been added in the form of operational survey days to account for the possibility of additional seismic operations associated with airgun testing and repeat coverage of any areas where initial data quality is sub-standard, and in recognition of the uncertainties in the density estimates used to estimate take as described above. Additionally, marine mammals would be expected to move away from

a loud sound source that represents an aversive stimulus, such as an airgun array, potentially reducing the number of takes by Level A harassment. However, the extent to which marine mammals would move away from the sound source is difficult to quantify and is, therefore, not accounted for in the take estimates.

Note that due to the different density estimates used, and in consideration of the near-field soundscape of the airgun array, we have authorized a different number of incidental takes than the number of incidental takes requested by L-DEO (see Table 6 in the IHA application).

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

L-DEO has reviewed mitigation measures employed during seismic research surveys authorized by NMFS under previous incidental harassment authorizations, as well as recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), Weir and Dolman (2007), Nowacek *et al.* (2013), Wright (2014), and Wright and Cosentino (2015), and has incorporated a suite of required mitigation measures into their project description based on the above sources.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, L-DEO is required to implement mitigation measures for marine mammals. Mitigation measures that would be adopted during the planned surveys include (1) Vessel-based visual mitigation monitoring; (2) Vessel-based passive acoustic monitoring; (3) Establishment of an exclusion zone; (4) Power down procedures; (5) Shutdown procedures; (6) Ramp-up procedures; and (7) Vessel strike avoidance measures.

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual PSOs) to scan the ocean surface visually for the presence of marine mammals. The area to be scanned visually includes primarily the exclusion zone, but also the buffer zone. The buffer zone means an area beyond the exclusion zone to be monitored for the presence of marine mammals that may enter the exclusion zone. During pre-clearance monitoring (*i.e.,* before ramp-up begins), the buffer zone also acts as an extension of the exclusion zone in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.* ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 m exclusion zone, out to a radius of 1,000 m from the edges of the airgun array (500–1,000 m). Visual monitoring of the exclusion zones and adjacent waters is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring close to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to naïve marine mammals that may be in the area during pre-clearance, and (2) during airgun use, aid in establishing and maintaining the exclusion zone by alerting the visual observer and crew of marine mammals that are outside of, but may approach and enter, the exclusion zone.

L-DEO must use at least five dedicated, trained, NMFS-approved Protected Species Observers (PSOs). The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

At least one of the visual and two of the acoustic PSOs aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, during a deep penetration (*i.e.,* ''high energy'') seismic survey, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two visual PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of the airgun array. Visual monitoring of the exclusion and buffer zones must begin no less than 30 minutes prior to ramp-up and must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the exclusion and buffer zones. These zones shall be based upon the radial distance from the edges of the acoustic source

(rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.,* anytime airguns are active, including ramp-up), occurrences of marine mammals within the buffer zone (but outside the exclusion zone) shall be communicated to the operator to prepare for the potential shutdown or powerdown of the acoustic source.

During use of the airgun (*i.e.,* anytime the acoustic source is active, including ramp-up), occurrences of marine mammals within the buffer zone (but outside the exclusion zone) should be communicated to the operator to prepare for the potential shutdown or powerdown of the acoustic source. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable. Visual PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Passive Acoustic Monitoring

Acoustic monitoring means the use of trained personnel (sometimes referred to as passive acoustic monitoring (PAM) operators, herein referred to as acoustic PSOs) to operate PAM equipment to acoustically detect the presence of marine mammals. Acoustic monitoring involves acoustically detecting marine mammals regardless of distance from the source, as localization of animals may not always be possible. Acoustic monitoring is intended to further support visual monitoring (during daylight hours) in maintaining an exclusion zone around the sound source that is clear of marine mammals. In cases where visual monitoring is not effective (*e.g.,* due to weather, nighttime), acoustic monitoring may be used to allow certain activities to occur, as further detailed below.

Passive acoustic monitoring (PAM) would take place in addition to the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustical monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual PSOs (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. It would be monitored in real time so that the visual observers can be advised when cetaceans are detected.

The *R/V Langseth* will use a towed PAM system, which must be monitored by at a minimum one on duty acoustic PSO beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source. Acoustic PSOs may be on watch for a maximum of four consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (acoustic and visual but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional two hours without acoustic monitoring during daylight hours only under the following conditions:

- Sea state is less than or equal to BSS 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the applicable exclusion zone in the previous two hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and
- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of four hours in any 24-hour period.

Establishment of Exclusion and Buffer Zones

An exclusion zone (EZ) is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 500-m radius. The 500-m EZ would be based on radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the acoustic source would be shut down.

The 500-m EZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m EZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions.

An extended EZ of 1,500 m must be enforced for all beaked whales, and dwarf and pygmy sperm whales.

Pre-Clearance and Ramp-Up

Ramp-up (sometimes referred to as ''soft start'') means the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up begins by first activating a single airgun of the smallest volume, followed by doubling the number of active elements in stages until the full complement of an array's airguns are active. Each stage should be approximately the same duration, and the total duration should not be less than approximately 20 minutes. The intent of pre-clearance observation (30 minutes) is to ensure no protected species are observed within the buffer zone prior to the beginning of ramp-up. During pre-clearance is the only time observations of protected species in the buffer zone would prevent operations (*i.e.,* the beginning of ramp-up). The intent of ramp-up is to warn protected species of pending seismic operations and to allow sufficient time for those animals to leave the immediate vicinity. A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of

the acoustic source. All operators must adhere to the following pre-clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the exclusion and buffer zones for 30 minutes prior to the initiation of ramp-up (pre-clearance);
- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;
- One of the PSOs conducting pre-clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;
- Ramp-up may not be initiated if any marine mammal is within the applicable exclusion or buffer zone. If a marine mammal is observed within the applicable exclusion zone or the buffer zone during the 30 minute pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes and pinnipeds, and 30 minutes for all mysticetes and all other odontocetes, including sperm whales, pygmy sperm whales, dwarf sperm whales, beaked whales, pilot whales, and Risso's dolphins);
- Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration shall not be less than 20 minutes. The operator must provide information to the PSO documenting that appropriate procedures were followed;
- PSOs must monitor the exclusion and buffer zones during ramp-up, and ramp-up must cease and the source must be shut down upon observation of a marine mammal within the applicable exclusion zone. Once ramp-up has begun, observations of marine mammals within the buffer zone do not require shutdown or powerdown, but such observation shall be communicated to the operator to prepare for the potential shutdown or powerdown;
- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances;
- If the acoustic source is shut down for brief periods (*i.e.,* less than 30 minutes) for reasons other than that described for shutdown and powerdown (*e.g.,* mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of marine mammals have occurred within the applicable exclusion zone. For any longer shutdown, pre-clearance observation and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required, but if the shutdown period was brief and constant observation was maintained, pre-clearance watch of 30 min is not required; and
- Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance of 30 min.

Shutdown and Powerdown

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array while a powerdown requires immediate de-activation of all individual airgun elements of the array except the single 40-in^3 airgun. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown or powerdown of the acoustic source if a marine mammal is detected within the applicable exclusion zone. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown and powerdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual and acoustic PSOs are on duty, all detections will be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs. When the airgun array is active (*i.e.,* anytime one or more airguns is active, including during ramp-up and powerdown) and (1) a marine mammal appears within or enters the applicable exclusion zone and/or (2) a marine mammal (other than delphinids, see below) is detected acoustically and localized within the applicable exclusion zone, the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation. Additionally, shutdown will occur whenever PAM alone (without visual sighting), confirms presence of marine mammal(s) in the EZ. If the acoustic PSO cannot confirm presence within the EZ, visual PSOs will be notified but shutdown is not required.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the 500-m EZ. The animal would be considered to have cleared the 500-m EZ if it is visually observed to have departed the 500-m EZ, or it has not been seen within the 500-m EZ for 15 min in the case of small odontocetes and pinnipeds, or 30 min in the case of mysticetes and large odontocetes, including sperm whales, pygmy sperm whales, dwarf sperm whales, pilot whales, beaked whales, and Risso's dolphins.

The shutdown requirement can be waived for small dolphins in which case the acoustic source shall be powered down to the single 40-in^3 airgun if an individual is visually detected within the exclusion zone. As defined here, the small delphinoid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement applies solely to specific genera of small dolphins—*Tursiops, Delphinus, Stenella, Lagenorhynchus, and Lissodelphis.* The acoustic source must be powered down to 40-in^3 airgun if an individual belonging to these genera is visually detected within the 500-m exclusion zone.

Powerdown conditions shall be maintained until delphinids for which shutdown is waived are no longer observed within the 500-m exclusion zone, following which full-power operations may be resumed without ramp-up. Visual PSOs may elect to waive the powerdown requirement if delphinids for which shutdown is waived to be voluntarily approaching the vessel for the purpose of interacting with the vessel or towed gear, and may use best professional judgment in making this decision.

We include this small delphinoid exception because power-down/shutdown requirements for small delphinoids under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small delphinoids are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine

mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift).

A large body of anecdotal evidence indicates that small delphinoids commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (*e.g.,* Barkaszi *et al.,* 2012). The potential for increased shutdowns resulting from such a measure would require the Langseth to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.,* large delphinoids) are no more likely to incur auditory injury than are small delphinoids, they are much less likely to approach vessels. Therefore, retaining a power-down/shutdown requirement for large delphinoids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a power-down/shutdown requirement for large delphinoids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

Powerdown conditions shall be maintained until the marine mammal(s) of the above listed genera are no longer observed within the exclusion zone, following which full-power operations may be resumed without ramp-up. Additionally, visual PSOs may elect to waive the powerdown requirement if the small dolphin(s) appear to be voluntarily approaching the vessel for the purpose of interacting with the vessel or towed gear, and may use best professional judgment in making this decision. Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger exclusion zone). If PSOs observe any behaviors in a small delphinid for which shutdown is waived that indicate an adverse reaction, then powerdown will be initiated immediately.

Upon implementation of shutdown, the source may be reactivated after the marine mammal(s) has been observed exiting the applicable exclusion zone (*i.e.,* animal is not required to fully exit the buffer zone where applicable) or following 15 minutes for small odontocetes and pinnipeds, and 30 minutes for mysticetes and all other odontocetes, including sperm whales, pygmy sperm whales, dwarf sperm whales, beaked whales, pilot whales, and Risso's dolphins, with no further observation of the marine mammal(s).

The following shutdown requirements have been added to the final IHA as they were not included in the proposed IHA:

- L-DEO must implement shutdown if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the takes have been met, approaches the Level A or Level B harassment zones;
- L-DEO must implement shutdown if any large whale (defined as a sperm whale or any mysticete species) with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult) or an aggregation of six or more large whales is observed at any distance; and
- L-DEO must implement shutdown if a North Pacific right whale is observed at any distance.

Vessel Strike Avoidance

These measures apply to all vessels associated with the planned survey activity; however, we note that these requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. These measures include the following:

1. Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should be exercised when an animal is observed. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (specific distances detailed below), to ensure the potential for strike is minimized. Visual observers monitoring the vessel strike avoidance zone can be either third-party observers or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena and broadly to identify a marine mammal to broad taxonomic group (*i.e.,* as a large whale or other marine mammal);

2. Vessel speeds must be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of any marine mammal are observed near a vessel;

3. All vessels must maintain a minimum separation distance of 100 m from large whales (*i.e.,* sperm whales and all baleen whales);

4. All vessels must attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for those animals that approach the vessel; and

5. When marine mammals are sighted while a vessel is underway, the vessel should take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel should reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This recommendation does not apply to any vessel towing gear.

We have carefully evaluated the suite of mitigation measures described here and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of the required measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge

of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations and nighttime start ups (if applicable) of the airguns. During seismic operations, at least five visual PSOs would be based aboard the *Langseth.* Monitoring shall be conducted in accordance with the following requirements:

- The operator shall provide PSOs with bigeye binoculars (*e.g.,* 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel;
- The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

PSOs must have the following requirements and qualifications:

- PSOs shall be independent, dedicated, trained visual and acoustic PSOs and must be employed by a third-party observer provider;
- PSOs shall have no tasks other than to conduct observational effort (visual or acoustic), collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards);
- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic). Acoustic PSOs are required to complete specialized training for operating PAM systems and are encouraged to have familiarity with the vessel with which they will be working;
- PSOs can act as acoustic or visual observers (but not at the same time) as long as they demonstrate that their training and experience are sufficient to perform the task at hand;
- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;
- NMFS shall have one week to approve PSOs from the time that the necessary information is submitted, after which PSOs meeting the minimum requirements shall automatically be considered approved;
- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;
- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and
- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within one week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

For data collection purposes, PSOs shall use standardized data collection forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel names (source vessel and other vessels associated with survey) and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Date and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (*e.g.,* vessel traffic, equipment malfunctions); and

• Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

The following information should be recorded upon visual observation of any protected species:

• Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
• PSO who sighted the animal;
• Time of sighting;
• Vessel location at time of sighting;
• Water depth;
• Direction of vessel's travel (compass direction);
• Direction of animal's travel relative to the vessel;
• Pace of the animal;
• Estimated distance to the animal and its heading relative to vessel at initial sighting;
• Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
• Estimated number of animals (high/low/best);
• Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
• Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
• Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
• Animal's closest point of approach (CPA) and/or closest distance from any element of the acoustic source;
• Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
• Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up) and time and location of the action.

If a marine mammal is detected while using the PAM system, the following information should be recorded:

• An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
• Date and time when first and last heard;
• Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and
• Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

Reporting

A report would be submitted to NMFS within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that occurred above the harassment threshold based on PSO observations and including an estimate of those that were not detected, in consideration of both the characteristics and behaviors of the species of marine mammals that affect detectability, as well as the environmental factors that affect detectability.

L-DEO is required to submit a draft comprehensive report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of protected species near the activities, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all protected species sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the information submitted in interim monthly reports as well as additional data collected as described above and the IHA. The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in survey activities covered by the authorization discover an injured or dead marine mammal, the L-DEO shall report the incident to the Office of Protected Resources (OPR), NMFS and to the NMFS West Coast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
• Species identification (if known) or description of the animal(s) involved;
• Condition of the animal(s) (including carcass condition if the animal is dead);
• Observed behaviors of the animal(s), if alive;
• If available, photographs or video footage of the animal(s); and
• General circumstances under which the animal was discovered.

Additional Information Requests—If NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted (example circumstances noted below), and an investigation into the stranding is being pursued, NMFS will submit a written request to the IHA-holder indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information.

• Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and
• If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.,* within 48 hours and 50 km) and immediately after the discovery of the stranding.

Examples of circumstances that could trigger the additional information

request include, but are not limited to, the following:

- Atypical nearshore milling events of live cetaceans;
- Mass strandings of cetaceans (two or more individuals, not including cow/calf pairs);
- Beaked whale strandings;
- Necropsies with findings of pathologies that are unusual for the species or area; or
- Stranded animals with findings consistent with blast trauma.

In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

Vessel Strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, L-DEO must shall report the incident to OPR, NMFS and to regional stranding coordinators as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all species listed in Tables 7 and 9, given that NMFS expects the anticipated effects of the planned geophysical survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality would occur as a result of L-DEO's planned survey, even in the absence of mitigation. Thus the authorization does not authorize any mortality. As discussed in the *Potential Effects* section, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We have authorized a limited number of instances of Level A harassment of seven species and Level B harassment of 26 marine mammal species. However, we believe that any PTS incurred in marine mammals as a result of the planned activity would be in the form of only a small degree of PTS, not total deafness, and would be unlikely to affect the fitness of any individuals, because of the constant movement of both the *Langseth* and of the marine mammals in the project areas, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time (*i.e.,* since the duration of exposure to loud sounds will be relatively short). Also, as described above, we expect that marine mammals would be likely to move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the *Langseth's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007).

Potential impacts to marine mammal habitat were discussed previously in this document (see *Potential Effects of the Specified Activity on Marine Mammals and their Habitat*). Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Prey species are mobile and are broadly distributed throughout the project areas; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the relatively short duration (~19 days) and temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

The activity is expected to impact a small percentage of all marine mammal stocks that would be affected by L-DEO's planned survey (less than seven percent of all species). Additionally, the acoustic ''footprint'' of the planned survey would be small relative to the ranges of the marine mammals that would potentially be affected. Sound levels would increase in the marine

environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the planned survey area. The planned geophysical survey occurs outside of the U.S. EEZ and outside of any established Biologically Important Areas or critical habitat.

The required mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures via power downs and/or shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the required mitigation will be effective in preventing at least some extent of potential PTS in marine mammals that may otherwise occur in the absence of the required mitigation.

The ESA-listed marine mammal species under our jurisdiction that are likely to be taken by the planned surveys include the endangered sei, fin, blue, sperm, and Central America DPS humpback whales, and the threatened Mexico DPS humpback whale and Guadalupe fur seal. We have authorized very small numbers of takes for these species relative to their population sizes. Given the low probability of fitness impacts to any individual, combined with the small portion of any of these stocks impacted, we do not expect population-level impacts to any of these species. The other marine mammal species that may be taken by harassment during the planned surveys are not listed as threatened or endangered under the ESA. With the exception of the northern fur seal, none of the non-listed marine mammals for which we propose to authorize take are considered ''depleted'' or ''strategic'' by NMFS under the MMPA.

NMFS concludes that exposures to marine mammal species and stocks due to L-DEO's planned survey would result in only short-term (temporary and short in duration) effects to individuals exposed. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the authorized take to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

No mortality is anticipated or authorized;

- The planned activity is temporary and of relatively short duration (19 days);
- The anticipated impacts of the planned activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel;
- The number of instances of PTS that may occur are expected to be very small in number. Instances of PTS that are incurred in marine mammals would be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the planned survey to avoid exposure to sounds from the activity;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the planned survey would be temporary and spatially limited; and
- The required mitigation measures, including visual and acoustic monitoring, power-downs, and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 9 provides the authorized numbers of take by Level A and Level B harassment, which are used here for purposes of the small numbers analysis. The numbers of marine mammals that we have authorized to be taken by Level A and Level B harassment would be considered small relative to the relevant populations (less than seven percent for all species and stocks) for the species for which abundance estimates are available.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), the NSF prepared an Environmental Analysis (EA) to consider the direct, indirect, and cumulative effects to the human environment from this marine geophysical survey in the Northeast Pacific. NSF's EA was made available to the public for review and comment in relation to its suitability for adoption by NMFS in order to assess the impacts to the human environment of issuance of an IHA to L-DEO. In compliance with NEPA and the CEQ regulations, as well as NOAA Administrative Order 216–6, NMFS has review the NSF's EA, determined it to be sufficient, and adopted that EA and signed a Finding of No Significant Impact (FONSI) on July 10, 2019.

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, in this case with the ESA Interagency Cooperation Division whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources Interagency Cooperation Division issued a Biological Opinion on July 10, 2019, under section 7 of the ESA, on the issuance of an IHA to L-DEO under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of sei whale, fin whale, blue whale, sperm whale, humpback whale (Central America DPS and Mexico DPS), and Guadalupe fur seal, and is not likely to destroy or modify critical habitat of listed species because no critical habitat exists for these species in the action area.

Authorization

NMFS has issued an IHA to L-DEO for the potential harassment of small numbers of 26 marine mammal species incidental to a marine geophysical survey in the Northeast Pacific, provided the previously mentioned mitigation, monitoring, and reporting are incorporated.

Dated: July 17, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–15516 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Council Cooperative Annual Reports

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 20, 2019.

ADDRESSES: Direct all written comments to Adrienne Thomas, Government Information Specialist, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet at *PRAcomments@doc.gov*). Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gabrielle Aberle, NOAA's National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802–1668, Telephone (907) 586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

The North Pacific Fishery Management Council (Council) has developed cooperative programs as options in several fishery catch share programs. As part of cooperative programs, the Council and the National Marine Fisheries Service (NMFS) have required or requested that the cooperatives submit annual reports detailing various fishery activities. These reports are intended to be a resource for the Council to track the effectiveness of cooperatives and their ability to meet the Council's goals, and as way for NMFS to monitor the internal fishery management practices of cooperatives. Additionally, they are a tool for the cooperatives to provide feedback on the programs. This collection covers the following required and voluntary cooperative and inter-cooperative reports, agreements, and plans:

- The Alaska Crab Rationalization Program Cooperative Annual Report is voluntary and provides information about measures taken by cooperatives to increase the availability of crab quota share (QS) for transfer to active participants and crew members in the fishery, as well as actions to decrease high QS lease rates and improve low crew compensation.
- The Rockfish Program Cooperative Annual Report is a required summary of cooperative harvests, retention, discards, monitoring methods, and disciplinary actions made within each Rockfish Program cooperative. Additionally, it contains voluntary reporting requirements including monthly chinook bycatch by origin, and intertemporal harvest information.
- The Amendment 80 Cooperative Annual Report is a required summary of cooperative harvests, discards, monitoring methods, disciplinary actions taken against non-compliant members, groundfish retention calculations, and a third-party audit. Voluntary elements of the report include catch from the Northern Bristol Bay Trawl Area, fleet catch capacity over time, and intertemporal harvest information. An additional voluntary element was added to this report in 2019 requesting information on cooperatives or other measures implemented to reduced bycatch in the BSAI yellowfin sole Trawl Limited Access Sector fishery by A80 participants.
- The Amendment 80 Halibut Prohibited Species Catch (PSC) Management Plan is a voluntary collection providing information to the Council about fishery cooperative halibut avoidance practices, communication between participating harvesters, use of halibut excluders, deck sorting, bycatch performance assessment of individual boats, incentives to reduce bycatch, and consequences for substandard performance.
- The Amendment 80 Halibut Bycatch Avoidance Progress Report is voluntary and intended to inform the Council about non-regulatory methods used within A80 fishery cooperatives to reduce and avoid halibut bycatch in BSAI groundfish fisheries.
- The American Fisheries Act Catcher Vessel Intercooperative Agreement is voluntary and includes fishery allocations of cooperative members, penalties to members that exceed them, monitoring methods, limits on the amount of cod harvested by certain vessels, procedures for intercooperative sideboard transfers, and incentives for prohibited species catch reduction.
- The American Fisheries Act Catcher Vessel Intercooperative Report is voluntary and provides information about cooperative Bering Sea pollock fishery allocations, harvest, salmon bycatch reduction measures, groundfish sideboards, and prohibited species catch.
- The American Fisheries Act Cooperative Annual Report (moved from 0678–0401) is required and must report the cooperative's pollock and sideboard allocations, sub-allocations made to individual vessels, retained and discarded catch, monitoring methods, actions taken against non-compliant members, any pollock landed outside of

the State of Alaska, and chinook bycatch including a list of vessels with the highest bycatch rates. An additional voluntary element was added to this report in 2019 requesting information on cooperatives or other measures implemented to reduce bycatch in the BSAI yellowfin sole Trawl Limited Access Sector fishery by AFA participants.

II. Method of Collection

Methods of submittal include text attachments to email, mail, and facsimile transmission.

III. Data

OMB Control Number: 0648–0678.

Form Number(s): None.

Type of Review: Revision and extension of a currently approved information collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 26.

Estimated Time per Response: Alaska Crab Rationalization Cooperative Annual Report, 30 hours; Rockfish Program Cooperative Annual Report, 45 hours; Amendment 80 Cooperative Annual Report, 40 hours; Amendment 80 Halibut Bycatch Avoidance Progress Report, 40 hours; Amendment 80 Halibut PSC Management Plan, 12 hours; American Fisheries Act Catcher Vessel Intercooperative Agreement, 40 hours; American Fisheries Act Catcher Vessel Intercooperative Report, 8 hours; American Fisheries Act Cooperative Annual Report, 8 hours.

Estimated Total Annual Burden Hours: 797 hours.

Estimated Total Annual Cost to Public: $3,819 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–15492 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[0648–XR025]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Yurok Tribal Fisheries Program (YTFP) has submitted a Tribal Research and Monitoring Plan (Tribal Plan) and associated application to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under section 4(d) of the Endangered Species Act (ESA). The Tribal Plan and associated application describe research and monitoring activities that may affect ESA-listed Southern Oregon/Northern California Coast (SONCC) coho salmon in California. The proposed research is intended to increase knowledge of this listed species and to help guide management and conservation efforts. This document serves to notify the public that the proposed evaluation and pending determination by the Secretary of Commerce (Secretary) as to whether the implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of SONCC coho salmon is available for public comment.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5:00 p.m. Pacific time on August 21, 2019. Comments received after this date and time may not be accepted.

ADDRESSES: Written comments on the proposed evaluation and pending determination should be addressed to NMFS (Attn: Jeff Abrams), West Coast Region, California Coastal Office, 1655 Heindon Road, Arcata, California 95521. Comments may be submitted by email addressed to: *Jeff.Abrams@noaa.gov.* Include in the subject line of the email the following identifier: Comments on Yurok Tribal Plan. Comments may also be sent via fax to (707) 825–4840. Comments received will also be available for public inspection, by appointment, during normal business hours by calling Jeff Abrams: (707) 825–5186.

FOR FURTHER INFORMATION CONTACT: Jeff Abrams (phone: (707) 825–5186, fax: (707) 825–4840, email: *Jeff.Abrams@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Coho salmon (*Oncorhynchus kisutch*): Threatened (70 FR 37160; June 28, 2005), naturally produced and artificially propagated SONCC coho salmon.

Background

The YTFP submitted a Tribal Plan to NMFS for scientific research and monitoring they propose to conduct within the Lower Klamath River and its tributaries, which are within the range of SONCC coho salmon. The Tribal Plan identifies a variety of research and assessment activities intended to provide the technical basis for fisheries and watershed management, and conserving and restoring salmon stocks and their habitat. The majority of the YTFP proposed research is motivated by a need to improve understanding of salmonid freshwater survival. Many of the proposed activities are also intended to provide information to help plan, implement, and monitor habitat protection and restoration efforts. The Tribal Plan includes implementation, monitoring, and evaluation procedures designed to ensure that the research is consistent with the objectives of the ESA. The research activities described in the Tribal Plan would take place over a five-year period starting in 2019.

As required by a rule promulgated under ESA section 4(d) related to Tribal Plans (65 FR 42481, July 10, 2000, as redesignated at 70 FR 37203, June 28, 2005; Tribal Plan 4(d) rule), the Secretary is seeking public comment on the proposed evaluation and pending determination as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of SONCC coho salmon.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as the Secretary deems necessary and advisable for the conservation of species listed as threatened. The Tribal Plan 4(d) rule states that the ESA section 9 take

prohibitions do not apply to Tribal Plans that the Secretary determines will not appreciably reduce the likelihood of survival and recovery of the listed species.

Dated: July 17, 2019.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–15495 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fisheries Finance Program Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 20, 2019.

ADDRESSES: Direct all written comments to Adrienne Thomas, Government Information Specialist, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801 (or via the internet at *PRAcomments@doc.gov*). Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Brian Summers at (301) 427–8783 or *brian.summers@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for the revision of a currently approved information collection. This revision will add the use of two new forms allowing guarantors to authorize a credit investigation. The National Oceanic and Atmospheric Administration (NOAA) operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. Application information is required to determine eligibility pursuant to 50 CFR part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from the recipients to monitor the financial status of the loan.

II. Method of Collection

Paper applications, guarantor authorization forms.

III. Data

OMB Control Number: 0648–0012.

Form Number(s): 88–1.

Type of Review: Regular (revision of a current information collection).

Affected Public: Individuals or households; business or other for-profit organizations

Estimated Number of Respondents: 311.

Estimated Time per Response: 2–10 hours.

Estimated Total Annual Burden Hours: 1,102.

Estimated Total Annual Cost to Public: $2,799.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–15491 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR005

Notice of Availability of a Draft Environmental Assessment, Proposed Evaluation and Pending Determinations, and Hatchery and Genetic Management Plans

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

ACTION: Notice; extension of comment period.

SUMMARY: NMFS is extending the public comment period on a draft Environmental Assessment (EA), three Proposed Evaluation and Determination Documents (PEPDs), and four Hatchery and Genetic Management Plans (HGMPs) for proposed hatchery programs operated by the Idaho Department of Fish and Game (IDFG), Nez Perce Tribe (NPT), and Washington Department of Fish and Wildlife (WDFW). The extended comment period closes on August 28, 2019.

DATES: Written or electronic scoping comments must be received at the appropriate address or email mailbox (see **ADDRESSES**) on or before August 28, 2019.

ADDRESSES: Written comments should be addressed to the NMFS Sustainable Fisheries Division, 1201 NE Lloyd Blvd., Portland, OR 97232. Comments may be submitted by email. The mailbox address for providing email comments is: *Hatcheries.Public.Comment@noaa.gov.* Include in the subject line of the email the following identifier: Comments on Snake River hatchery programs.

FOR FURTHER INFORMATION CONTACT: Emi Kondo, NMFS West Coast Region, telephone: 503–736–4739, email: *emi.kondo@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

- Chinook salmon (*Oncorhynchus tshawytscha*):

○ Snake River Fall-run (*O. tshawytscha*): Threatened, naturally and artificially propagated;

○ Snake River Spring/Summer run: Threatened, naturally and artificially propagated;

• Snake River Steelhead (*O. mykiss*): Threatened, naturally and artificially propagated; and

• Snake River Sockeye (*O. nerka*): Endangered, naturally and artificially propagated.

Background

Section 9 of the Endangered Species Act (ESA) and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may make exceptions to the take prohibitions in section 9 of the ESA for programs that are approved by NMFS under section 4(d) of the ESA (50 CFR 223.203(b)).

On Friday, June 28, 2019, NMFS published notice of the availability and opportunity to comment on a draft EA, three PEPDs, and four HGMPs on the proposed hatchery programs that are intended to contribute to the survival and recovery of Snake River Spring/summer Chinook salmon and Snake River steelhead in the Snake River Basin, and enhance fishing opportunity.

NMFS provided notice to advise other agencies and the public of the availability of these documents (84 FR 31049, June 28, 2019) and requested comments be received by July 29, 2019. In response, NMFS received requests from 5 entities for additional time to submit comments on the documents. NMFS has decided to extend the public comment period on the notice of review by 30 days to Wednesday, August 28, 2019, to allow opportunity for the public to review additional information on this project, available on the NMFS West Coast Region website: *http://www.westcoast.fisheries.noaa.gov/fisheries/salmon_steelhead/puget_sound_fisheries.html.*

Authority: 42 U.S.C. 4321 *et seq.;* 40 CFR parts 1500–1508; and Companion Manual for NOAA Administrative Order 216–6A, 82 FR 4306.

Dated: July 17, 2019.

Angela Somma,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. 2019–15517 Filed 7–19–19; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0099, Process for a Swap Execution Facility or Designated Contract Market To Make a Swap Available To Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed extension of a collection of information and to allow 60 days for public comment. This notice solicits comments on the process for a designated contract market (DCM) or a swap execution facility (SEF) to make a swap available to trade and therefore subject to the trade execution requirement pursuant to the Commodity Exchange Act (''CEA''). This process imposes rule filing requirements on a DCM or a SEF that wishes to submit a swap as available to trade.

DATES: Comments must be submitted on or before September 20, 2019.

ADDRESSES: You may submit comments, identified by ''Renewal of Collection Pertaining to Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade,'' ''OMB Control No. 3038–0099'' by any of the following methods:

• The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.

• *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

• *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Roger Smith, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5344; email: *rsmith@cftc.gov,* and refer to OMB Control No. 3038–0099.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the collection of information listed below. 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.

Title: Process for a Swap Execution Facility or Designated Contract Market to Make a Swap Available to Trade (OMB Control No. 3038–0099). This is a request for extension of a currently approved information collection.

Abstract: The collection of information is needed to help determine which swaps should be subject to the trade execution requirement under section 2(h)(8) of the Commodity Exchange Act pursuant to Section 723 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. A SEF or DCM that submits a determination that a swap is available to trade must address at least one of several factors to demonstrate that the swap is suitable for trading pursuant to the trade execution requirement. The Commission uses the collection of information to facilitate the application of the trade execution requirement and the requirements associated with methods of execution under parts 37 and 38 of the Commission's regulations.

With respect to the collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: Sections 37.10 and 38.12 of the Commission's regulations result in information collection requirements within the meaning of the PRA. This regulation permits a SEF or DCM to submit a determination that a swap is available to trade to the Commission via filing procedures set forth in part 40 of the Commission's regulations. The Commission estimates the burden of reviewing the prescribed factors and data to make a determination for this collection to be 16 hours per response.

Respondents/Affected Entities: SEFs, DCMs.

Estimated Number of Respondents: 5.

Estimated Average Burden Hours per Respondent: 16.

Estimated Total Annual Burden on Respondents: 80 hours.

Frequency of Collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

[1] 17 CFR 145.9.

Dated: July 17, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–15524 Filed 7–19–19; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2019–0038]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection, titled, ''Real Estate Settlement Procedures Act (Regulation X).''

DATES: Written comments are encouraged and must be received on or before August 21, 2019 to be assured of consideration.

ADDRESSES: Comments in response to this notice are to be directed towards OMB and to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: OIRA_submission@omb.eop.gov.*

• *Fax:* (202) 395–5806.

• *Mail:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Real Estate Settlement Procedures Act (Regulation X) 12 CFR 1024.

OMB Control Number: 3170–0016.

Type of Review: Extension without change of an existing information collection.

Affected Public: Businesses and other for-profit entities.

Estimated Number of Respondents: 12,506.

Estimated Total Annual Burden Hours: 1,087,981.

Abstract: The Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. 2601 *et seq.,* requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. The Act also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts. The purposes of RESPA include, in part, providing consumers with more effective advance disclosure of settlement costs and eliminating certain abusive practices that tend to increase unnecessarily the costs of settlement services.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) amended RESPA by, among other things, mandating new mortgage disclosures and procedures to improve protections for consumers with certain residential mortgages, 12 U.S.C. 2605. Regulation X, 12 CFR 1024.1–.41, implements RESPA. Regulation X contains information collections in the form of various disclosure and recordkeeping requirements. The disclosures in this collection are required by the statute and implementing regulations. Consumers use the disclosures required by RESPA and Regulation X to inform their choice of settlement service providers, review the final terms of a settlement, understand who to contact about questions concerning their mortgage loan, and identify and protect themselves against inaccurate or questionable loan servicing practices.

The information collections discussed in this supporting statement are required in Regulation X, but to the extent that compliance with requirements in Regulation Z (12 CFR 1026) provides an exemption from compliance with similar requirements in Regulation X, the information collection burden is accounted for in OMB Control Number 3170–0015.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on April 8, 2019, 84 FR 13911, Docket Number: CFPB–2019–0016. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: July 17, 2019.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2019–15501 Filed 7–19–19; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Subcommittee; Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Command and General Staff College (CGSC) Board of Visitors, a subcommittee of the Army Education Advisory Committee. This meeting is open to the public.

DATES: The CGSC Board of Visitors Subcommittee will meet from 9 a.m. to 5 p.m. on September 9–10, 2019, and September 11, 2019 from 9 a.m. to 12 p.m.

ADDRESSES: U.S. Army Command and General Staff College, Lewis and Clark Center, 100 Stimson Ave., Bell Conference Room, Ft. Leavenworth, KS 66027.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Baumann, the Alternate Designated Federal Officer for the subcommittee, in writing at Command and General Staff College, 100 Stimson Ave., Ft. Leavenworth, KS 66027, by email at *robert.f.baumann.civ@mail.mil* or by telephone at (913) 684–2742.

SUPPLEMENTARY INFORMATION: The subcommittee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to provide the subcommittee with an overview of CGSC academic programs, as well as information concerning possible future plans. This will be an informational meeting with particular focus on the prospective implementation of additional degree programs at CGSC.

Agenda: September 9–11: The subcommittee will review the results of the first year of CGSC's Bachelor's degree program at the U.S. Army Sergeants Major Academy in AY 18–19, as well as prospective new programs at the master's and doctoral level at Ft. Leavenworth. The meeting will culminate with a public discussion by subcommittee members concerning current developments at CGSC. The subcommittee will also complete certain administrative and training requirements associated with the service of individual subcommittee members. Summary minutes of the meeting will be provided to the Army Education Advisory Committee for consideration under the open-meeting rules.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Dr. Baumann, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Because the meeting of the subcommittee will be held in a Federal Government facility on a military base, security screening is required. A photo ID is required to enter base. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. Lewis and Clark Center is fully handicap accessible. Wheelchair access is available in front at the main entrance of the building. For additional information about public access procedures, contact Dr. Baumann, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Dr. Baumann, the subcommittee Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The Alternate Designated Federal Officer will review all submitted written comments or statements. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Alternate Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow a member of the public to speak or otherwise address the subcommittee during the meeting. Members of the public will be permitted to make verbal comments during the subcommittee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least seven business days in advance to the subcommittee's Alternate Designated Federal Official, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Alternate Designated Federal Officer will log each request, in the order received, and in consultation

with the Subcommittee Chair, determine whether the subject matter of each comment is relevant to the Subcommittee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three minutes during the period, and will be invited to speak in the order in which their requests were received by the Alternate Designated Federal Officer.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–15507 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant Exclusive Patent License to 3F, LLC; Hickory, NC

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army hereby gives notice of its intent to grant to 3F, LLC; a company having its principle place of business at 3539 S NC 127 Hwy., Hickory, NC 28602–8217, an exclusive license.

DATES: Written objections must be filed not later than 15 days following publication of this announcement.

ADDRESSES: Send written objections to U.S. Army Combat Capabilities Development Command Army Research Laboratory, Technology Transfer and Outreach Office, FCDD–RLD–PT/ Annmarie Martin, Building 321, Room 126, 6375 Johnson Rd., Aberdeen Proving Ground, MD 21005–5425.

FOR FURTHER INFORMATION CONTACT: Annmarie Martin, (410) 278–9106, Email: *ORTA@arl.army.mil*.

SUPPLEMENTARY INFORMATION: The Department of the Army plans to grant an exclusive license to 3F, LLC in the field of use related to:

—Thermally drawn filaments for use in additive manufacturing, the filaments comprised of one or more thermoplastic polymers, wherein at least one of the polymers is a thermoplastic liquid crystal polymer.

relative to the following;

—Microstructured Materials'', US Patent Application No.: 15/081048, Filing Date 25 March 2016.

—Multi-Material Polymer Filament for Three-Dimensional Printing Co-Drawn with Functional or Structural Thread'', US Patent Application No.: 15/630175, Filing Date 22 June 2017.

—Mutli-Material Thermoplastic Filament with Regular Geometry for Extrusion Additive Manufacturing'', US Patent Application No.: 62/ 817161, Filing Date 12 March 2019.

The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the U.S. Army Combat Capabilities Development Command Army Research Laboratory receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). Competing applications completed and received by the U.S. Army Combat Capabilities Development Command Army Research Laboratory within fifteen (15) days from the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–15508 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2019–HQ–0025]

Proposed Collection; Comment Request

AGENCY: Department of the Army, DoD.

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of the Army, Army Safety Office, Chief of Staff, DACS–SF, 9351 Hall Rd, Fort Belvoir, VA 22060, ATTN: Mr. Timothy Mikulski at (703) 697–1321.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Radiation Sources on Army Land; OMB Control Number 0702–0109.

Needs and Uses: The information collection requirement is necessary to regulate the use, storage, or possession of radiation sources by non-Army agencies (including their civilian contractors) on an Army installation. The non-Army applicant will apply by letter, email or facsimile with supporting documentation to the garrison commander through the appropriate tenant commander or garrison director.

The Army radiation permit application will specify the effective date and duration for the Army radiation permit and describe the purposes for which the Army radiation permit is being sought. The application will include identification of the trained operating personnel who will be responsible for implementation of the

activities authorized by the permit and a summary of their professional qualifications; the point-of-contact name and phone number for the application; the applicant's radiation safety Standing Operating Procedures (SOPs); storage provisions when the radiation source is not in use; and procedures for notifying the installation of reportable incidents/accidents.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions; State, Local, or Tribal Government.

Annual Burden Hours: 470.

Number of Respondents: 235.

Responses per Respondent: 1.

Annual Responses: 235.

Average Burden per Response: 2 hours.

Frequency: On occasion.

Dated: July 16, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–15480 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Impact Statement Addressing Heat and Electrical Generation and Distribution Upgrades at Fort Wainwright, Alaska

AGENCY: Department of the Army, DOD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army announces its intent to conduct public scoping under the National Environmental Policy Act (NEPA) and solicit public comments to gather information to prepare an Environmental Impact Statement (EIS) to address heat and electrical generation and distribution upgrades at Fort Wainwright, Alaska. The current condition of the heat and power plant, one of the oldest coal-fired central heat and power plants (CHPP) in the United States, and its aging heat distribution system requires an upgrade to provide reliable heat and electrical infrastructure for the installation that resolves safety, resiliency, fiscal, and regulatory concerns. The scoping process will help identify reasonable alternatives, potential environmental impacts, and key issues of concern to be evaluated in the EIS. Based on the information presented in the EIS, the Department of the Army will determine which of the identified heat and power generating alternatives would be implemented.

DATES: Comments must be sent by August 21, 2019.

ADDRESSES: Written comments should be forwarded to Laura Sample, NEPA Program Manager at: Directorate of Public Works, ATTN: IMFW–PWE (L. Sample), 1046 Marks Road #6000, Fort Wainwright, AK 99703–6000, email: *laura.a.sample.civ@mail.mil.*

FOR FURTHER INFORMATION CONTACT: Please contact Grant Sattler, Public Affairs Office, IMPC–FWA–PAO (Sattler), 1060 Gaffney Road #5900, Fort Wainwright, AK 99703–5900; telephone (907) 353–6701; email: *alan.g.sattler.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: Fort Wainwright, Alaska is located in the interior of Alaska in the Fairbanks North Star Borough, and is home to the U.S. Army Garrison (USAG) Alaska and units of United States Army Alaska (USARAK). The Soldiers, Families, and Civilians that make up the Fort Wainwright population are reliant upon a 65-year old coal-fired CHPP and a 30-year old heat distribution system to heat and power more than 400 facilities. The system is operating at approximately 40 percent efficiency, has one of the highest utility costs of U.S. Army installations, has experienced near-catastrophic critical failures, is failing to meet air emissions standards, and poses a threat to USAG Alaska and USARAK missions. Constructing upgraded heat and electrical infrastructure would reduce utility costs, minimize the risk of a single point catastrophic failure, help safeguard mission readiness, meet energy efficiency standards, be compliant with emissions standards, and conform to Army-directed energy security criteria.

To understand the environmental consequences of the decision to be made, the EIS will evaluate the potential direct, indirect, and cumulative environmental impacts of a range of reasonable alternatives that meet the purpose and need of the Proposed Action. Alternatives to be considered in the EIS, including a No Action Alternative, are (1) construction of a new coal-fired CHPP, (2) construction of a new dual-fuel combustion turbine generator CHPP that would be primarily fueled by natural gas, and (3) decentralization of heat and power to a model in which heat is provided by distributed natural gas boilers installed at facilities across the installation and electricity is purchased from the regional electrical grid. Other reasonable alternatives raised during the scoping process and capable of meeting the project purpose and need will be considered for evaluation in the EIS.

Federal, state, and local agencies, Native Americans, Native American organizations, and the public are invited to be involved in the scoping process for the preparation of this EIS by participating in a scoping meeting or submitting written comments. The scoping process will help identify possible alternatives, potential environmental impacts, and key issues of concern to be analyzed in the EIS. Written comments must be sent within 30 days of publication of this Notice of Intent in the **Federal Register**. A scoping meeting will be held in Fairbanks, Alaska, with notification of the time and location published locally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–15515 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: July 29, 2019 to August 2, 2019 from 8:30 a.m. to 5 p.m., August 5, 2019 to August 8, 2019 from 9 a.m. to 12 p.m., and August 9, 2019 from 9 a.m. to 12 p.m.

ADDRESSES: The address of the closed meeting is the Arnold and Mabel Beckman Center, 100 Academy Way, Irvine, CA 92617.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *kevin.a.doxey.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense (DoD) and the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR

102–3.150(a) concerning the July 29, 2019 through August 9, 2019 meeting of the Defense Science Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (Title 5 United States Code (U.S.C.), Appendix), the Government in the Sunshine Act (Title 5 U.S.C., Section 552b), and Title 41 Code of Federal Regulations (CFR), Sections 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet to discuss the DSB 2019 Summer Study on the Future of U.S Military Superiority (''the DSB Summer Study'').

Agenda: The DSB Summer Study meeting will begin on Monday, July 29, 2019 at 8:30 a.m. with opening remarks from Mr. Kevin Doxey, DFO, Dr. Craig Fields, DSB Chairman, and Dr. Eric Evans, DSB Vice Chairman. Following opening remarks, DSB members will hold a classified discussion to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will meet in small groups to discuss classified ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression, given the renewed great power competition. The meeting will adjourn at 5 p.m. On the second day of the meeting, Tuesday, July 30, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. The meeting will adjourn at 5 p.m. On the third day of the meeting, Wednesday, July 31, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. The meeting will adjourn at 5 p.m. On the fourth day of the meeting, Thursday, August 1, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. Next, the DSB members will hold a classified plenary discussion to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. The meeting will adjourn at 5 p.m. On the fifth day of the meeting, Friday, August 2, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. The meeting will adjourn at 5 p.m. On the sixth day of the meeting, Monday, August 5, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. The meeting will adjourn at 5 p.m. On the seventh day of the meeting, Tuesday, August 6, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. The meeting will adjourn at 5 p.m. On the eighth day of the meeting, Wednesday, August 7, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Following break, DSB members will continue their small group classified discussion on the same topics. Next, the DSB members will hold a classified plenary discussion to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. The meeting will adjourn at 5:00 p.m. On the ninth day of the meeting, Thursday, August 8, 2019, the day will begin at 8:30 a.m. with classified small group discussions to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. Next, the DSB members will deliberate and vote on the Summer Study's final classified findings and recommendations. Following the vote, DSB members will continue their small group classified discussion to address ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. The meeting will adjourn at 5 p.m. On the tenth day of the meeting, Friday, August 9, 2019, the day will begin at 9 a.m. with a classified briefing with invited DoD leaders to provide advice and recommendations on ways in which the DoD can secure U.S. interests, manage escalation, and deter and counter adversary aggression. The meeting will adjourn at 12 p.m.

Meeting Accessibility: In accordance with Section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense (Research and Engineering), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense (Research and Engineering).

Written Statements: In accordance with Section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO provided in the **FOR FURTHER INFORMATION CONTACT** section at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: July 17, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–15542 Filed 7–19–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of a Draft Environmental Impact Statement in Cooperation With the North Carolina Department of Transportation for Improvements to the US 70 Corridor Between the Town of LaGrange, Lenoir County and the Town of Dover, Jones County, NC. Depending on the Alternative Selected, the Proposed Project May Serve as a Bypass to the Town of Kinston

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District Regulatory Division and the North Carolina Department of Transportation (NCDOT), acting together as the joint lead agencies, are issuing this notice to advise the public that a State of North Carolina funded Draft Environmental Impact Statement (DEIS) has been prepared describing proposed improvements to the transportation system starting near the intersection of US 70 and NC 903 near the Town of LaGrange, Lenoir County, heading east near the intersection of US 70 and Old US 70 (NCSR–1005) near the Town of Dover, Jones County, NC.

DATES: Written comments on the DEIS will be received until September 6, 2019.

ADDRESSES: COE NCDOT Regulatory Project Manager, Washington Regulatory Field Office, 2407 West 5th Street, Washington, NC 27889; or NCDOT Kinston Bypass, Project Development Engineer, NCDOT, 105 Pactolus Hwy. 33, Greenville, NC 27834.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be directed to Mr. Tom Steffens, COE—Regulatory Project Manager, telephone: (910) 251–4615 or Ms. Heather Lane, NCDOT—Project Development Engineer, telephone: (252) 439–2847.

SUPPLEMENTARY INFORMATION: The COE and NCDOT, acting together as joint lead agencies, have prepared a DEIS on a proposal to make transportation improvements to the US 70 corridor between the Town of LaGrange, Lenoir County and the Town of Dover, Jones County, NC. The NCDOT Improvement Program project (TIP R–2553, US 70 Kinston Bypass) will serve to test and evaluate streamlining the project evaluation process by utilizing GIS data for alternative development, alternative analysis, and selection of the Least Environmentally Damaging Practicable Alternative (LEDPA).

The purpose of the US 70 Kinston Bypass project is to improve regional mobility, connectivity and capacity deficiencies on US 70 between LaGrange and Dover. The project study area is roughly bounded on the west by NC–903 and US 70 near LaGrange, on the north by the Lenoir/Greene County line, to the east near Dover and to the south at the Duplin/Lenoir County line.

This project is being reviewed through the Merger Process, designed to streamline the project development and permitting processes, agreed to by the COE, North Carolina Department of Environment and Natural Resources (Division of Water Resources, Division of Coastal Management), Federal Highway Administration (for this project not applicable), and NCDOT and supported by other stakeholder agencies and local units of government. The other partnering agencies include: U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; N.C. Wildlife Resources Commission; N.C. Department of Cultural Resources; and the Eastern Carolina Planning Organization. The Merger Process provides a forum for appropriate agency representatives to discuss and reach consensus on meeting the regulatory requirements of Section 404 of the Clean Water Act during the NEPA/SEPA decision-making phase of transportation projects.

In June 2010 the project was presented to federal and state resource and regulatory agencies to gain concurrence on the purpose and need for the project. The aforementioned purpose and need of the project was agreed upon by participating agencies in October of 2010. In November 2011, the project was again presented to participating agencies regarding the preliminary corridor screening process in an attempt to decide which alternatives would be carried forward for detailed analysis. Multiple meetings throughout 2012 and 2013 revised the initial number of alternatives carried forward for detailed analysis down to a reasonable range. In January of 2014, a determination was made on the final alternatives to carry forward. Since 2014, the COE has been working closely with NCDOT and its representatives to identify jurisdictional resources within the remaining alternatives. This effort was completed in the spring of 2017.

Upon completion of the DEIS, NCDOT will submit a request to the COE to solicit comment from the public in order to identify the LEDPA for the project.

Citizens informational workshops have been scheduled by NCDOT for August 17th and 19th followed by a Public Hearing on August 20th, 2019 at which time citizens will be able to voice their opinions on the LEDPA and the content of the DEIS.

The DEIS is available on the COE website at: *https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Major-Projects/* and also available on the NCDOT website at: *http://www.ncdot.org/projects/kinston-bypass/Pages/default.aspx.* Any person having difficulty in viewing the document online can contact the COE project manager or the NCDOT project manager for a CD copy of the document.

After distribution and review of the DEIS and Final EIS, the Applicant understands that the COE in coordination with the NCDOT will issue a Record of Decision (ROD) for the project. The ROD will document the completion of the EIS process and will serve as a basis for permitting decisions by federal and state agencies.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS should be directed to the COE at the address provided. The COE will periodically issue Public Notices soliciting public and agency comment on the proposed action and alternatives to the proposed action as they are developed.

Dated: July 3, 2019.

Henry M. Wicker, Jr.,

Deputy Chief, Regulatory Division, Wilmington District.

[FR Doc. 2019–15297 Filed 7–19–19; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM07–16–000]

Notice of Revision in Official Document Repository; Filing Via the Internet

The Federal Energy Regulatory Commission (FERC) hereby gives notice that the documents posted on eLibrary will serve as the Commission's official order and/or Commission action, and eLibrary will serve as the Commission's repository for the official record of Commission proceedings, including filings and Commission issuances. This policy revises the previous 2002 policy on available document formats for FERC issuances.[1] This revision applies to orders and notices issued by the Office of the Secretary, as well as to delegated orders and notices.

Persons with internet access can review and obtain official Commission issuances through the Commission's eLibrary system by using the FERC Online links at *http://www.ferc.gov.* The FERC website also includes an eSubscription link that enables persons with internet access 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. Persons without internet access also may contact FERC Online Support at these telephone numbers for assistance in obtaining official Commission issuances.

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15484 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *Notice of Change in Available Document Formats for FERC Issuances* (August 27, 2002), *https://elibrary.ferc.gov/IDMWS/common/opennat.asp?fileID=9554319.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2428–007; Project No. 10254–026; Project No. 10253–032]

Aquenergy Systems, LLC; Pelzer Hydro Company, LLC and Consolidated Hydro Southeast, LLC; Pelzer Hydro Company, LLC and Consolidated Hydro Southeast, LLC; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the applications for licenses for the Piedmont (FERC Project No. 2428–007), Upper Pelzer (FERC Project No. 10254–026), and Lower Pelzer (FERC Project No. 10253–032) Hydroelectric Projects located on the Saluda River in Anderson and Greenville Counties, South Carolina, and has prepared a Draft Environmental Assessment (DEA).

The DEA contains staff's analysis of the potential environmental impacts of the projects and concludes that licensing the projects, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the DEA is available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's website at *www.ferc.gov* using the eLibrary link. Enter one of the docket numbers, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 45 days from the date of this notice. Comments may be filed electronically via the internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the eFiling link. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support *FERCOnlineSupport@ferc.gov.* Although the Commission strongly encourages electronic filings, documents may also be paper-filed. To paper-file, mail an original copy to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Please affix Project Nos. 2428–007, 10254–026, and 10253–032 to all comments.

For further information, contact Navreet Deo by telephone at 202–502–6304, or by email at *navreet.deo@ferc.gov.*

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15481 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2622–013]

Turners Falls Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2622–013.

c. *Date Filed*: February 4, 2019.

d. *Applicant:* Turners Falls Hydro, LLC (Turners Falls Hydro).

e. *Name of Project:* Turners Falls Project.

f. *Location:* On the Connecticut River, in the power canal of the Turners Falls Hydroelectric Project No. 1889, in Franklin County, Massachusetts. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael Scarzello, Director, Eagle Creek Renewable Energy, LLC, 65 Madison Avenue, Suite 500, Morristown, NJ 07960; Phone at (973) 998–8400, or email at *michael.scarzello@eaglecreekre.com.*

i. *FERC Contact:* Amanda Gill, (202) 502–6773 or *amanda.gill@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2622–013.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project Description:* The proposed Turners Falls Project would consist of: (1) An existing 10-foot-long, 20-foot-wide, 12- to 22-foot-high forebay; (2) a 20-foot-wide, 22-foot-high trashrack with 1.5-inch clear-bar spacing; (3) two headgates; (4) an 8.5-foot-diameter, 50-foot-long steel penstock; (5) a 3,847-square foot powerhouse containing one 937-kilowatt vertical Francis-type turbine-generator unit; (6) a 50-foot-long, underground flume; (7) an 80-foot-long, 10-foot-wide tailrace; (8) a 1,000-foot-long, 13.8-kilovolt transmission line; (9) and appurtenant facilities.

When generating, the project withdraws up to 289 cubic feet per second from FirstLight Hydro Generating Company's power canal for the Turners Falls Hydroelectric Project No. 1889, and discharges directly into the Connecticut River. Turners Falls Hydro operates the project in a run-of-river mode with an average annual generation of approximately 1,512 megawatt-hours. Turners Falls Hydro proposes to continue operating the project in a run-of-river mode and does not propose any new construction or modifications to the project.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the Montague Public Library, Carnegie Library Branch located at 201 Avenue A, Turners Falls, MA 01376.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, or MOTION TO INTERVENE; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Issue Scoping Document 1 for Comments—July 2019

Request Additional Information (if necessary)—August 2019

Issue Scoping Document 2—September 2019

Issue Notice of Ready for Environmental Analysis—September 2019

Issue Notice of Availability of Environmental Assessment—April 2020

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15485 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14799–001]

Lock 13 Hydro Partners, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* P–14799–001.

c. *Date filed:* July 1, 2019.

d. *Applicant:* Lock 13 Hydro Partners, LLC.

e. *Name of Project:* Evelyn Hydroelectric Project.

f. *Location:* On the Kentucky River, in Lee and Estill Counties, Kentucky. The project would be located at the Commonwealth of Kentucky's existing Lock and Dam No. 13. No federal land would be occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* David Brown Kinloch, Lock 13 Hydro Partners, LLC, 414 S Wenzel Street, Louisville, KY 40204; (502) 589–0975; email—*kyhydropower@gmail.com.*

i. *FERC Contact:* Sarah Salazar, (202) 502–6863 or *sarah.salazar@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file

a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* August 30, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14799–001.

m. The application is not ready for environmental analysis at this time.

n. *The proposed Evelyn Project would be operated in a run-of-river mode and would consist of:* (1) An existing estimated 223-acre impoundment at a pool elevation of 617.38 feet mean sea level (North American Vertical Datum of 1988); (2) an existing concrete dam with a 246-foot-long, 34-foot-wide, and 38.2-foot-high spillway and a 148-foot-long, 38.2-foot-high, and 52-foot-wide lock chamber; (3) a new 73-foot-long by 52-foot-wide reinforced concrete powerhouse that would be submerged in the existing lock chamber, with five Flygt axial-flow propeller turbine generator units each rated at 560-kilowatts (kW), for a total installed capacity of 2.8 MW; (4) a new 110-foot-long buried cable transmitting power from the submerged powerhouse to a new two story, 48-foot-long by 30-foot-wide Control Building onshore which would house the project controls; (5) a new 600-foot-long, 12.47-kilovolt overhead transmission line that would connect to an existing Jackson Energy Cooperative line of the same voltage; and (6) appurtenant facilities. The estimated average annual generation would be 11,274 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance—December 2019

Issue notice of ready for environmental analysis—December 2019

Commission issues EA—August 2020

Comments on EA—September 2020

Dated: July 15, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15466 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1821–002]

Panda Stonewall LLC; Notice Establishing Answer Period

On July 10, 2019, Panda Stonewall LLC (Panda) filed a Motion for Extension of Time (Motion), from July 18, 2019 to October 8, 2019, to file briefs opposing exceptions to the Initial Decision, in the above referenced proceedings. Included in the Motion was a request that the Commission shorten to two days the period for answers to the Motion. Joint Customers [1] and Commission Trial Staff filed answers opposing Panda's request for a shortened answer period.

Upon consideration, notice is hereby given that answers to Panda's Motion are due by 5 p.m. Eastern Time on July 17, 2019.

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15482 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

[1] The Joint Customers are Old Dominion Electric Cooperative, North Carolina Electric Membership Corporation, Northern Virginia Electric Cooperative, Inc., and Dominion Energy Services, Inc., on behalf of Virginia Electric and Power Company d/b/a Dominion Energy Virginia/North Carolina.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–479–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for The Proposed Bushton to Clifton A-Line Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Bushton to Clifton A-line Abandonment Project (Project) involving construction and operation of facilities by Northern Natural Gas Company (Northern) in Clay, Cloud, Ellsworth, Lincoln, Ottawa, and Rice counties in Kansas. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on August 15, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on June 7, 2019, you will

need to file those comments in Docket No. CP19–479–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Northern provided landowners with a fact sheet prepared by the FERC entitled An Interstate Natural Gas Facility On My Land? What Do I Need To Know? This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–479–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Northern is proposing to abandon in-place the A-line facilities consisting of approximately 92.76 miles of 26-inch-diameter pipeline on Northern's M640A and M630A and 15.74 miles of 24-inch-diameter pipeline on its M640J pipeline systems and other appurtenant facilities. The Project would consist of the following pipelines and facilities:

- *The M640A and M630A-Lines*

The M640 A-line in Kansas consists of approximately 45.64 miles of 26-inch-diameter pipeline beginning at Northern's Bushton compressor station located in Ellsworth County, Kansas, and ending near the Tescott compressor station in Ottawa County, Kansas. The M630 A-line in Kansas consists of approximately 47.12 miles of 26-inch-diameter pipeline beginning at the Tescott compressor station in, Ottawa County, Kansas, and ending at Northern's Clifton compressor station located in Clay County, Kansas.

- *The M640 J-Line*

The M640 J-line in Kansas consists of approximately 15.74 miles of 24-inch-diameter pipeline beginning at Block Valve JBJ04 located in Ellsworth County, Kansas, and ending near Block Valve JXA07 located in Ottawa County, Kansas.

- *Tescott Compressor Station*

Northern proposes to construct and operate an additional natural gas-driven ISO rated 11,152 horsepower Solar Mars turbine unit (Unit No. 6) at the existing Tescott compressor station located in Ottawa County, Kansas. The unit will tie into station piping that is connected to Northern's existing mainlines. Approximately 85 feet of 24-inch-diameter station piping, approximately 40 feet of 36-inch-diameter station piping, and approximately 80 feet of 8-inch-diameter station piping will be removed to accommodate tie-ins.

After abandonment, Northern will continue to operate the other pipelines in its right-of-way and maintain its pipeline easements with the exception of a segment of J-line that will be abandoned in place. The general location of the project facilities is shown in appendix 1.

Land Requirements for Construction

Construction of the proposed pipeline replacement and compressor station facilities would disturb about 55.4 acres, including 54.5 acres of land for temporary work space and about 0.9 acre for access roads. The two pipeline disconnect locations are located inside existing compressor station facilities which is owned by Northern, and the A-line is collocated with other Northern pipelines. No new land would be obtained or required for the Project.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [1] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all

[1] For instructions on connecting to eLibrary, refer to the last page of this notice.

comments on the EA before making recommendations to the Commission.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[2] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[3] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–479–000. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15483 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

[2] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–474–000]

Florida Gas Transmission Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Putnam Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Putnam Expansion Project involving construction and operation of facilities by Florida Gas Transmission Company, LLC (FGT) in Columbia, Union, Putnam, Clay, and Orange Counties, Florida. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on August 15, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on June 14, 2019, you will need to file those comments in Docket No. CP19–474–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

FGT provided landowners with a fact sheet prepared by the FERC entitled An Interstate Natural Gas Facility On My Land? What Do I Need To Know? This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's

proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister.* You will be asked to select the type of filing you are making; a comment on a particular project is considered a Comment on a Filing; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–474–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

The Putnam Expansion Project would consist of the following facilities in Florida:

- West Loop—install 13.7 miles of 30-inch-diameter pipeline loop [1] in Columbia and Union Counties;
- East Loop—install 7.0 miles of 30-inch-diameter pipeline loop in Clay and Putnam Counties;
- Columbia/Union Receiver Station Relocation—remove and relocate the existing 30-inch-diameter loop pig receiver located at the beginning of the West Loop in Columbia County to a new pig receiver station to be installed at the terminus of the West Loop in Union County;
- Clay/Putnam Receiver Station Relocation—remove and relocate the existing 30-inch-diateter loop pig receiver located at the beginning of the East Loop in Clay County to a new pig receiver station to be installed at the terminus of the East Loop in Putnam County;
- Compressor Station (CS) 18—install new automated valves, over pressure protection device, and station piping at FGT's existing CS 18 in Orange County, Florida.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the Project would disturb about 357.8 acres of land for the aboveground facilities and the pipeline loop. Following construction, FGT would maintain about 16.4 acres for permanent operation of the project's facilities, and the remaining acreage would be restored and revert to former uses. The pipeline loops would be 100 percent collocated with the FGT mainline right-of-way. About 45 percent of the proposed pipeline loops would be located within FGT's existing right-of-way. All modifications at CS 18 would occur within the existing station boundaries.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geological resources;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project, and make recommendations on how to lessen or avoid impacts on the various resource areas as applicable.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [3] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity. A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached Mailing List Update Form (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–474). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: July 16, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15487 Filed 7–19–19; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0568]

Information Collection Requirement Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 20, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0568.

Title: Sections 76.970, 76.971, and 76.975, Commercial Leased Access Rates, Terms and Conditions, and Dispute Resolution.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 2,677 respondents; 6,879 responses.

Estimated Time per Response: 0.5 hours to 40 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third-party disclosure requirement.

Obligation to Respond: Mandatory; Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 4(i), 303, and 612 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 532.

Total Annual Burden: 17,131 hours.

Total Annual Cost: $118,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On June 7, 2019, in document FCC 19–52, the Commission released a *Report and Order and Second Further Notice of Proposed Rulemaking* updating its leased access rules as part of its Modernization of Media Regulation Initiative.

The information collection requirements for this collection, some of which were revised (Sections 76.970(h) and 76.975(e)) by FCC 19–52, are contained in the following rule sections:

47 CFR 76.970(h) requires cable operators to provide prospective leased access programmers with the following information within 30 calendar days of the date on which a bona fide request for leased access information is made, provided that the programmer has remitted any application fee that the cable system operator requires up to a maximum of $100 per system-specific bona fide request (for systems subject to small system relief, cable operators are required to provide the following information within 45 calendar days of a bona fide request):

(a) How much of the cable operator's leased access set-aside capacity is available;

(b) a complete schedule of the operator's full-time leased access rates;

(c) rates associated with technical and studio costs; and

(d) if specifically requested, a sample leased access contract.

Bona fide requests, as used in this section, are defined as requests from potential leased access programmers that have provided the following information:

(a) The desired length of a contract term;

(b) the anticipated commencement date for carriage; and

(c) the nature of the programming.

All requests for leased access must be made in writing and must specify the date on which the request was sent to the operator. Operators must maintain supporting documentation to justify scheduled rates, including supporting contracts, calculations of the implicit fees, and justifications for all adjustments.

Cable system operators must disclose on their own websites, or through alternate means if they do not have their own websites, a contact name or title, telephone number, and email address for the person responsible for responding to requests for information about leased access channels.

47 CFR 76.971 requires cable operators to provide billing and collection services to leased access programmers unless they can demonstrate the existence of third party billing and collection services which, in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased access programmers.

47 CFR 76.975(b) allows any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the relevant provisions of the statute or the implementing regulations to file a petition for relief with the Commission. Persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition. If parties cannot agree on a mutually acceptable accountant within five business days of the programmer's request for a review, they must each select an independent accountant on the sixth business day. These two accountants will then have five business days to select a third independent accountant to perform the review. To account for their more limited resources, operators of systems entitled to small system relief have 14 business days to select an independent accountant when no agreement can be reached.

47 CFR 76.975(c) requires that petitioners attach a copy of the final accountant's report to their petition where the petition is based on allegations that a cable operator's leased access rates are unreasonable.

47 CFR 76.975(e) provides that the cable operator or other respondent will have 30 days from service of the petition to file an answer. If a leased access rate is disputed, the answer must show that the rate charged is not higher than the maximum permitted rate for such leased access, and must be supported by the affidavit of a responsible company official. If, after an answer is submitted, the staff finds a prima facie violation of our rules, the staff may require a respondent to produce additional information, or specify other procedures necessary for resolution of the proceeding. Replies to answers must be filed within fifteen (15) days after submission of the answer.

The Commission has determined that there is some duplication in collections 3060–0568 and 3060–0569. Therefore, we are also consolidating collection 3060–0569 into 3060–0568. The Commission intends to discontinue collection 3060–0569 once the consolidation has been approved by OMB.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–15498 Filed 7–19–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, July 25, 2019 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC (12th Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Internet Ad Disclaimers Rulemaking Proposal for REG 2011–02 (Internet Communication Disclaimers and Definition of ''Public Communication'')

Draft Advisory Opinion 2019–10: Price for Congress

Draft Advisory Opinion 2019–11: Pro-Life Democratic Candidate PAC

Draft Advisory Opinion 2019–13: Mary Jennings Hegar & MJ for Texas

Draft Advisory Opinion 2019–14: Arizona Libertarian Party

Notice of Availability for REG 2019–01 (Adding Valuable Information to Definition of Contribution)

Audit Division Recommendation Memorandum on the Ambulatory Surgery Center Association PAC (ASCAPAC) (A17–08)

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Acting Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2019–15578 Filed 7–18–19; 11:15 am]

BILLING CODE 6715–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–WSCC–2019–03; Docket No. 2019–0004; Sequence No. 3]

Women's Suffrage Centennial Commission; Notification of Public Meeting

AGENCY: Women's Suffrage Centennial Commission, General Services Administration.

ACTION: Meeting notice.

SUMMARY: Meeting notice is being provided according to the requirements of the Federal Advisory Committee Act. This notice provides the schedule and agenda for the August 12, 2019, telephonic meeting of the Women's Suffrage Centennial Commission (Commission). The meeting is open to the public.

DATES: The meeting will be held on Monday, August 12, 2019, beginning at 3 p.m., and ending no later than 5 p.m. (Eastern Daylight Time).

ADDRESSES: The meeting will be a telephonic meeting. The public may dial into the meeting by calling 929–205–6099; meeting ID: 926 934 0283.

FOR FURTHER INFORMATION CONTACT: Kim Oliver, Designated Federal Officer, Women's Suffrage Centennial Commission, 1849 C Street NW, Room 7313, Washington, DC 20240; phone: 202–208–7301; fax: 202–219–2100; email: *kmoliver@blm.gov.*

SUPPLEMENTARY INFORMATION:

Background

Congress passed legislation to create the Women's Suffrage Centennial Commission Act, a bill, ''to ensure a suitable observance of the centennial of the passage and ratification of the 19th Amendment of the Constitution of the United States providing for women's suffrage.''

The duties of the Commission, as written in the law, include: (1) To encourage, plan, develop, and execute programs, projects, and activities to commemorate the centennial of the passage and ratification of the 19th Amendment; (2) To encourage private organizations and State and local Governments to organize and participate in activities commemorating the centennial of the passage and ratification of the 19th Amendment; (3) To facilitate and coordinate activities throughout the United States relating to the centennial of the passage and ratification of the 19th Amendment; (4) To serve as a clearinghouse for the collection and dissemination of information about events and plans for the centennial of the passage and ratification of the 19th Amendment; and (5) To develop recommendations for Congress and the President for commemorating the centennial of the passage and ratification of the 19th Amendment.

Meeting Agenda for August 12, 2019

- Welcome and Introductions
- Executive Director update
- Subcommittee updates and recommendations
- Commission discussion and approval of Subcommittee recommendations
- Public Comment Period
- Adjourn

The meetings are open to the public, but preregistration is required. Any individual who wishes to attend the meeting should register via email at *kmoliver@blm.gov* or telephone 202–208–7301. Interested persons may choose to make a public comment at the meeting during the designated time for this purpose. Public comments shall be limited by minutes based on the number of participants signed up to comment for the allotted time, and subject to agenda time changes based on the speed of the commission's work through the agenda.

Speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements up to 30 days after the meeting. Members of the public may also choose to submit written comments by mailing them to Kim Oliver, Designated Federal Officer, 1849 C Street NW, Room 7313, Washington, DC 20240, or via email at *kmoliver@blm.gov.* Please contact Ms. Oliver at the email address above to obtain meeting materials. All written comments received will be provided to the Commission.

Detailed minutes of the meeting will be available for public inspection within 90 days of the meeting. Individuals requiring special accommodations to access the public meeting should contact Ms. Oliver at least five business days prior to each meeting, so that appropriate arrangements can be made.

Public Disclosure of Comments

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.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 2019–15453 Filed 7–19–19; 8:45 am]

BILLING CODE 3420–37–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0053; Docket No. 2019–0003; Sequence No. 6]

Submission for OMB Review; Permits, Authorities, or Franchises

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement concerning permits, authorities, or franchises for regulated transportation.

DATES: Submit comments on or before August 21, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0053, Permits, Authorities, or Franchises.

Instructions: All items submitted must cite Information Collection 9000–0053, Permits, Authorities, or Franchises. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–208–4949, or email *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Number, Title, and any Associated Form(s)

9000–0053, Permits, Authorities, or Franchises.

B. Needs and Uses

The FAR requires insertion of clause 52.247–2, Permits, Authorities, or Franchises, when regulated transportation is involved. The clause requires the contractor to indicate whether it has the proper authorization from the Federal Highway Administration (or other cognizant regulatory body) to move material. The contractor may be required to provide copies of the authorization before moving material under the contract. The clause also requires the contractor, at its expense, to obtain and maintain any permits, franchises, licenses, and other authorities issued by State and local governments. The Government may

request to review the documents to ensure that the contractor has complied with all regulatory requirements.

C. Annual Reporting Burden

Respondents: 8,256.
Total Annual Responses: 8,256.
Total Burden Hours: 4,128.

D. Public Comment

A 60 day notice was published in the **Federal Register** at 84 FR 13921, on April 9, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405 telephone 202–501–4755. Please cite OMB Control No. 9000–0053, Permits, Authorities, or Franchises, in all correspondence.

Dated: July 16, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–15451 Filed 7–19–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0082; Docket No. 2019–0003; Sequence No. 2]

Submission for OMB Review; Economic Purchase Quantity—Supplies

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a revision and extension of a previously approved information collection requirement concerning economic purchase quantity—supplies.

DATES: Submit comments on or before August 21, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0082, Economic Purchase Quantity—Supplies.

Instructions: All items submitted must cite Information Collection 9000–0082, Economic Purchase Quantity—Supplies. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–208–4949, or email at *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Number, Title, and Any Associated Form(s)

9000–0082, Economic Purchase Quantity—Supplies.

B. Needs and Uses

The provision at 52.207–4, Economic Purchase Quantity—Supplies, invites offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to (1) recommend an economic purchase quantity, showing a recommended unit and total price, and (2) identify the different quantity points where significant price breaks occur. This information is required by Public Law 98–577 and Public Law 98–525.

C. Annual Reporting Burden

Respondents: 3,000.
Total Annual Responses: 75,000.
Total Burden Hours: 75,000.
Affected Public: Business or other for-profit entities.
Respondent's Obligation: Voluntary.
Type of Request: Extension of a currently approved collection.
Reporting Frequency: On occasion.

D. Public Comment

A 60 day notice was published in the **Federal Register** at 84 FR 10828 on March 22, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0082, Economic Purchase Quantity—Supplies, in all correspondence.

Dated: July 16, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–15452 Filed 7–19–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0873]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Bar Code Label Requirement for Human Drug and Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 21, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All

comments should be identified with the OMB control number 0910–0537. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Bar Code Label Requirement for Human Drug and Biological Products

OMB Control Number 0910–0537—Extension

In the **Federal Register** of February 26, 2004 (69 FR 9120), FDA issued a final rule that requires human drug product and biological product labels to have bar codes. Specifically, the final rule requires bar codes on most human prescription drug products and on over-the-counter (OTC) drug products that are dispensed under an order and commonly used in healthcare facilities. It also requires machine-readable information on blood and blood components. For human prescription drug products and OTC drug products that are dispensed under an order and commonly used in healthcare facilities, the bar code must contain the national drug code number for the product. For blood and blood components, the final rule specifies the minimum contents of the label in a format that is machine readable and approved for use by the Director, Center for Biologics Evaluation and Research. We believe that the final rule helps reduce the number of medication errors in hospitals and other healthcare settings by allowing healthcare professionals to use bar code scanning equipment to verify that the right drug (in the right dose and right route of administration) is being given to the right patient at the right time.

Although most of the information collections created by the final rule have now been incorporated in OMB approved information collections supporting the applicable regulations, respondents to the collection may continue to seek an exemption from the bar code label requirement under § 201.25(d) (21 CFR 201.25(d)). Section 201.25(d) requires submission of a written request for an exemption and describes the information that must be included in such a request. Based on the number of exemption requests we have received previously, we estimate that approximately two exemption requests will be submitted annually and each exemption request will require 24 hours to complete. This results in an annual reporting burden of 48 hours, as reflected in table 1.

In the **Federal Register** of November 1, 2018 (83 FR 54930), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
21 CFR 201.25(d)	2	1	2	24	48

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: July 16, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15488 Filed 7–19–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–1265]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Labeling: Nutrition Facts Label and Supplement Facts Label

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 21, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0813. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling: The Nutrition Facts Label and Supplement Facts Label—21 CFR 101.9

OMB Control Number 0910–0813—Extension

This information collection supports requirements for the Nutrition Facts and Supplemental Facts labels. Section 403(q) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 343(q)) specifies certain nutrients to be declared in nutrition labeling and authorizes the Secretary of Health and Human Services (Secretary) to require other nutrients to be declared if the Secretary determines that a nutrient will provide information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices. The Secretary also has

discretion under section 403(q) of the FD&C Act to remove, by regulation and under certain circumstances, nutrient information that is otherwise explicitly required in food labeling under this section. Accordingly, we issued regulations in § 101.9 (21 CFR 101.9) setting forth how nutrition information is presented to consumers. The regulations also establish standards to define serving size and require that certain products provide additional information within the Nutrition Facts label that conveys that information to consumers.

Specifically, §§ 101.9 and 101.36 list nutrients that are required or permitted to be declared; provide Daily Reference Values and Reference Daily Intake values that are based on current dietary recommendations from consensus reports; provide requirements for foods represented or purported to be specifically for children under the age of 4 years and pregnant and lactating women and establish nutrient reference values specifically for these population subgroups; and provide the format and appearance of the Nutrition Facts label. Section 101.12 (21 CFR 101.12) defines a single-serving container; requires dual-column labeling for certain containers; updates, modifies, and provides several reference amounts customarily consumed (RACCs); provides the label serving size for breath mints; and provides various aspects of the serving size regulations.

The regulations also require that, under certain circumstances, manufacturers make and keep certain records to verify the amount of added sugars when a food product contains both naturally occurring sugars and added sugars, isolated or synthetic non-digestible carbohydrates that do not meet the definition of dietary fiber, different forms of vitamin E, and folate/folic acid declared on the Nutrition Facts or Supplement Facts label, which is the amount in the finished food product.

Firms make and keep certain records necessary to verify the amount of the nutrients in the finished food product. This collection of information does not specify what records are to be used to verify the amounts of these nutrients but does specify the information that the records must contain. The collection requires manufacturers to provide FDA, upon request during an inspection, with the records that contain the required information for each of these nutrients to verify the amount of the nutrient declared on the label. These records may include analyses of nutrient databases, recipes or formulations, information from recipes or formulations, batch records, or any other records that contain the required information to verify the nutrient content in the final product.

Description of Respondents: Respondents to this collection of information are manufacturers of food products sold in the United States. Respondents are from the private sector (for-profit businesses).

In the **Federal Register** of April 19, 2019 (84 FR 16513), we published a 60-day notice requesting public comment on the proposed collection of information. One anonymous comment was received that made specific suggestions on how labeling might be improved, but that supported the overall goals of food labeling and making information available to consumers. The comment made no comments regarding our burden estimate.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Type of declaration; 21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Added Sugars; 101.9(c)(6)(iii) [2]	31,283	1	31,283	1	31,283
Dietary Fiber; 101.9(c)(6)(i) [2]	31,283	1	31,283	1	31,283
Soluble Fiber; 101.9(c)(6)(i)(A) [2]	31,283	1	31,283	1	31,283
Insoluble Fiber; 101.9(c)(6)(i)(B) [2]	31,283	1	31,283	1	31,283
Vitamin E; 101.9(c)(8) [3]	31,283	1	31,283	1	31,283
Folate/Folic Acid; 101.9(c)(8) [3]	31,283	1	31,283	1	31,283
New Products	216	1	216	1	216
Total					187,914

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for added sugars, dietary fiber, and soluble and insoluble fiber. Manufacturers will only need to keep records for products with both added and naturally occurring sugars, added sugars that undergo fermentation in certain fermented foods, and products with non-digestible carbohydrates (soluble or insoluble) that do and do not meet the definition of dietary fiber.

[3] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for vitamin E and folate/folic acid. The declaration of vitamin E and folate/folic acid is not mandatory unless a health or nutrient content claim is being made or these nutrients are directly added to the food for enrichment purposes.

Based on our experience with food labeling regulations, records that are required to be retained are records that a prudent and responsible manufacturer uses and retains as a normal part of doing business, *e.g.,* analyses of nutrient databases, recipes or formulations, batch records, or other records. Thus, the recordkeeping burden of this collection of information consists of the time required to identify and assemble the records for copying and retention. Based on our previous experience with similar information collections, we estimate the recordkeeping burden to be 1 hour per product as estimated in table 1.

The declarations for added sugars, dietary fiber, soluble fiber, and insoluble fiber are mandatory, and we conservatively estimate all of the roughly 31,283 food manufacturers would incur this recordkeeping burden and the required recordkeeping would be 1 hour per manufacturer. These calculations are reflected in table 1, rows 1 to 4. The declaration of vitamin E and folate/folic acid is not mandatory unless a health or nutrient content claim is being made or these nutrients are directly added to the food for enrichment purposes. However, we conservatively estimate that all 31,283 respondents would incur this recordkeeping burden and that the required recordkeeping would be 1 hour per manufacturer. These calculations are reflected in table 1, rows 5 and 6.

We estimate that the number of newly introduced products that are covered under this collection of information is 216. We assume the required recordkeeping is 1 hour per product, for

an annual recurring recordkeeping burden of 216 hours, as reflected in table 1, row 7. Adding the burden from new products to the burden for existing products results in a total of 187,914 annual recordkeeping burden hours.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Filing of citizen petition regarding a particular isolated or synthetic non-digestible carbohydrate	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Dietary Fiber; 101.9(c)(6)(i)	28	1	28	1	28

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Manufacturers of food products that contain an isolated or synthetic non-digestible carbohydrate that is not listed in the definition of dietary fiber have the option of submitting a citizen petition to FDA requesting us to amend the definition of ''dietary fiber'' to include the carbohydrate as a listed dietary fiber, by demonstrating the physiological benefits of the isolated or synthetic non-digestible carbohydrate to human health.

We estimate that there are approximately 28 isolated or synthetic non-digestible carbohydrates that do not meet the definition of dietary fiber. Once a citizen petition filed by a manufacturer related to a particular isolated or synthetic non-digestible carbohydrate is granted or denied, or the carbohydrate is the subject of an authorized health claim, and the dietary fiber is listed in the definition of dietary fiber, the use of the dietary fiber as an ingredient in any food product must be included in the total amount of dietary fiber declared in nutrition labeling for such product.

Thus, we estimate that 28 manufacturers would incur burden associated with filing a citizen petition to amend the listing of dietary fiber related to an isolated and synthetic non-digestible carbohydrate that is not currently listed in the definition of dietary fiber and that the required recordkeeping would be 1 hour per manufacturer. This calculation is shown in table 2.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR 101.9	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Nutritional labeling for new products	500	1	500	2	1,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Under §§ 101.9 and 101.12, some manufacturers of retail food products make labeling changes to modify the serving sizes and other nutrition information based on changes to what products may be or are required to be labeled as a single serving, or based on updated, modified, or established RACCs. We estimate that about 500 new products will be affected by these requirements each year and that the associated disclosure burden is 2 hours per product, for an annual burden of 1,000 hours. This information collection reflects adjustments resulting from regulations that have become effective since last OMB review (RIN 0910–AF22). Accordingly, we have lowered our third-party disclosure estimate to reflect that burden associated with changes in labeling resulting from the new requirements has since been realized by respondents. This results in a decrease of 1,149,158 annual disclosures and 2,299,816 burden hours attributable to those labeling changes.

Dated: July 16, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15523 Filed 7–19–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pain and Opioid use in Hemodialysis Patients.

Date: August 6, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 16, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15463 Filed 7–19–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Pediatrics Subcommittee.

Date: October 18, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 16, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15462 Filed 7–19–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Task Force on Research Specific to Pregnant Women and Lactating Women.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Task Force on Research Specific to Pregnant Women and Lactating Women.

Date: August 22, 2019.

Time: 10:30 a.m. to 12:45 p.m.

Agenda:

Thursday, August 22, 2019—Day 1

10:00 a.m.–10:30 a.m. Registration

10:30 a.m.–12:45 p.m. Open Session (11:45 a.m.–12:45 p.m. Public Comment Period)

Date: August 23, 2019.

Time: 8:00 a.m. to 1:00 p.m.

Agenda:

Friday, August 23, 2019—Day 2

8:00 a.m.–1:00 p.m. Open Session

Place: 6710B Rockledge Drive, Multipurpose Room 1425/1427 (1st Floor), Bethesda, MD 20817.

Contact Person: Lisa Kaeser, Executive Secretary Eunice Kennedy Shriver, National Institute of Child Health and Human Development, 31 Center Drive, Room 2A03, MSC 2425 Bethesda, MD 20892, (301) 496–0536, *kaeserl@mail.nih.gov*.

Public comments are welcome either by filing written comments and/or providing oral comments at the meeting. Oral comments from the public will be scheduled on August 22, 2019, from approximately 11:45 a.m.–12:45 p.m. Any member of the public interested in presenting oral comments on August 22, 2019, should submit a letter of intent, a brief description of the organization represented, and the oral presentation to Ms. Lisa Kaeser (*Kaeserl@mail.nih.gov*) by 5:00 p.m. on Thursday, August 15, 2019. Written comments to be included at the meeting should also be sent to Lisa Kaeser by 5:00 p.m. on Thursday, August 15, 2019.

The submitted presentations and any written comments will be formatted to be posted on the PRGLAC website for the record. Only one representative of an organization may be allowed to present oral comments. Presentations will be limited to three to five minutes per speaker depending on the number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received. Both printed and electronic copies are requested for the record.

Details and additional information about these meetings can be found at the NICHD website for the Task Force on Research Specific to Pregnant Women and Lactating Women (PRGLAC) *https://www.nichd.nih.gov/about/advisory/PRGLAC/Pages/index.aspx*.

Registration Link: https://palladianpartners.cvent.com/PRGLAC2019.

Please note: This meeting will also be available through NIH Videocast. If you are planning on watching the videocast remotely, please select this option on the registration form.

Dated: July 16, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15460 Filed 7–19–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Develop New Open and Closed-Loop Automated Technologies for Better Type 1 Diabetes Therapy and Monitoring SBIR.

Date: August 9, 2019.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 16, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15461 Filed 7–19–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2019–0064; FXES11140900000 190]

Endangered and Threatened Species; Receipt of an Incidental Take Permit Application and Low-Effect Habitat Conservation Plan for the Desert Tortoise; High Desert Power Project, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application for an incidental permit to take federally listed fish or wildlife species. We invite comments on this application, which we will take into consideration before issuing an incidental take permit.

DATES: To ensure consideration, please submit your written comments by August 21, 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–2019–0064 at *http://www.regulations.gov.*

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–2019–0064.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2019–0064; 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: Raymond Bransfield, Fish and Wildlife Biologist, Palm Springs Fish and Wildlife Office, by phone at 805–677–3398 or via email at *ray_bransfield@fws.gov.* 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 have received an application for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential for take of a threatened species that is likely to occur incidental to the otherwise lawful activity as described in the applicant's habitat conservation plan.

Background

Section 9 of the ESA and Federal regulations pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption (16 U.S.C. 1538; 50 CFR 17.31). Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539), 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 endangered and threatened species are set forth in title 50 of the Code of Federal Regulations at part 17, sections 17.22 and 17.32.

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires Federal agencies to analyze their proposed actions to determine whether the actions may significantly affect the human environment. In the NEPA analysis, the Federal agency will identify direct, indirect, and cumulative effects, as well as possible mitigation for effects on environmental resources that could occur with implementation of the proposed action and alternatives. The Federal action in this case is the Service's proposed issuance of an incidental take permit.

Permit Application

We invite comments on the following application.

Applicant, city, state	Species	Location	Activity	Type of take (amount of take over term)	Project's actions to minimize and mitigate for take
HDSI, LLC, Chicago, Illinois.	Mojave desert tortoise (*Gopherus agassizii*).	Victorville, California.	Construction, operation, maintenance, and decommissioning of a photovoltaic solar power facility and management of conserved lands.	Approximately 10 large desert tortoises at the solar site. Take (capture) to translocate; kill or wound no more than three if they are not detected prior to work.	Minimize by translocation of tortoises to superior habitat. Mitigate by acquiring private lands within the boundaries of critical habitat and managing these lands for long-term conservation.

Our Preliminary Determination

The Service has made a preliminary determination that issuance of the incidental take permit is not a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). The Service has also made a preliminary determination that it individually or cumulatively will not have more than a negligible effect on the species covered in the habitat conservation plan.

Therefore, the permit qualifies for a categorical exclusion under NEPA.

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

We will publish a notice in the **Federal Register** when we have made a determination with regard to issuance of the incidental take permit.

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

implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Scott Sobiech,

Acting Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2019–15494 Filed 7–19–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2019–N089; FXES11130500000–190–FF05E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application for an amendment to a current permit to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on this application. Before issuing the requested permit, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before August 21, 2019.

ADDRESSES: Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name and application number (provided below in **SUPPLEMENTARY INFORMATION**:

- *Email: permitsR5ES@fws.gov.*
- *U.S. Mail:* Abby Gelb, Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Dr., Hadley, MA 01035.

FOR FURTHER INFORMATION CONTACT: Abby Gelb, 413–253–8212 (phone), or *permitsR5ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on an application for a permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would allow the applicant to conduct activities intended to promote recovery of species that are listed as endangered or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found in title 50 of the Code of Federal Regulations at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following application:

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE86602C	U.S. Fish and Wildlife Service, White Sulphur Springs National Fish Hatchery, WV.	Add: Candy darter *(Etheostoma osburni).*	Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia.	Propagation, survey, research.	Collect, hold, release, introduce.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue an amended permit to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martin Miller,

Chief, Division of Endangered Species Ecological Services, Northeast Region.

[FR Doc. 2019–15477 Filed 7–19–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX19GG00995TR00]

Public Meeting of the Scientific Earthquake Studies Advisory Committee

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the U.S. Geological Survey is hereby giving notice that the Scientific Earthquake Studies Advisory Committee will meet as noted below.

DATES: The meeting will be held on August 6, 2019, from 9 a.m. to 5 p.m., and August 7, 2019, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Golden Hotel, 800 11th Street, Mesa

Room, Golden, CO 80401; (303) 279–0100.

FOR FURTHER INFORMATION CONTACT: Dr. Jonathan Godt, U.S. Geological Survey, 1711 Illinois Avenue, Mail Stop 966, Golden, CO 80401, by email at *jgodt@usgs.gov,* or by telephone at (303) 273–8626.

SUPPLEMENTARY INFORMATION: The SESAC advises the Director of the U.S. Geological Survey (USGS) on matters relating to the USGS's participation in the National Earthquake Hazards Reduction Program.

During the meeting, the SESAC will review the current activities of the USGS Earthquake Hazards Program, discuss future priorities, and consider its draft report to the USGS Director. The final agenda will be posted to the SESAC's website prior to the meeting at *https://www.usgs.gov/natural-hazards/earthquake-hazards/scientific-earthquake-studies-advisory-committee-sesac?qt-science_support_page_related_con=2#qt-science_support_page_related_con.*

The meeting is open to the public. Members of the public wishing to attend the meeting should register via email at *jgodt@usgs.gov.* Interested persons may choose to make a public comment at the meeting during the public comment period. Members of the public may also choose to submit written comments by mailing them to Dr. Jonathan Godt, U.S. Geological Survey, 1711 Illinois Avenue, Mail Stop 966, Golden, CO 80401, or via email at *jgoft@usgs.gov.* All comments received will be given to the SESAC for consideration during the public meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation, should contact the USGS at provided above.

Public Disclosure: 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.

Authority: 5 U.S.C. Appendix 2.

Trent Richardson,

Deputy Associate Director, Natural Hazards Mission Area.

[FR Doc. 2019–15476 Filed 7–19–19; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX19EF00COM0000; OMB Control Number 1028–0092]

Agency Information Collection Activities; Topographic Data Grants

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 20, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0092 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Diane Eldridge by email at *deldridge@usgs.gov,* or by telephone at 703–648–4521.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The U.S. Geological Survey gathers topographic data through the 3D Elevation Program (3DEP). The primary goal of 3DEP is to systematically collect enhanced elevation data in the form of high-quality light detection and ranging (lidar) data over the conterminous United States, Hawaii, and the U.S. territories, as well as interferometric synthetic aperture radar (ifsar) data over Alaska. The implementation model for 3DEP is based on multi-agency partnership funding for topographic data acquisition, with the USGS acting in a lead program management role to facilitate planning and acquisition for the broader community, through the use of government contracts and partnership agreements. USGS issues cooperative agreements with partners to collect topographic data through an annual Broad Agency Announcement (BAA), which is a competitive solicitation issued to facilitate the cooperative collection of lidar and derived elevation data for the 3D Elevation Program (3DEP) . It has been included in the annual Catalog of Domestic Federal Assistance under USGS 15.8 17. Federal agencies, state and local governments, tribes, academic institutions and the private sector are eligible to submit proposals. USGS collects information from applicants about their proposed topographic data collection, cost sharing and then uses that information to determine grant awards.

Title of Collection: Topographic Data Grants.

OMB Control Number: 1028–0092.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and local governments, tribes, academic institutions and the private sector are eligible to submit proposals.

Total Estimated Number of Annual Respondents: 40.

Total Estimated Number of Annual Responses: 40.

Estimated Completion Time per Response: 62 hours.

Total Estimated Number of Annual Burden Hours: 2,480.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: One time annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Michael A. Tischler,

Director, National Geospatial Program.

[FR Doc. 2019–15534 Filed 7–19–19; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900 253G]

Wilton Rancheria; Liquor Control Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Wilton Rancheria Code, Title 1—Business and Finance Code, Chapter 5—Liquor Control Act. The Liquor Control Act regulates and controls the possession, sale, manufacture, distribution, and consumption of alcohol in conformity with the laws of the State of California.

DATES: This Liquor Control Act shall take effect on August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Harley Long, Tribal Government Officer, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Room W–2820, Sacramento, California 95825, telephone: (916) 978–6000, fax: (916) 978–6099.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Wilton Rancheria duly adopted the Wilton Rancheria Code, Title 1—Business and Finance Code, Chapter 5—Liquor Control Act on December 20, 2018.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Wilton Rancheria duly adopted these amendments to the Wilton Rancheria Code, Title 1—Business and Finance Code, Chapter 5—Liquor Control Act, on December 20, 2018.

Dated: June 25, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

The Wilton Rancheria Code, Title 1—Business and Finance Code, Chapter 5—Liquor Control Act, shall read as follows:

WILTON RANCHERIA CODE
TITLE 1—BUSINESS AND FINANCE CODE
CHAPTER 5—LIQUOR CONTROL ACT
CITE AS: 1 WRC § 5-101, ET SEQ.
ENACTED: DECEMBER 20, 2018

ARTICLE I
GENERAL

SECTION 5-101 TITLE

This Act shall be known as the Liquor Control Act and shall be codified as Chapter 5 of the Tribe's Business and Finance Code.

SECTION 5-102 AUTHORITY

This Liquor Control Act is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. § 1161) and the following provisions of the Constitution of Wilton Rancheria:

A. Article V, Section 1(a) of the Constitution grants the Chairperson the power to execute, administer, and enforce all the laws of the Tribe.

B. Article V, Section 1(l) of the Constitution grants the Chairperson the power to administer all boards and committees created by Tribal Council.

C. Article VI, Section 2 of the Constitution authorizes the Tribal Council to make the Tribe's laws.

D. Article VI, Section 2(a) of the Constitution grants the Tribal Council the power to make all laws, including resolutions, codes, and statutes.

E. Article VI, Section 2(d) of the Constitution grants the Tribal Council the power to create boards and committees and to set qualifications for participation on those boards and committees.

F. Article VI, Section 2(o) of the Constitution grants the Tribal Council the power to promote public health, education, charity, and other such services as may contribute to the social advancement of the members of Wilton Rancheria.

SECTION 5-103 PURPOSE

The purpose of this Act is to regulate and control the possession, sale, manufacture, distribution, and consumption of Alcoholic Beverages within Tribal Lands in order to permit Alcoholic Beverage sales by Tribally owned and operated enterprises and private Persons, including at Tribally approved special events. Enactment of this Act will provide a source of revenue for the continued operation of the Tribal government, the delivery of governmental services, and the economic viability of Tribal enterprises.

SECTION 5-104 EFFECTIVE DATE

This Act shall be effective on the date it is certified by the Secretary of the Interior and published in the **Federal Register**.

SECTION 5-105 JURISDICTION

This Act shall apply to all Tribal Lands, including lands now or in the future under the governmental authority of the Tribe, including the Tribe's reservation, trust lands, and Indian country as defined under 18 U.S.C. § 1151.

SECTION 5-106 CONFORMITY WITH APPLICABLE LAW

All acts and transactions under this Act shall be in conformity with the Gaming Compact, where applicable, the laws of the State, to the extent required by 18 U.S.C. § 1161, and applicable federal laws.

SECTION 5-107 SOVEREIGN IMMUNITY

Nothing in this Act shall be construed as a waiver, limitation, alteration, modification or restriction of the sovereign immunity of the Wilton Rancheria or any of its agencies, boards, commissions, authorities, employees, agents or officials, except that an applicant or holder of a Tribal liquor license may appeal an adverse licensing decision or civil violation finding in accordance with Section 5–401(D) and 5–504 of this Act; provided, however, that this limited waiver shall be narrowly construed, applies only to the Board, and excludes monetary damages of any kind.

SECTION 5-108 DEFINITIONS

A. ''Alcoholic Beverage'' means all alcohol, spirits, liquor, wine, beer and any liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes, either alone or when diluted, mixed, or combined with any other substance(s).

B. ''Board'' means the Liquor Control Board established under Article II of this Act.

C. ''Gaming Compact'' means the Tribal-State Gaming Compact between the State of California and Wilton Rancheria, as may be amended from time to time.

D. ''Legal Age'' shall have the meaning set forth in Section 5–113 of this Act.

E. ''Manufacture'' means the production of Alcoholic Beverages for the purpose of selling to a Person whether licensed or unlicensed.

F. ''Person'' means any individual or entity, whether Indian or non-Indian, receiver, assignee, trustee in bankruptcy, trust, estate, firm, corporation, partnership, joint corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, and any other Indian tribe, band or group. The term shall also include the businesses of the Tribe.

G. ''Sale'' or ''sell'' means the transfer of an Alcoholic Beverage for consideration of any kind, including by exchange or barter, from one Person to another.

H. ''State'' means the State of California.

I. ''Retail sale'' means the sale of an Alcoholic Beverage to a consumer for consumption on or off the licensed premises and not for resale.

J. ''Tribe'' means the Wilton Rancheria.

K. ''Tribal Council'' has the same meaning as under Article VI of the Constitution.

L. ''Wholesale'' or ''Wholesale sale'' means the sale of an Alcoholic Beverage to any licensee for purpose of resale.

M. ''Tribal Lands'' means all territory set forth in Section 1 of Article II of the Constitution.

SECTION 5-109 POSSESSION OF ALCOHOLIC BEVERAGES

The introduction or possession of Alcoholic Beverages shall be lawful within Tribal Lands as provided in this Act.

SECTION 5-110 RETAIL SALE OF ALCOHOLIC BEVERAGES

The retail sale of Alcoholic Beverages shall be lawful on Tribal Lands provided that such sales are made pursuant to a license issued by the Tribe.

SECTION 5-111 WHOLESALE SALE OF ALCOHOLIC BEVERAGES

The wholesale sale of Alcoholic Beverages shall be lawful on Tribal Lands provided that such sales are made pursuant to a license issued by the Tribe.

SECTION 5-112 MANUFACTURE OF ALCOHOLIC BEVERAGES

The manufacture of Alcoholic Beverages shall be lawful on Tribal Lands provided that such manufacture is pursuant to a license issued by the Tribe.

SECTION 5-113 AGE LIMITS

A. The Legal Age for purchase, possession or consumption of Alcoholic Beverages on Tribal Lands, including in any Gaming Facility as defined by Section 2.13 of the Gaming Compact, shall be the same as that of the State, which is currently 21 years. No person under the Legal Age shall purchase, possess or consume any Alcoholic Beverage.

B. If there is any conflict between State law and the terms of the Gaming Compact (or any other intergovernmental agreement to which Wilton Rancheria is a party) regarding the age limits for Alcoholic Beverage purchase, possession or consumption in any Gaming Facility, to the extent applicable, the more stringent age limit shall govern for purposes of this Act.

C. Persons under the Legal Age are prohibited from being present in any area where Alcoholic Beverages may be consumed, except to the extent that such presence would be permitted under State Law.

ARTICLE II
LIQUOR CONTROL BOARD

SECTION 5-201 ESTABLISHMENT

The Tribe hereby establishes the Wilton Rancheria Liquor Control Board as an independent regulatory body of Tribal government. Decisions of the Board shall be made by majority vote.

SECTION 5-202 POWERS AND RESPONSIBILITIES

The Board shall have the following powers and responsibilities:

A. To administer this Act by exercising general control, management, and supervision of all liquor sales, places of sale, and sales outlets as well as exercising all powers necessary and proper to accomplish the purposes of this Act.

B. To develop, enact, promulgate, and enforce regulations as necessary for the enforcement of this Act and to protect the public health, welfare, and safety of the Tribe, provided that all such regulations shall conform to and not be in conflict with any applicable Tribal, Federal, or State law.

C. To bring suit in Tribal Court to enforce the provisions of this Act, provided that the Board shall not have any power to waive the Tribe's immunity from suit without express, written and specific consent of the Tribal Council, except as set forth in Section 5–107 of this Act.

D. To issue licenses permitting the retail sale, wholesale, and manufacture of Alcoholic Beverages on Tribal Lands.

E. To investigate violations of this Act, or for the issuance, denial or revocation of licenses.

F. To make such reports as may be requested or required by the Tribal Council.

G. To collect taxes and fees levied or set by the Tribal Council, and to keep accurate records, books, and accounts thereof.

H. To exercise such other powers as may be delegated to the Board by the Chairperson or by an official act of the Tribal Council.

SECTION 5-203 LIQUOR CONTROL BOARD

A. The Board shall consist of at least one (1), but not more than three (3), members, who shall be appointed by the Chairperson. If the Chairperson appoints only one (1) individual to serve on the Board, such Board member may be referred to as the Liquor Control Officer.

B. Members of the Board shall:

1. Be at least twenty-five (25) years of age;
2. Not have been convicted of a felony;
3. Not have any direct or indirect interest, including a familial or business relationship, in or with any licensee or other Person who has a financial interest in the business of a licensee; and
4. Have relevant work experience.

C. Where minimum qualifications are met, the Chairperson shall give preference in employment opportunities in accordance with the preference policy set forth in the Employment Act, codified at Title 7, Chapter 1 of the Wilton Rancheria Code, as may be amended.

D. The Chairperson shall require that applicants for the Board submit a letter of application. Prior to appointing an applicant to the Board, the Chairperson shall make a tentative selection, conduct both a felony background check and a drug test on the applicant to be appointed, and confirm that the applicant satisfies the qualifications to serve as a Board member.

E. Board members shall serve a two (2) year term, and all terms may be renewed for a successive two (2) year term; provided however that prior to renewing any Board member's term, the Chairperson will present a performance

report of such Board member to, and consider comments or recommendations from, the Tribal Council regarding each Board member whose term is proposed to be renewed.

F. The Chairperson shall have the authority to remove any Board member for good cause.

G. The Chairperson shall provide notice to the Tribal Council any time a vacancy occurs on the Board for any reason and shall report to the Tribal Council the reasons for the removal of any Board member by the Chairperson.

H. Board members shall be paid at a rate established by the Tribe's budget.

I. The Chairperson shall have the authority to establish, by written policy and procedures, requirements for Board staffing, quorum, and other organizational matters not otherwise specified herein.

SECTION 5-204 PROHIBITION ON GRATUITIES

Neither the Board nor any of its members shall directly or indirectly accept or agree to accept any gratuity, compensation or other thing of value from any manufacturer, wholesaler, or retailer of Alcoholic Beverages.

SECTION 5-205 INSPECTION RIGHTS

The premises on which any Alcoholic Beverage is manufactured, distributed or sold shall be open for inspection by the Board at all reasonable times for the purposes of ascertaining compliance with this Act, any other law or ordinance governing liquor on Tribal Lands, or any rule or regulation adopted by the Board in furtherance of the purposes of this Act.

SECTION 5-206 REGULATIONS

Before adopting, amending, or repealing regulations, the Board shall give notice of any such proposed action to the Chairperson, Tribal Council, Tribal Gaming Commission, and Tribal Gaming Authority. The notice shall describe the general nature of the proposed action, invite comments, and specify the manner in which comments on the proposed action will be received by the Board. The Board shall provide a copy of each finally adopted or amended regulation, or notice of each finally repealed regulation, to the Chairperson, Tribal Council, Tribal Gaming Commission, and Tribal Gaming Authority promptly upon the effective date of such Board action. The Tribal Council may override the adoption, amendment, or repeal of any regulation by a majority vote of the entire Tribal Council, subject to veto by the Chairperson in accordance with the laws of the Tribe.

ARTICLE III
LICENSING

SECTION 5-301 TYPES OF LICENSES

The Board shall have the authority to issue the following types of liquor licenses on Tribal Lands:

A. ''Retail license'' means a license authorizing the licensee to sell Alcoholic Beverages to a consumer of Legal Age for consumption on or off the premises as set forth in the applicable Retail license.

B. ''Wholesale license'' means a license authorizing the licensee to engage in the business of purchasing Alcoholic Beverages for resale to other licensees and/or warehousing or storing Alcoholic Beverages.

C. ''Manufacturer license'' means a license authorizing the licensee to engage in the business of manufacturing or producing Alcoholic Beverages, including but not limited to manufacturing, producing, distilling, rectifying, blending, bottling, or converting wine, beer and/or spirits as set forth in the applicable Manufacturer license.

D. ''Special events license'' means a license authorizing the licensee to sell Alcoholic Beverages to a consumer of Legal Age at special events and/or at an unlicensed location.

E. Notwithstanding the above-listed types of liquor licenses, the Board shall have authority to issue any other type of liquor license to the extent such license is recognized by State law.

SECTION 5-302 LICENSING PROCEDURES; STANDARDS

A. The Board shall establish and publish procedures and standards for issuing, renewing, transferring, fining, suspending and revoking licenses to engage in Alcoholic Beverage sales on Tribal Lands; provided that no Tribal license shall issue except upon showing of satisfactory proof that the applicant is duly licensed by the State, and, if applicable, the United States Alcohol Tobacco Tax and Trade Bureau or any successor agency.

B. The fact that an applicant for a Tribal license possesses a license issued by the State or the United States shall not alone entitle the applicant to a Tribal license.

C. A Gaming Board licensing determination in favor of a liquor license applicant shall create a rebuttable presumption in favor of the issuance of a liquor license.

D. The Board may, in its discretion, set standards that are more, but in no case less, stringent than those of the State.

SECTION 5-303 LICENSING FEES

The Board will have the power to set a reasonable licensing fee schedule.

ARTICLE IV
ENFORCEMENT

SECTION 5-401 BOARD AUTHORITY

A. The Board shall have the power to enforce this Act and its accompanying regulations.

B. Regulations enacted pursuant to this Act may include provisions for transfer, suspension or revocation of Tribal Alcoholic Beverage licenses, reasonable search and seizure provisions, and civil penalties for violation of this Act to the full extent permitted by State and Federal law and consistent with due process.

C. Tribal law enforcement personnel and security personnel, acting at the request of, and authorized by, the Board, shall have the authority to enforce this Act by confiscating any Alcoholic Beverage sold, possessed, distributed, manufactured, or introduced within Tribal Lands in violation of this Act or of any duly adopted regulations.

D. The Board shall have jurisdiction to investigate violations of this Act, to make a written determination on such investigation, and to assess penalties pursuant to Section 5–403. Such determination and penalties shall be deemed a final action, subject to appeal pursuant to Section 5–504.

SECTION 5-402 VIOLATIONS

A. Prohibition of Unlicensed Sale of Alcoholic Beverages. No Person shall import for sale, manufacture, distribute, or sell any Alcoholic Beverage on Tribal Lands without a liquor license from the Liquor Control Board issued in accordance with the provisions of this Act. Any Person who manufactures, sells or offers for sale or distributes or transports in any manner, any Alcoholic Beverage in violation of this Act, or who possesses any Alcoholic Beverage with the intent to sell or distribute without a liquor license, shall be guilty of a violation of this Act.

B. Sale to Intoxicated Persons. Any Person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any Alcoholic Beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a violation of this Act; provided, that no Person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any Alcoholic Beverage pursuant to this subsection shall be civilly liable to any injured Person or the estate of

such Person for injuries inflicted as a result of intoxication by the consumer of such Alcoholic Beverage.

C. Sale to Minors. Any Person who sells, furnishes, gives, or causes to be sold, furnished, or given away any Alcoholic Beverage to any Person under the Legal Age is guilty of a violation of this Act.

D. Violation of Liquor License Terms and Conditions. Any Person who violates the terms and conditions of a liquor license shall be guilty of a violation of this Act.

SECTION 5-403 PENALTIES

A. The Board is authorized to make written determinations and enforce civil penalties or damages for violations of this Act.

B. Penalties may include, but are not limited to, revocation or suspension of liquor license, forfeiture or confiscation of Alcoholic Beverages, fines, monetary damages, and injunctive relief.

C. Civil penalties/fines may not exceed $5,000.

D. The Board may bring an action in Tribal Court to enforce any duly assessed civil penalties determined in accordance with this Article.

ARTICLE V
MISCELLANEOUS PROVISIONS

SECTION 5-501 AMENDMENT

This Act may only be amended pursuant to a duly enacted amendment by Tribal Council and, to the extent required by Federal law, certification by the Secretary of the Interior and publication in the **Federal Register**.

SECTION 5-502 SEVERABILITY

If any part or provision of this Act is held by any agency or court of competent jurisdiction to be invalid, void or unenforceable, such adjudication shall render such provisions inapplicable to other Persons or circumstances. The remaining provisions shall be unaffected and shall remain in full force and effect.

SECTION 5-503 PRIOR INCONSISTENT ENACTMENTS

Any prior Tribal laws, resolutions or ordinances, to the extent they are inconsistent with this Act, are hereby repealed.

SECTION 5-504 TRIBAL COURT JURISDICTION

The Tribal Court shall have jurisdiction to hear appeals arising under Articles III and IV of this Act. The Tribal Court shall also have jurisdiction to hear any claim, cause of action, or enforcement action brought by the Liquor Control Board for violation of this Act.

Legislative History:

10/26/2018 Thirty (30) day public review phase begins.
11/15/2018 Public hearing held at Tribal Office.
11/25/2018 Thirty (30) day public review phase ends.
11/29/2018 Seven (7) day final review phase begins.
12/20/2018 Tribal Council passes Act by Resolution No. 2018–69 by vote of 6 for, 0 against, 1 abstaining.

[FR Doc. 2019–15543 Filed 7–19–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Jamul Indian Village of California Business Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On June 14, 2019, the Bureau of Indian Affairs (BIA) approved the Jamul Indian Village of California (Tribe) Business Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into business leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW, MS 4624–MIB, Washington, DC; telephone: (505) 563–3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Jamul Indian Village of California.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker*

balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Jamul Indian Village of California.

Dated: June 14, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–15545 Filed 7–19–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AABB003600/ A0T902020.999900.253G]

Delaware Nation; Beverage Control Act of 2019

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Delaware Nation Beverage Control Act of 2019 (Alcohol Ordinance). The Alcohol Ordinance regulates and controls the possession, sale, manufacture, and distribution of alcohol on Delaware Nation trust lands in conformity with the laws of the State of Oklahoma where applicable and necessary. Although the Alcohol Ordinance was adopted on March 5, 2019, it does not become effective until published in the **Federal Register**.

DATES: This Alcohol Ordinance takes effect on August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Lovin, Tribal Government Officer, Southern Plains Regional Office, Bureau of Indian Affairs, Post Box 368, Anadarko, Oklahoma 73005, telephone: (405) 247–1534, fax: (405) 247–1534; or Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS–3645–MIB, Washington, DC 20240, telephone: (202) 513–7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 5886, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. On March 5, 2019, the Delaware Nation Executive Committee duly adopted the Delaware Nation Beverage Control Act of 2019. This Notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Delaware Nation Executive Committee duly adopted by Resolution No. 2019–031 this Delaware Nation Beverage Control Act of 2019 on March 5, 2019.

Dated: June 25, 2019

Tara Sweeney,

Assistant Secretary—Indian Affairs.

Authority: 18 U.S.C. 1161

The Delaware Nation Beverage Control Act of 2019 shall read as follows:

Alcohol Ordinance of the Delaware Nation

Findings:

The Delaware Nation (hereinafter ''the Nation'') is a federally-recognized Indian tribe, exercising jurisdiction over all Tribal Lands as specified herein.

The Nation's Constitution, Article VI, Section 2, empowers the Executive Committee of the Nation to promulgate ordinances and resolutions for the Nation.

The sale of Alcohol subject to the terms and provisions of this Alcohol Ordinance and all applicable laws, shall provide funds for the continued operation and strengthening of the Tribal government and the delivery of Tribal government services. It shall also produce capital which the Nation can use to further develop its economy.

The enactment of this Alcohol Ordinance will also increase the ability of the Nation's government to control the distribution and possession of Alcohol within the Tribal Lands.

NOW THEREFORE, to permit the sale of Alcohol subject to the necessary controls and to promote the health, safety and welfare of its members, the

Executive Committee adopts this Alcohol Ordinance.

Introduction:

101. Title. This Ordinance shall be known as the ''Alcohol Ordinance of the Delaware Nation.

102. Authority. This Alcohol Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. No. 83-277, 67 Stat. 588 (codified at 18 U.S.C. § 1161), the Constitution of the Delaware Nation as ratified on April 21, 1973, as amended from time to time, and all other applicable law.

103. Purpose. The purpose of this Alcohol Ordinance is to regulate and to control the possession and sale of Alcohol to and within the jurisdiction of the Delaware Nation. The Tribal Lands as specified in this Ordinance are limited in nature and do not encompass all land within the Tribe's jurisdiction, as is stated in Section 210 herein. The enactment of a Tribal ordinance governing Alcohol possession and sale within the Tribal Lands will increase the ability of the Tribal government to control Alcohol distribution and possession and provide an important source of revenue for the continued operation and strengthening of the Tribal government and the delivery of Tribal government services.

104. Jurisdiction. This Ordinance applies on all Tribal Lands as specifically defined herein.

Definitions:

201. As used in this Alcohol Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

202. ''Alcohol'' means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit or wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions of this substance.

203. ''Alcoholic Beverage'' is synonymous with the term ''Alcohol'' as defined in Section 202 of this Chapter.

204. ''Bar'' means any establishment with special space and accommodations for sale by the glass and for consumption on the premises of any alcoholic beverage, as herein defined.

205. ''Executive Committee'' as used herein means the duly-elected governing body authorized by the Nation's Constitution to promulgate all Tribal ordinances and regulations.

206. ''General Council'' means the Council of the Tribe, which comprises all individual citizens of the Tribe who are 18 years old or older.

207. ''Sale'' and ''Sell'' include exchange, barter, and traffic and also include the selling or supplying or distributing by any means whatsoever, of Alcohol or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed Alcohol or wine by any person to any person.

208. ''Spirits'' means any beverage which contains alcohol obtained by distillation including wines exceeding 17% of alcohol by weight.

209. ''Tribe'' means the Delaware Nation.

210. ''Tribal Lands'' means the 20 acres of land held in trust by the United States for the benefit of the Delaware Nation upon which a gaming facility of the Nation known as Casino Oklahoma exists, with a street address of 220 East Cummins Road, Hinton, Oklahoma 73047, more specifically described as:

BEGINNING at a point on the South line of the said SE/4, 471.01 feet South 88°15′07″ East of the Southwest corner of the SE/4 of Section 10, Township 12 North, Range 11 West of the Indian Meridian, Caddo County, Oklahoma;

THENCE North 00°18′48″ West 390 feet from and parallel with the East Right-of-Way line of Highway 281, a distance of 363.00 feet;

THENCE South 89°45′00: West 139.50 feet, to a point 250.50 feet East of said East Right-of-Way line;

THENCE North 0°18′48″ West, parallel with said East Right-of-Way, a distance of 741.86 feet to a point 275.50 feet East of said Right-of-Way 330.00 feet East of the West line of said SE/4′

THENCE North 0°15′00″ West 330.00 feet from and parallel with the West line of said SE/4 a distance of 1146.84 feet to the South Right-of-Way line of Interstate 40;

THENCE North 69°19′39″ East along said South Right-of-Way line a distance of 253.10 feet;

THENCE South 89°50′51″ East along said Right-of-Way line a distance of 161.07 feet;

THENCE South 0°15′00″ East parallel with the West line of said SE/4, a distance of 2347.87 feet to the South line of said SE/4;

THENCE North 88°15′07″ West along said South line a distance of 257.69 feet to the point of beginning, containing an area of 871,200 square feet or 20.00 acres, more or less.

Any lands Delaware Nation has been granted permanent use.

211. ''Trust Agent″ means the Nation's Tax Commission or its designee.

212. ''Wine'' means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel and angelica, not exceeding seventeen percent (17%) of alcohol by weight.

Powers of Enforcement:

301. Powers. The Executive Committee, in furtherance of this Alcohol Ordinance, shall have the following powers and duties:

a. To publish and enforce the rules and regulations governing the sale, manufacture, and distribution of Alcoholic Beverages on Tribal Land;

b. To employ managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Executive Committee to perform its functions;

c. To issue licenses permitting the sale or manufacture or distribution of Alcohol within the Tribal Lands;

d. To bring suit in the appropriate court to enforce this Alcohol Ordinance as necessary;

e. To determine and seek damages for violation of this Alcohol Ordinance;

f. To make reports to the General Council;

g. To collect taxes and fees levied or set by the Executive Committee, and to keep accurate records, books, and accounts;

h. To exercise such other powers as authorized by Tribal law; and

i. To delegate authorities under this Alcohol Ordinance to Subcommittees, Commissions, or Boards.

302. Limitation on Powers. In the exercise of its powers and duties under this Alcohol Ordinance, the Executive Committee as a whole and its individual members shall not accept any gratuity, compensation or other thing of value from any Alcohol wholesaler, retailer, distributor or licensee.

303. Inspection Rights. The premises on which Alcohol is sold or distributed shall be open for inspection by an authorized designee at all reasonable times, which includes the hours the business is open to the public, for the purposes of ascertaining whether this Alcohol Ordinance and the rules and regulations implementing this Alcohol Ordinance are being followed.

Sales of Alcohol:

401. Tribal Alcohol License Required; Tribally-Owned Businesses. No sale of Alcoholic Beverages shall be made on Tribal Land, except at a Tribally-licensed or Tribally-owned business.

Nothing in this section shall prohibit a Tribal licensee or the Nation from purchasing Alcohol from a source outside the Nation's jurisdiction for resale on Tribal Lands, or the delivery to the Nation or a Tribal licensee of Alcohol purchased from sources outside Tribal Lands for resale within the Tribal Lands. Each location shall obtain and maintain a Tribal license from the Executive Committee, or its designee, for the sale of Alcohol. Such license may be for the sale of Alcohol for off-premises or on-premises consumption.

402. Sale only on Tribal Land. All Alcohol Sales shall be on Tribal Land, including leases thereon.

403. Sales for Cash. All Alcohol sales shall be on a cash only basis, and no credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of ATM cards, debit cards, or credit cards.

404. Sale for Personal Consumption. Resale of any Alcoholic Beverage purchased within the Tribal Lands is prohibited. Any person who is not licensed pursuant to this Alcohol Ordinance who purchases an Alcoholic Beverage on Tribal Land and sells it, whether in the original container or not, shall be guilty of a violation of this Alcohol Ordinance and shall be subject to paying damages to the Nation as set forth herein.

Licensing:

501. Tribal Alcohol License Requirements. A Tribal license shall be issued under this Alcohol Ordinance by a designee of the Executive Committee upon proof of the following:

a. Satisfactory proof that the applicant is or will be duly licensed by the State of Oklahoma to sell Alcoholic Beverages;

b. Acceptance of a Tribal Alcohol License expresses acceptance of all conditions of the Tribal license.

502. Temporary Permits. The licensing designee may grant a temporary permit for the sale of Alcohol for a period not to exceed three (3) days to any person applying to the same in connection with a Tribal or community activity, provided that the conditions prescribed in Section 503 of this Ordinance shall be observed by the permittee and the permittee shall have a valid Oklahoma ABLE Commission license.

503. Conditions of a Tribal Alcohol License. Any Tribal Alcohol license issued under this Alcohol Ordinance shall be subject to such reasonable conditions as the Executive Committee or its designee shall fix including but not limited to the following:

a. The license shall be for a term to coincide with the applicant's Oklahoma ABLE Commission license.

b. The licensed premises shall be subject to patrol by Tribal law enforcement personnel and such other law enforcement officials as may be authorized under Federal, Oklahoma, or Tribal law.

c. The licensed premises shall be open to inspection by duly authorized Tribal officials at all times during the regular business hours.

d. No Alcohol shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State of Oklahoma.

e. All acts and transactions under authority of the Tribal Alcohol license shall be in conformity with the laws of the State of Oklahoma, with this Alcohol Ordinance, with any applicable Tribal rules and regulations, and with any Tribal Alcohol license issued pursuant to this Alcohol Ordinance.

f. No person under the age permitted under the laws of the State of Oklahoma shall be sold, served, delivered, given, or allowed to consume Alcoholic Beverages in the licensed establishment or area.

g. There shall be no discrimination in the operations under the Tribal license by reason of sex, race, color, or creed, provided that Tribal licensees may adopt Tribal or Indian preference policies.

504. License Not a Property Right. Notwithstanding any other provision of this Alcohol Ordinance, a Tribal Alcohol license is a mere permit for a fixed duration of time. A Tribal Alcohol license shall not be deemed a property right or vested right of any kind, nor shall the granting of a Tribal Alcohol license give rise to a presumption of legal entitlement to a license or permit in a subsequent time period.

505. Assignment or Transfer. No Tribal license issued under this Alcohol Ordinance shall be assigned or transferred without the prior written approval of the Executive Committee expressed by formal resolution.

Civil Violations:

601. Sale or Possession With Intent to Sell Without a Permit. Any person who shall sell or offer for sale or distribute or transport in any manner, any Alcohol in violation of this Alcohol Ordinance, or who shall operate or shall have Alcohol in his or her possession with intent to sell or distribute without a license or permit, shall be guilty of a violation of this Alcohol Ordinance.

602. Purchases From Other Than Licensed or Allowed Facilities. Any person who, within the Tribal Lands, buys Alcohol from any person other than at a properly licensed or allowed facility shall be guilty of a violation of this Alcohol Ordinance.

603. Consuming Alcohol in Public Conveyance. Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant or employee or such person who shall knowingly permit any person to drink any Alcohol in any public conveyances shall be guilty of an offense. Any person who shall drink any Alcohol in a public conveyance shall be guilty of a violation of this Alcohol Ordinance.

604. Consumption or Possession of Alcohol by Persons Under 21 Years of Age. No person under the age of 21 years shall consume, acquire, or have in his or her possession any Alcohol. An employee of a tribally licensed facility age 18 to 20 with a valid ABLE license is permitted to transport alcohol for the purpose of serving customers. No person shall permit any other person under the age of 21 to consume Alcohol on his or her premises or any premises under his or her control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this Alcohol Ordinance for each and every drink so consumed.

605. Sales of Alcohol to Persons Under 21 Years of Age. Any person who shall sell or provide Alcohol to any person under the age of 21 years shall be guilty of a violation of this Alcohol Ordinance for each sale or drink provided.

606. Transfer of Identification to Minor. Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain Alcohol shall be guilty of an offense; provided, that corroborative testimony of witness other than the minor shall be a requirement of finding a violation of this Alcohol Ordinance.

607. Use of False or Altered Identification. Any person who attempts to purchase an Alcoholic Beverage through the use of a false or altered identification shall be guilty of violating this Alcohol Ordinance.

608. Acceptable Identification. Where there may be a question of a person's right to purchase Alcohol by reason of his or her age, such person shall be required to present any one of the following cards of identification which is not expired and shows his or her correct age and bears his or her signature and photograph: (1) A State-

issued ID; (2) United States active duty military; (3) a passport, or (4) a Tribal enrollment or identification card issued by any federally-recognized Indian Nation.

609. Violations of this Alcohol Ordinance. Any person guilty of a violation of this Ordinance shall be liable to pay the Nation a civil fine not to exceed $1,000 per violation as civil damages to defray the Nation's cost of enforcement of this Alcohol Ordinance. In addition to any penalties so imposed, any license or permit issued hereunder may be suspended or canceled by the licensing designee for the violation of any of the provisions of this Alcohol Ordinance. This suspension and/or cancellation may be appealed in the Delaware Nation Court. The appellant shall be responsible for any filing fee and/or court costs associated with any appeal.

610. Possession of Alcohol Contrary to This Alcohol Ordinance. Alcohol possessed contrary to the terms of this Alcohol Ordinance are declared to be contraband. Any Tribal agent, employee, or officer who is authorized by the Executive Committee to enforce this section shall have the authority to, and shall, seize all contraband.

611. Disposition of Seized Contraband. Any officer seizing contraband shall preserve the contraband in accordance with appropriate law. Upon being found in violation of this Alcohol Ordinance by the Executive Committee, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Nation.

Taxes:

701. Sales Tax. There is hereby levied and shall be collected a tax on each sale of Alcoholic Beverages on Tribal Land in the amount determined by the Executive Committee. The tax imposed by this section shall apply to all retail sales of Alcohol on Tribal Lands and shall preempt any tax imposed on such Alcohol sales by the State of Oklahoma.

702. Payment of Taxes to Nation. Tribal taxes from the sale of Alcoholic Beverages or on Tribal Lands shall be paid over to the Trust Agent of the Nation.

703. Taxes Due. Tribal taxes from the sale of Alcoholic Beverages on Tribal Lands are due within thirty (30) days of the end of the calendar quarter for which the taxes are due.

704. Reports. Along with payment of the taxes imposed herein, the taxpayer shall submit an accounting for the quarter of all income from the sale or distribution of Alcoholic Beverages and as well as for the taxes collected.

705. Audit. As a condition of obtaining a license, the licensee must agree to the review or audit of its books and records relating to the sale of Alcoholic Beverages and on Tribal Lands. Said review or audit may be done annually by authorized agents or employees whenever, in the opinion of the Executive Committee, such a review or audit is necessary to verify the accuracy of reports.

Profits:

801. Disposition of Proceeds. The gross proceeds collected by the Executive Committee or its designee from all licensing provided under this Alcohol Ordinance, or the imposition of civil penalties for violating this Ordinance, or from the taxation of the sales of Alcoholic Beverages on Tribal Lands, shall be distributed as follows:

a. For the payment of all necessary personnel, administrative costs, and legal fees for the operation and its activities.

b. The remainder shall be turned over to the Trust Agent.

Severability and Miscellaneous:

901. Severability. If any provision or application of this Alcohol Ordinance is determined upon review by a court of competent jurisdiction to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this Ordinance or to render such provisions inapplicable to other persons or circumstances.

902. Prior Enactments. Any and all prior ordinances, resolutions or enactments of the Executive Committee which are inconsistent with the provisions of this Alcohol Ordinance are hereby repealed.

903. Conformance with Tribal, State, and Federal Law. This Ordinance conforms with all Tribal law and governing documents. All provisions and transactions under this Ordinance shall be in conformity with Oklahoma State law regarding the sale of Alcoholic Beverages and to the extent required by 18 U.S.C. § 1161, provided that § 1161 shall not be deemed to waive Tribal sovereign immunity in any respect, and with all Federal laws regarding alcohol in Indian country.

904. Enforcement. All actions to enforce the provisions of this Ordinance brought by the Executive Committee or its designee shall be filed in the Delaware Nation Court or Court of competent jurisdiction for the Delaware Nation of Oklahoma, which shall have exclusive jurisdiction over the enforcement and interpretation of this Ordinance.

905. Effective Date. This Ordinance becomes effective as of the date the Secretary of the Interior certifies the Ordinance and publishes it in the **Federal Register**.

Amendment:

1001. Amendment or Repeal. This Ordinance may be amended or repealed by a majority vote of the Executive Committee. Amendments of this Ordinance will be published in the **Federal Register** to become effective.

Sovereign Immunity:

1101. Nothing contained in this Alcohol Ordinance is intended to nor does in anyway limit, alter, restrict, or waive the Nation's sovereign immunity from unconsented suit or action. Tribal Alcohol licensees entitled to assert the defense of Tribal sovereign immunity shall not be deemed to have waived that immunity in any dram-shop action in any court, whether Tribal, Federal, or State.

Dram-Shop Actions:

1201. The Delaware Nation Court or Court of competent jurisdiction for the Delaware Nation shall have exclusive jurisdiction over any dram-shop action against a Tribal Alcohol licensee.

[FR Doc. 2019–15544 Filed 7–19–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900]

The Confederated Tribes of the Umatilla Indian Reservation; Amendments to Liquor Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code. This codification amends and supersedes the existing Confederated Tribes of the Umatilla Indian Reservation Liquor Code, enacted by the Umatilla Board of Trustees through Resolution 15–019 on March 23, 2015.

DATES: This code shall take effect on August 21, 2019.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall

certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. On March 25, 2019, the Umatilla Business Council duly adopted the amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code by Ordinance 19–022. This **Federal Register** Notice amends and supersedes the existing Confederated Tribes of the Umatilla Indian Reservation Liquor Code, enacted by the Umatilla Business Council through Resolution 15–019, which was published in the **Federal Register** on June 12, 2015 (80 FR 33543).

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, Oregon, duly adopted these amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code through Resolution 19–022 on March 25, 2019.

Dated: June 25, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

The Confederated Tribes of the Umatilla Indian Reservation Liquor Code, as amended, shall read as follows:

LIQUOR CODE

CHAPTER 1. LIQUOR CODE

SECTION 1.01. TITLE

This Code shall be the Liquor Code of the Confederated Tribes of the Umatilla Indian Reservation (Confederated Tribes) and shall be referenced as the Liquor Code.

SECTION 1.02. FINDINGS AND PURPOSE

A. The introduction, possession, and sale of liquor on Indian reservations has historically been recognized as a matter of special concern to Indian tribes and to the United States. The control of liquor on the Umatilla Indian Reservation remains exclusively subject to the legislative enactments of the Confederated Tribes in its exercise of its governmental powers over the Reservation, and the United States.

B. Federal law prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), and authorized tribes to decide when and to what extent liquor transactions, sales, possession and service shall be permitted on their reservation (18 U.S.C. 1161).

C. Pursuant to the authority in Article VI, §1(a) of the Confederated Tribes' Constitution, the Board of Trustees has the authority ''to represent the [Confederated] Tribes and to negotiate with the Federal, State and local governments . . . on . . . projects and legislation that affect the [Confederated] Tribes''.

D. Pursuant to the authority in Article VI, §1(d) of the Confederated Tribes' Constitution, the Board of Trustees has the authority ''to promulgate and enforce ordinances governing the conduct of all persons and activities within the boundaries of the Umatilla Indian Reservation, providing for the procedure of the Board of Trustees, and carrying out any powers herein conferred upon the Board of Trustees''.

E. The enactment of this Liquor Code to govern liquor sales and service on the Umatilla Indian Reservation will increase the ability of the Confederated Tribes to control Reservation liquor distribution, sales, service and possession, and at the same time will provide an important source of revenue for the continued operation of Tribal government and the delivery of governmental services, as well as provide an amenity to customers of enterprises of the Confederated Tribes.

F. The Confederated Tribes have entered into a Memorandum of Understanding (MOU) with the Oregon Liquor Control Commission to deal with governmental issues associated with the licensing and regulation of liquor sales on the Umatilla Indian Reservation.

SECTION 1.03. DEFINITIONS

A. Unless otherwise required by the context, the following words and phrases shall have the designated meanings.

1. ''Alcohol''. That substance known as ethyl alcohol, hydrated oxide or ethyl, spirits or wine as defined herein, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of those substances.

2. ''Authorized Liquor Business''. Means any lessee of land owned by the Confederated Tribes or enterprise of the Confederated Tribes where the Board of Trustees has authorized the sale or service of liquor in the applicable lease or by resolution.

3. ''Coyote Business Park''. Shall included Coyote Business Park North, South and East.

4. ''Wildhorse Chief Executive Officer''. That person appointed by the Confederated Tribes to manage the Wildhorse Resort & Casino.

5. ''Liquor'' or ''Liquor Products''. Includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer) and all fermented, spirituous, vinous, or malt liquor, or a combination thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor or otherwise intoxicating in every liquid or solid or semi-solid or other substance patented or not containing alcohol, spirits, wine, or beer, and all drinks of potable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent (1%) of alcohol by weight shall be conclusively deemed to be intoxicating.

6. ''Wildhorse Resort & Casino''. Shall include the casino, hotels, golf course (including club house), cineplex, RV park and future facilities that become a part of the Wildhorse Resort & Casino located on the Umatilla Indian Reservation.

7. ''Sale'' and ''Sell''. Includes exchange, barter, and traffic; and also the supplying or distribution by any means whatsoever, of liquor or any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or wine, by any person to any other person; and also includes the supply and distribution to any other person.

8. ''Spirits''. Any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.

9. ''Wine''. Any alcoholic beverage obtained by fermentation of fruits, grapes, berries, or any other agricultural product containing sugar, to which any saccharin substances may have been added before, during or after fermentation, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and anglican, not exceeding seventeen percent (17%) of alcohol by weight.

SECTION 1.04. JURISDICTION

To the extent permitted by applicable law, the Confederated Tribes asserts jurisdiction to determine whether liquor sales and service are permitted within the boundaries of the Umatilla Indian Reservation. Nothing in this Code is intended nor shall be construed to limit the jurisdiction of the Confederated Tribes to regulate liquor sales and service on all lands within the boundaries of the Umatilla Indian Reservation.

SECTION 1.05. RELATION TO OTHER LAWS

All prior codes, ordinances, resolutions and motions of the Confederated Tribes

regulating, authorizing, prohibiting, or in any way dealing with the sale or service of liquor are hereby repealed and are of no further force or effect to the extent they are inconsistent or conflict with the provisions of this Code. Specifically, amendments to the Criminal Code to make it consistent with this Liquor Code have been approved by Resolution 05–095 (October 3, 2005). No Tribal business licensing law or other Tribal law shall be applied in a manner inconsistent with the provisions of this Code.

SECTION 1.06. AUTHORIZED SALE AND SERVICE OF LIQUOR

A. Liquor may be offered for sale and may be served on the Umatilla Indian Reservation only at the following locations:

1. At the Wildhorse Resort & Casino;

2. At the Coyote Business Park by any Coyote Business Park lessee if liquor sales or service is permitted in the lease between the lessee and the Confederated Tribes; and

3. At any other Authorized Liquor Business location if liquor sales or service is permitted in the lease between the lessee and the Confederated Tribes or at any other enterprise of the Confederated Tribes if liquor sales or service are authorized by a Board of Trustees resolution.

SECTION 1.07. PROHIBITIONS

A. General Prohibitions. The commercial introduction of liquor for sales and service, other than as permitted by this Code, is prohibited within the Umatilla Indian Reservation, and is hereby declared an offense under Tribal law. Federal liquor laws applicable to Indian Country shall remain applicable to any person, act, or transaction which is not authorized by this Code and violators of this Code shall be subject to federal prosecution as well as to legal action in accordance with the law of the Confederated Tribes.

B. Age Restrictions. No person shall be authorized to serve liquor unless they are at least 21 years of age. No person may be served liquor unless they are 21 years of age.

C. Off Premises Consumption of Liquor.

1. All liquor sales and service authorized by this Code at the Wildhorse Resort & Casino shall be fully consumed at the Wildhorse Resort & Casino as set forth in section 1.06 of this Code and no open containers of liquor, or unopened containers of liquor in bottles, cans, or otherwise may be permitted outside of the above-described premises, except as follows:

(a) Patrons at Wildhorse or Authorized Liquor Business restaurants may be permitted to remove a partially consumed bottle of wine from the restaurant if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(b) Organizers of meetings or conventions at Wildhorse may be permitted to offer or award liquor, including wine, to meeting and convention participants, provided that the participant is not a minor nor visibly intoxicated, and such liquor or wine may be removed from the Wildhorse premises by the participant so long as the liquor or wine is not opened.

2. Liquor sales and service at Coyote Business Park shall be conducted in strict compliance with the lease between the Coyote Business Park lessee and the Confederated Tribes.

3. Liquor sales and service at an Authorized Liquor Business shall be conducted in strict compliance with the applicable lease or Board of Trustees resolution.

D. No Credit Liquor Sales. The sales and service of liquor authorized by this Code shall be upon a cash basis only. For purposes of this Code, payment for liquor on a cash basis shall include payment by cash, credit card, or check.

SECTION 1.08. CONFORMITY WITH APPLICABLE LAW

A. Authorized liquor sales and service on the Umatilla Indian Reservation shall comply with Oregon State liquor law standards to the extent required by 18 U.S.C. 1161.

B. Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer shall be responsible for ensuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor to Wildhorse patrons in a manner consistent with this Code, applicable State law, and the Tribal-State Compact. The Wildhorse Chief Executive Officer shall also be authorized to purchase liquor from the State or other source for sale and service within the Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer is further authorized to treat as a casino expense any license fees associated with the OLCC liquor license.

C. Coyote Business Park. The Coyote Business Park lessee authorized to sell or serve liquor as provided in section 1.06(A)(2) of this Code, shall be responsible for insuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor in a manner consistent with this Code and applicable Tribal and State law.

D. Authorized Liquor Business. The lessee or manager of an Authorized Liquor Business shall be responsible for insuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor in a manner consistent with this Code and applicable Tribal and State law.

SECTION 1.09. PENALTY

Any person or entity possessing, selling, serving, bartering, or manufacturing liquor products in violation of any part of this Code shall be subject to a civil fine of not more than $500 for each violation involving possession, but up to $5,000 for each violation involving selling, bartering, or manufacturing liquor products in violation of this Code, and violators may be subject to exclusion from the Umatilla Indian Reservation. In addition, persons or entities subject to the criminal jurisdiction of the Confederated Tribes who violate this Code shall be subject to criminal punishment as provided in the Criminal Code. All contraband liquor shall be confiscated by the Umatilla Tribal Police Department (UTPD). The Umatilla Tribal Court shall have exclusive jurisdiction to enforce this Code and the civil fines, criminal punishment and exclusion authorized by this section.

SECTION 1.10. SOVEREIGN IMMUNITY PRESERVED

Nothing in this Code is intended or shall be construed as a waiver of the sovereign immunity of the Confederated Tribes. No manager or employee of the Confederated Tribes or the Wildhorse Resort & Casino shall be authorized, nor shall they attempt, to waive the sovereign immunity of the Confederated Tribes pursuant to this Code.

SECTION 1.11. SEVERABILITY

If any provision or provisions in this Code are held invalid by a court of competent jurisdiction, this Code shall continue in effect as if the invalid provision(s) were not a part hereof.

SECTION 1.12. EFFECTIVE DATE

This Code shall be effective following approval by the Board of Trustees and approval by the Secretary of the Interior or his/her designee and thirty days after

publication in the **Federal Register** as provided by federal law.

[FR Doc. 2019–15548 Filed 7–19–19; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO

United States Section; Notice of Extension of Time for Public Comment Period for the Draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for Aquatic Habitat Restoration in the Rio Grande Canalization Project and for the Draft EA and FONSI for the Continued Implementation of the River Management Plan

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC).

ACTION: Notice of extension of time.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act, the USIBWC hereby gives notice that the public comment period is being extended for two draft Environmental Assessments, per public request.

DATES: The deadline for comments for the *Draft EA and FONSI for Aquatic Habitat Restoration in the Rio Grande Canalization Project* is extended an additional 17 calendar days (for a total of 52 days) until July 22, 2019. The deadline for comments for the *Draft EA and FONSI for Continued Implementation of the River Management Plan for the Rio Grande Canalization Project* is extended an additional 31 calendar days (for a total of 66 days) until August 5, 2019.

ADDRESSES: The electronic versions of the Draft EAs are available at the USIBWC web page: *https://www.ibwc.gov/EMD/EIS_EA_Public_Comment.html*. Written comments should be sent to: Elizabeth Verdecchia, Natural Resources Specialist, USIBWC, 4191 N Mesa; El Paso, Texas 79902. Fax: (915) 493–2428, Email: *Elizabeth.Verdecchia@ibwc.gov*.

Dated: July 12, 2019.

Rebecca Rizzuti,

Attorney Advisor, International Boundary and Water Commission, United States Section.

[FR Doc. 2019–15503 Filed 7–19–19; 8:45 am]

BILLING CODE 7010–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities will hold twenty-three meetings of the Humanities Panel, a federal advisory committee, during August 2019. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5 p.m. on the dates specified below.

ADDRESSES: The meetings will be held at Constitution Center, 400 7th Street SW, Washington, DC 20506, unless otherwise indicated.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: August 2, 2019

This meeting will discuss applications on the topic of Research Libraries, for the Infrastructure and Capacity Building Challenge Grants program, submitted to the Office of Challenge Grants.

2. Date: August 8, 2019

This meeting will discuss applications on the topics of African, Middle Eastern, and Asian Studies, for the Fellowships grant program, submitted to the Division of Research Programs.

3. Date: August 8, 2019

This meeting will discuss applications on the topic of Digital Preservation and Access, for the Research and Development grant program, submitted to the Division of Preservation and Access.

4. Date: August 8, 2019

This meeting will discuss applications on the topics of Latin American and Latina/o Studies, for the Fellowships grant program, submitted to the Division of Research Programs.

5. Date: August 9, 2019

This meeting will discuss applications on the topic of Social Sciences, for the Fellowships grant program, submitted to the Division of Research Programs.

6. Date: August 12, 2019

This meeting will discuss applications on the topic of Literature, for the Fellowships grant program, submitted to the Division of Research Programs.

7. Date: August 13, 2019

This meeting will discuss applications on the topics of Ancient, Medieval, and Renaissance Studies, for the Fellowships grant program, submitted to the Division of Research Programs.

8. Date: August 13, 2019

This meeting will discuss applications on the topics of Music, Dance, Theatre, and Film Studies, for the Fellowships grant program, submitted to the Division of Research Programs.

9. Date: August 13, 2019

This meeting will discuss applications on the topic of Higher Education, for the Preservation and Access Education and Training grant program, submitted to the Division of Preservation and Access.

10. Date: August 14, 2019

This meeting will discuss applications on the topics of European History and Philosophy, for the Fellowships grant program, submitted to the Division of Research Programs.

11. Date: August 14, 2019

This meeting will discuss applications on the topics of Religious Studies and Communications Studies, for the Fellowships grant program, submitted to the the Division of Research Programs.

12. Date: August 15, 2019

This meeting will discuss applications on the topics of Art History and European Literature and Studies, for the Fellowships grant program, submitted to the Division of Research Programs.

13. Date: August 15, 2019

This meeting will discuss applications on the topics of American History and Studies, for the Fellowships grant program, submitted to the Division of Research programs.

14. Date: August 15, 2019

This meeting will discuss applications on the topic of Continuing Education, for the Preservation and Access Education and Training grant program, submitted to the Division of Preservation and Access.

15. Date: August 19, 2019

This meeting will discuss applications on the topics of History, Politics, and Philosophy, for the Fellowships grant program, submitted to the Division of Research Programs.

16. Date: August 21, 2019

This meeting will discuss applications on the topic of Conservation Science, for the Research and Development grant program, submitted to the Division of Preservation and Access.

17. Date: August 26, 2019

This meeting—the first of two on this date—will discuss applications for the Humanities Initiatives at Community Colleges grant program, submitted to the Division of Education Programs.

18. Date: August 26, 2019

This meeting—the second of two on this date—will discuss applications for the Humanities Initiatives at Community Colleges grant program, submitted to the Division of Education Programs.

19. Date: August 27, 2019

This meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions grant program, submitted to the Division of Education Programs.

20. Date: August 28, 2019

This meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions grant program, submitted to the Division of Education Programs.

21. Date: August 28, 2019

This meeting will discuss applications for the Humanities Initiatives at Historically Black Colleges and Universities grant program, submitted to the Division of Education Programs.

22. Date: August 29, 2019

This meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions grant program, submitted to the Division of Education Programs.

23. Date: August 30, 2019

This meeting will discuss applications for the Humanities Initiatives at Tribal Colleges and Universities grant program, submitted to the Division of Education Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: July 16, 2019.

Elizabeth Voyatzis,

Committee Management Officer, National Endowment for the Humanities.

[FR Doc. 2019–15474 Filed 7–19–19; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of July 22, 29, August 5, 12, 19, 26, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 22, 2019—Tentative

Thursday, July 25, 2019

1:00 p.m. Affirmation Session (Public Meeting) (Tentative)
NextEra Energy Seabrook, LLC (Seabrook Station, Unit 1)—License Amendment, Emergency Petition (Tentative)

Week of July 29, 2019—Tentative

There are no meetings scheduled for the week of July 29, 2019.

Week of August 5, 2019—Tentative

There are no meetings scheduled for the week of August 5, 2019.

Week of August 12, 2019—Tentative

Wednesday, August 14, 2019

9:00 a.m. Hearing on Early Site Permit for the Clinch River Nuclear Site: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Mallecia Sutton: 301–415–0673)

This hearing will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of August 19, 2019—Tentative

There are no meetings scheduled for the week of August 19, 2019.

Week of August 26, 2019—Tentative

There are no meetings scheduled for the week of August 26, 2019.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated at Rockville, Maryland, this 17th day of July 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–15558 Filed 7–18–19; 11:15 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CAHPS Enrollee Survey 3206–NEW

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Healthcare and Insurance, Office of Personnel Management (OPM)

offers the general public and other federal agencies the opportunity to comment on the administration of the Consumer Assessment of Healthcare Providers and Systems (CAHPS®) survey for the Federal Employees Health Benefits (FEHB) Program. CAHPS® surveys ask consumers and patients to report on and evaluate their experiences with health care. These surveys cover topics that are important to consumers and focus on aspects of quality that consumers are best qualified to assess, such as the communication skills of providers and ease of access to health care services.

DATES: Comments are encouraged and will be accepted until September 20, 2019.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

•*Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Personnel Management, 1900 E. Street NW, Washington, DC 20415, Attention: Joseph Kahn, Program Manager, Performance Improvement, Federal Employee Insurance Operations, Healthcare and Insurance, *fehbperformance@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM uses the CAHPS results as part of the FEHB Plan Performance Assessment (PPA). The PPA enables a consistent, objective evaluation of carrier performance and also provides more transparency for enrollees. This assessment uses a discrete set of quantifiable measures to examine key aspects of performance in the areas of clinical quality, customer service and resource use. Eight CAHPS measures are part of this discrete set of quantifiable measures.

Taken together with more traditional assessments of contract administration, these measures help ensure that enrollees receive high quality affordable healthcare and a positive customer experience. The PPA is linked to carrier profit and adjustment factors. FEHB contracts include language to incorporate the PPA as a determinant of the Service Charge or Performance Adjustment.

Analysis

Agency: Healthcare and Insurance, Office of Personnel Management.

Authority: 5 U.S.C. 8910.

Title: CAHPS Survey.

OMB Number: 3206–NEW.

Frequency: Annually.

Affected Public: Federal Employees and Retirees.

Number of Respondents: 73,505.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 18,376 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–15537 Filed 7–19–19; 8:45 am]

BILLING CODE 6325–64–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from April 1, 2019 to April 30, 2019.

FOR FURTHER INFORMATION CONTACT: Julia Alford, Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A Authorities to report during April 2019.

Schedule B

No Schedule B Authorities to report during April 2019.

Schedule C

The following Schedule C appointing authorities were approved during April 2019.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE.	Office of Animal and Plant Health Inspection Service.	Senior Advisor	DA190083	04/04/2019
	Farm Service Agency	State Executive Director, Idaho	DA190086	04/09/2019
		State Executive Director—Washington.	DA190105	04/24/2019

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary for Congressional Relations.	Legislative Analyst (2)	DA190088	04/04/2019
			DA190069	04/12/2019
	Office of the Assistant to the Secretary for Rural Development.	Confidential Assistant	DA190114	04/24/2019
	Office of the Secretary	Senior Advisor	DA190108	04/05/2019
	Rural Housing Service	State Director—Florida	DA190056	04/02/2019
		Chief of Staff	DA190124	04/23/2019
		State Director—New Jersey	DA180116	04/08/2019
		Chief of Staff	DA190116	04/12/2019
APPALACHIAN REGIONAL COMMISSION.	Appalachian Regional Commission	Speechwriter	AP190001	04/04/2019
DEPARTMENT OF COMMERCE ..	Office of General Counsel	Special Advisor	DC190072	04/12/2019
	Office of Policy and Strategic Planning.	Deputy Director, Office of Policy and Strategic Planning.	DC190073	04/11/2019
	Office of Public Affairs	Deputy Director of Public Affairs and Press Secretary.	DC190064	04/16/2019
	Office of the Assistant Secretary for Economic Development.	Special Advisor for External Affairs	DC190061	04/11/2019
	Office of the Director	Director of Strategic Initiatives	DC190067	04/25/2019
	Patent and Trademark Office	Special Assistant	DC190053	04/16/2019
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Communications	Supervisory Public Affairs Specialist.	PS190003	04/03/2019
COUNCIL ON ENVIRONMENTAL QUALITY.	Council on Environmental Quality	Associate Director for Natural Resources.	EQ190001	04/16/2019
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD190071	04/04/2019
	Washington Headquarters Services.	Defense Fellow	DD190074	04/04/2019
	Office of the Under Secretary of Defense (Policy).	Special Assistant	DD190078	04/23/2019
	Office of the Deputy Under Secretary for Policy.	Special Assistant	DD190130	04/23/2019
DEPARTMENT OF THE ARMY	Office Assistant Secretary Army (Acquisition, Logistics and Technology).	Special Assistant (Strategy and Acquisition Reform).	DW190032	04/05/2019
DEPARTMENT OF EDUCATION ..	Office for Civil Rights	Attorney Advisor	DB190073	04/04/2019
	Office of Communications and Outreach.	Special Assistant	DB190076	04/05/2019
		Director of Outreach	DB190077	04/08/2019
	Office of Planning, Evaluation and Policy Development.	Special Assistant	DB190060	04/08/2019
	Office of the Secretary	Special Assistant (Supervisory)	DB190062	04/08/2019
DEPARTMENT OF ENERGY	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Special Assistant	DE190083	04/24/2019
	Office of the Assistant Secretary for Electricity Delivery and Energy Reliability.	Senior Advisor	DE190085	04/08/2019
	Office of the Assistant Secretary for Nuclear Energy.	Special Assistant	DE190090	04/23/2019
	Office of General Counsel	Senior Oversight Advisor	DE190078	04/04/2019
	Office of Management	Special Assistant	DE190082	04/24/2019
	Office of Policy	Principal Deputy Director	DE190118	04/25/2019
	Office of Public Affairs	Deputy Creative Director	DE190069	04/05/2019
	Office of Science	Senior Advisor	DE190084	04/08/2019
	Office of the Chief Financial Officer	Chief of Staff	DE190065	04/04/2019
	Office of the Secretary	White House Liaison	DE190081	04/08/2019
	Under Secretary of Energy	Special Assistant	DE190089	04/23/2019
ENVIRONMENTAL PROTECTION AGENCY.	Environmental Protection Agency ..	Special Assistant	EP190066	04/09/2019
	Office of Mission Support	Chief Sustainability Officer	EP190058	04/04/2019
		Associate Deputy Assistant Administrator for the Office of Mission Support.	EP190067	04/29/2019
	Office of Public Engagement and Environmental Education.	Special Advisor for Public Engagement.	EP190055	04/08/2019
	Office of the Administrator	Senior Advisor for Oil and Gas, Regional Management and State Affairs.	EP190057	04/23/2019
		Advance Associate	EP190074	04/23/2019
	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Special Advisor for House Relations.	EP190050	04/04/2019
		Special Assistant (2)	EP190062	04/08/2019
			EP190064	04/09/2019

Agency name	Organization name	Position title	Authorization No.	Effective date
		Deputy Associate Administrator for the Office of Congressional and Intergovernmental Relations.	EP190070	04/16/2019
FEDERAL HOUSING FINANCE AGENCY.	Office of Director	Director of External Relations	HA190001	04/23/2019
GENERAL SERVICES ADMINISTRATION.	Office of the Administrator	Confidential Assistant	GS190019	04/04/2019
	Office of the National Capital Region.	Special Assistant	GS190027	04/17/2019
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Assistant Secretary for Financial Resources.	Special Assistant	DH190069	04/04/2019
	Office of the Secretary	Advisor	DH190089	04/05/2019
	Office of the Assistant Secretary for Financial Resources.	Deputy Assistant Secretary, Congressional Relations.	DH190090	04/12/2019
	Office of the Agency for Healthcare Research and Quality.	Advisor	DH190094	04/12/2019
	Office of the Administration for Children and Families.	Senior Advisor	DH190105	04/12/2019
	Office of the Secretary	Deputy Scheduler	DH190110	04/17/2019
		Director of Scheduling	DH190113	04/30/2019
DEPARTMENT OF HOMELAND SECURITY.	Office of Countering Weapons of Mass Destruction.	Advisor	DM190136	04/04/2019
		Senior Advisor	DM190135	04/05/2019
	Office of the Executive Secretariat	Briefing Book Coordinator	DM190143	04/10/2019
	Office of Assistant Secretary for Legislative Affairs.	Executive Secretariat and Administrative Officer.	DM190138	04/17/2019
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU190053	04/04/2019
	Office of Field Policy and Management.	Advisor	DU190056	04/11/2019
		Regional Administrator	DU190061	04/17/2019
	Office of Public and Indian Housing.	Policy Advisor	DU190054	04/05/2019
		Special Assistant	DU190060	04/24/2019
	Office of the Administration	Advance Coordinator	DU190062	04/17/2019
	Office of the Secretary	Special Assistant	DU190050	04/25/2019
DEPARTMENT OF THE INTERIOR.	Office of the Assistant Secretary—Policy, Management and Budget.	Special Assistant	DI190041	04/04/2019
	National Park Service	Assistant Director for Congressional Relations.	DI190035	04/16/2019
	Bureau of Ocean Energy Management.	Senior Advisor-Bureau of Ocean Energy Management.	DI190038	04/17/2019
	Office of the Assistant Secretary—Water and Science.	Senior Advisor	DI190047	04/17/2019
	Office of Congressional and Legislative Affairs.	Special Assistant -Congressional and Legislative Affairs.	DI190048	04/23/2019
	Office of the Assistant Secretary—Fish and Wildlife and Parks.	Counselor-Fish and Wildlife and Parks.	DI190052	04/24/2019
DEPARTMENT OF JUSTICE	Office of Civil Division	Senior Counsel	DJ190055	04/11/2019
		Chief of Staff and Counsel	DJ190041	04/11/2019
	Department of Justice	Chief of Staff and Counsel	DJ190080	04/24/2019
	Executive Office for United States Attorneys.	Secretary	DJ190082	04/17/2019
	Office of Legislative Affairs	Legislative Advisor	DJ190048	04/11/2019
DEPARTMENT OF LABOR	Office of the Assistant Secretary for Policy.	Policy Advisor	DL190047	04/09/2019
	Office of the Solicitor	Counsel	DL190052	04/12/2019
	Office of the Assistant Secretary for Policy.	Special Assistant	DL190058	04/24/2019
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of the Administrator	Video Production Advisor	NN190021	04/15/2019
OFFICE OF MANAGEMENT AND BUDGET.	Office of Health Division	Confidential Assistant	BO190014	04/25/2019
OFFICE OF PERSONNEL MANAGEMENT.	Office of Congressional, Legislative, and Intergovernmental Affairs.	Congressional Relations Officer	PM190011	04/04/2019
		Legislative Analyst (2)	PM190016	04/04/2019
			PM190025	04/17/2019
	President's Commission on White House Fellowships.	Associate Director	PM190023	04/23/2019
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.	Office of Intergovernmental Affairs and Public Liaison.	Deputy Assistant for Intergovernmental Affairs and Public Engagement.	TN190003	04/05/2019
SECURITIES AND EXCHANGE COMMISSION.	Office of the Chairman	Writer-Editor	SE190004	04/16/2019
DEPARTMENT OF STATE	Bureau of Legislative Affairs	Deputy Assistant Secretary for House Affairs.	DS190049	04/10/2019

Agency name	Organization name	Position title	Authorization No.	Effective date
	Bureau of Overseas Buildings Operations.	Senior Advisor	DS190071	04/11/2019
	Bureau of Public Affairs	Senior Advisor	DS190026	04/30/2019
	Office of Policy Planning	Special Assistant (3)	DS190045	04/09/2019
			DS190048	04/12/2019
			DS190056	04/17/2019
		Senior Advisor	DS190047	04/29/2019
	Office of the Chief of Protocol	Protocol Officer	DS190062	04/12/2019
	Office of the Under Secretary for Management.	Deputy White House Liaison	DS190089	04/25/2019
TRADE AND DEVELOPMENT AGENCY.	Office of the Director	Senior Advisor for Communications.	TD190002	04/12/2019
DEPARTMENT OF TRANSPORTATION.	Office of the Administrator	Director of Communications	DT190057	04/12/2019
	Office of the Secretary	Special Assistant for Scheduling	DT190067	04/12/2019
	Office of Public Affairs	Media Affairs Coordinator	DT190081	04/25/2019
DEPARTMENT OF THE TREASURY.	Secretary of the Treasury	Deputy Chief of Staff (2)	DY190047	04/08/2019
			DY190048	04/08/2019
	Office of the Assistant Secretary for Terrorist Financing.	Senior Counselor	DY190050	04/11/2019
	Office of the Assistant Secretary (Public Affairs).	Special Assistant for Public Affairs	DY190045	04/05/2019
		Special Assistant for Public Affairs	DY190053	04/23/2019
	Assistant Secretary (Legislative Affairs).	Senior Advisor	DY190056	04/24/2019

The following Schedule C appointing authorities were revoked during April 2019.

Agency name	Organization name	Position title	Request No.	Date vacated
DEPARTMENT OF AGRICULTURE.	Farm Service Agency	State Executive Director—California.	DA180062	04/06/2019
DEPARTMENT OF COMMERCE	Office of Executive Secretariat	Confidential Assistant	DC180136	04/13/2019
	Office of Public Affairs	Deputy Director of Public Affairs and Press Secretary.	DC170066	04/13/2019
	Office of Advance, Scheduling and Protocol.	Deputy Director of Protocol	DC170167	04/27/2019
OFFICE OF THE SECRETARY OF DEFENSE.	Office of the Assistant Secretary of Defense (Legislative Affairs).	Director of Strategic Communications for Legislative Affairs.	DD180067	04/13/2019
	Office of the Chief Management Officer.	Special Assistant to the Chief Management Officer.	DD180078	04/13/2019
	Washington Headquarters Services.	Defense Fellow	DD190017	04/13/2019
DEPARTMENT OF THE ARMY	Office Assistant Secretary Army (Civil Works).	Special Assistant to the Deputy Assistant Secretary of the Army (Strategy and Acquisition Reform).	DW180031	04/27/2019
DEPARTMENT OF THE NAVY	Office of the Assistant Secretary of Navy (Energy, Installations, and Environment).	Special Assistant to the Assistant Secretary of the Navy (Energy, Installations and Environment).	DN170025	04/13/2019
DEPARTMENT OF EDUCATION	Office of Communications and Outreach.	Special Assistant (2)	DB170099	04/13/2019
			DB190004	04/13/2019
	Office of the Deputy Secretary	Special Assistant	DB190012	04/13/2019
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Food and Drug Administration.	Director of Communication	DH190063	04/22/2019
	Office of the Secretary	Director of Scheduling	DH180100	04/27/2019
DEPARTMENT OF HOMELAND SECURITY.	Office of the Chief of Staff	Director of Scheduling and Advance and Chief of Protocol.	DM170170	04/13/2019
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Field Policy Management	Regional Administrator	DU170177	04/12/2019
DEPARTMENT OF JUSTICE	Office of Legal Policy	Counsel	DJ170179	04/27/2019
	Department of Justice	Chief of Staff and Counsel	DJ180037	04/30/2019
DEPARTMENT OF THE TREASURY.	Office of the Under Secretary for International Affairs.	Special Assistant to the United States for International Affairs.	DY180107	04/06/2019
	Office of Public Affairs	Press Secretary	DT180057	04/13/2019
	Office of the Secretary	Senior Advisor	DT190007	04/28/2019
ENVIRONMENTAL PROTECTION AGENCY.	Region VIII—Denver, Colorado	Attorney-Advisor (General)	EP180070	04/27/2019
EXPORT-IMPORT BANK	Office of Congressional and Intergovernmental Affairs.	Senior Vice President for Congressional and Intergovernmental Affairs.	EB170020	04/13/2019

Agency name	Organization name	Position title	Request No.	Date vacated
GENERAL SERVICES ADMINISTRATION.	Office of the Administrator	Confidential Assistant	GS180023	04/27/2019
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.	Office of Commissioners	Counsel	SH170001	04/27/2019
		Confidential Assistant	SH170003	04/27/2019
OFFICE OF PERSONNEL MANAGEMENT.	President's Commission on White House Fellowships.	Assistant Director for Operations and Recruitment.	PM190018	04/27/2019
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Assistant Director for Legislative Affairs.	TS170006	04/13/2019
SMALL BUSINESS ADMINISTRATION.	Office of Administration	Management Support Specialist	SB180006	04/13/2019
		Assistant to the Chief of Staff	SB190001	04/27/2019

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–15504 Filed 7–19–19; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–165 and CP2019–185; MC2019–166 and CP2019–186]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 23, 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

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–165 and CP2019–185; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 108 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 23, 2019.

2. *Docket No(s).:* MC2019–166 and CP2019–186; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 109 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 23, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–15454 Filed 7–19–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket No. CP2017–251]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 24, 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

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–251; *Filing Title:* Notice of the United States Postal Service of Filing Modification Four to a Global Plus 1D Negotiated Service Agreement; *Filing Acceptance Date:* July 16, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 24, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–15493 Filed 7–19–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 22, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 17, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 110 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–167, CP2019–187.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–15511 Filed 7–19–19; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–93, OMB Control No. 3235–0087]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 15Bc3–1 and Form MDSW—Withdrawal from Registration of Municipal Securities Dealers.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15Bc3–1 (17 CFR 15Bc3–1) and Form MSDW (17 CFR 249.1110) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15Bc3–1 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW. The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

Based upon past submissions of one filing in 2016, two filings in 2017, zero filings in 2018, and one filing so far in 2019, the staff estimates that, on an annual basis, approximately one bank municipal securities dealer will file a notice of withdrawal from registration with the Commission as a bank municipal securities dealer on Form MSDW. The staff estimates that the average number of hours necessary to comply with the notice requirements set out in Rule 15Bc3–1 and Form MSDW is 0.5 per respondent, for a total burden of 0.5 hours per year. The staff estimates that the average internal compliance cost per hour is approximately $417.[1] Therefore, the estimated total annual cost of compliance is approximately $209 per year (0.5 hours/year × $417/hour = $208.5/year, rounded up to $209).

Rule 15Bc3–1 does not contain an explicit recordkeeping requirement, but the instructions for filing Form MSDW state that an exact copy should be retained by the registrant. Providing the information on the application is

[1] The estimate of $417 per hour is for a compliance attorney, based on the Securities Industry and Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

mandatory in order to withdraw from registration with the Commission as a bank municipal securities dealer. The information contained in the notice will not be kept confidential.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission'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; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 17, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15529 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–0088, OMB Control No. 3235–0083]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 15Ba2–1 and Form MSD.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15Ba2–1 (17 CFR 240.15Ba2–1) and Form MSD (17 CFR 249.1100), under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15Ba2–1 provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information obtained from Form MSD filings to determine whether bank municipal securities dealers meet the standards for registration set forth in the Act, to maintain a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop risk assessment information about bank municipal securities dealers.

Form MSD is a one-time registration form that must be amended only if it becomes inaccurate. Based upon past submissions of two initial filings and 11 amendments in 2016, zero initial filings and 22 amendments in 2017, zero initial filings and 18 amendments in 2018, and zero initial filings and zero amendments so far in 2019, the Commission estimates that on an annual basis approximately 1 respondent will utilize Form MSD for an initial registration application, and that approximately 13 respondents will utilize Form MSD for an amendment, for a total of 14 respondents per year. The time required to complete Form MSD varies with the size and complexity of the bank municipal securities dealer's proposed operations. Bank personnel that prepare Form MSD filings previously indicated that it can take up to 15 hours for a bank with a large operation and many employees to complete the form, but that smaller banks with fewer personnel can complete the form in one to two hours. We believe that most recent applications have come from smaller banks. Also, amendments to form MSD are likely to require significantly less time. We estimate that the total annual burden is currently 21 hours at an average of 1.5 hours per respondent. (14 respondents/year × 1.5 hours/respondent = 21 hours/year). The staff estimates that the average internal compliance cost per hour is approximately $417.[1] Therefore, the estimated total annual cost of compliance is approximately $8,757 per year (21 hours/year × $417/hour = $8,757/year).

Rule 15Ba2–1 does not contain an explicit recordkeeping requirement, but the rule does require the prompt correction of any information on Form MSD that becomes inaccurate, meaning that bank municipal securities dealers need to maintain a current copy of Form MSD indefinitely. In addition, the instructions for filing Form MSD state that an exact copy should be retained by the registrant. Providing the information on the application is mandatory in order to register with the Commission as a bank municipal securities dealer. The information contained in the application will not be kept confidential.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 17, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15530 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[1] The estimate of $417 per hour is for a compliance attorney, based on the Securities Industry and Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–176, OMB Control No. 3235–0311]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange

Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 7d–1.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collection of information to the Office of Management and Budget for extension and approval.

Section 7(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–7(d)) (the ''Act'' or ''Investment Company Act'') requires an investment company (''fund'') organized outside the United States (''foreign fund'') to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds that it is both legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d–1 (17 CFR 270.7d–1) under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company (''Canadian fund'') may request an order from the Commission permitting it to register under the Act. Although rule 7d–1 by its terms applies only to Canadian funds, other foreign funds generally have agreed to comply with the requirements of rule 7d–1 as a prerequisite to receiving an order permitting those foreign funds' registration under the Act.

The rule requires a Canadian fund that wishes to register to file an application with the Commission that contains various undertakings and agreements by the fund. The requirement of the Canadian fund to file an application is a collection of information under the Paperwork Reduction Act. Certain of the undertakings and agreements, in turn, impose the following additional information collection requirements:

(1) The fund must file with the Commission agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;

(2) the fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file with the Commission an irrevocable designation of the fund's custodian in the United States as agent for service of process;

(3) the fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;

(4) the fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 (15 U.S.C. 77a), and the Securities Exchange Act of 1934 (15 U.S.C. 78a), as applicable; and

(5) the fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

As noted above, under section 7(d) of the Act the Commission may issue an order permitting a foreign fund's registration only if the Commission finds that ''by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (Act).'' The information collection requirements are necessary to assure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Rule 7d–1 also contains certain information collection requirements that are associated with other provisions of the Act. These requirements are applicable to all registered funds and are outside the scope of this request.

The Commission believes that one foreign fund is registered under rule 7d–1 and currently active. Apart from requirements under the Act applicable to all registered funds, rule 7d–1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, certain fund agreements, designations of the fund's custodian as service agent, and the fund's list of affiliated persons. The Commission staff estimates that each year under the rule, the active registrant and its directors, officers, and service providers engage in the following collections of information and associated burden hours:

- For the fund and its investment adviser to maintain records in the United States: [1]

0 hours: 0 minutes of compliance clerk time.

- For the fund to update its list of affiliated persons:

2 hours: 2 hours of support staff time.

- For new officers, directors, and service providers to enter into and file agreements requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations:

0.5 hours: 7.5 minutes of director time; 2.5 minutes of officer time; 20 minutes of support staff time.

- For new officers, directors, and investment advisers who are not residents of the United States to file irrevocable designation of the fund's custodian as agent for process of service:

0.25 hours: 5 minutes of director time; 10 minutes of support staff time.

Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 2.75 hours.[2] We estimate that directors perform 0.21 hours of these burden hours at a total cost of $930.20,[3] officers perform 0.04 of these burden hours at a total cost of $22.08,[4] and support staff perform 2.5 of these burden hours at a total cost of

[1] The rule requires an applicant and its investment adviser to maintain records in the United States (which, without the requirement, might be maintained in Canada or another foreign jurisdiction), which facilitates routine inspections and any special investigations of the fund by Commission staff. The registrant and its investment adviser, however, already maintain the registrant's records in the United States and in no other jurisdiction. Therefore, maintenance of the registrant's records in the United States does not impose an additional burden beyond that imposed by other provisions of the Act. Those provisions are applicable to all registered funds and the compliance burden of those provisions is outside the scope of this request.

[2] This estimate is based on the following calculation: (0 + 2 + 0.5 + 0.25) = 2.75 hours.

[3] The director estimates are based on the following calculations: (7.5 minutes + 5 minutes)/60 minutes per hour = 0.2083 hours; and 0.2083 hours × $4,465 per hour = $930.20. The per hour cost estimate is based on estimated hourly compensation for each board member of $558.125 and an average board size of 8 members. The $4,465 per hour estimate for a fund board of directors includes a CPI inflation adjustment from the 2009 estimate.

[4] The officer estimates are based on the following calculations: 2.5 minutes/60 minutes per hour = 0.0416 hours; 0.0416 hours × $530 per hour = $22.08. The per hour cost estimate, as well as other internal time cost estimates for management and professional earnings, is based on the figure for chief compliance officers found in SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

$175.[5] Thus, the Commission estimates the aggregate annual cost of these burden hours associated with rule 7d–1 is $1,127.28.[6]

If a fund were to file an application under rule 7d–1 to register under the Act, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied to register under the Act pursuant to rule 7d–1 in the last three years.

As noted above, after registration, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. For purposes of this PRA we are assuming one registrant has filed a substantive supplemental application within the past three years. The Commission staff estimates that the rule would impose an additional information collection burden of 5 hours on a fund to comply with the Commission's application process at a cost of $6,136.50.[7] The staff understands that funds also obtain assistance from outside counsel to comply with the Commission's application process and the cost burden of using outside counsel is discussed in Item 13 below.

Therefore, the Commission staff estimates the aggregate annual burden hours of the collection of information associated with rule 7d–1 is 13.25 hours, at a cost of $9,518.34.[8] Amortized over three years we estimate an annual cost burden of $3,172.78 based on an hourly annual burden of 4.42 hours.[9] These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d–1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated $20,000 to comply with the rule's initial information collection requirements. These costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions, designations for service of process, and the list of affiliated persons). Other related costs would include fees for establishing arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records, and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

The Commission expects that a fund and its sponsors would incur these costs immediately, and that the annualized cost of the expenditures would be $20,000 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful.

These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no fund has applied under rule 7d–1 to register under the Act pursuant to rule 7d–1 in the last three years.

As indicated above, a Canadian or fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. The active registrant filed a substantive supplemental application in the past three years. As noted above, the staff understands that funds generally use outside counsel to prepare the application. The staff estimates that outside counsel spends 10 hours preparing a supplemental application, including 8 hours by an associate and 2 hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as $400 per hour, based on information received from funds, intermediaries and their counsel. The Commission staff therefore estimates that the fund would obtain assistance from outside counsel at a cost of $4,000.[10]

We request written comment on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 17, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15532 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[5] The support staff estimates are based on the following calculations: 2 hours + 20 minutes + 10 minutes = 2.5 hours; and 2.5 hours × $70 per hour = $175. The per hour cost estimate, as well as other internal time cost estimates for office salaries, is based on the figure for compliance clerks found in SIFMA's *Office Salaries in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[6] This estimate is based on the following calculation: $1,127.28 = $930.20 + $22.08 + $175.

[7] The staff estimates that, on average, the fund's investment adviser spends approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of $466 per hour, 0.5 hours by an administrative assistant, at a cost of $81 per hour, and the fund's board of directors spends an additional 1 hour at a cost of $4,465 per hour for a total of 5 hours, at a total cost of $6,136.50. This estimate is based on the following calculation: (3.5 hours × $466 per hour) + (0.5 hours × $81 per hour) + (1 hour × $4,465 per hour) = $6,136.50.

[8] These estimates are based on the following calculations: 2.75 hours year 1 + 5 hours year 1 + 2.75 hours year 2 + 2.75 hours year 3 = 13.25 hours; $1,127.28 year 1+ $6,136.50 year 1 + $1,127.28 year 2 + $1,127.28 year 3 = $9,518.34. As discussed above, the ongoing compliance burdens for an active fund require updates each year, whereas we estimate to receive one supplemental application each three year period.

[9] The estimates are based on the following calculations: 4.42 hours = 13.25 cumulative burden hours/3 years. Likewise, the amortized cost burden is based on the following calculations: $9,518.34 cumulative 3-year cost burden/3 years = $3,172.78 average annual cost burden.

[10] This estimate is based on the following calculation: 10 hours × $400 per hour = $4,000.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86387; File No. SR–CBOE–2019–034]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend the Exchange's Opening Process Including on VIX Settlement Days

July 16, 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 July 2, 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 amend its opening process. The text of the proposed rule change is provided in Exhibit 5. The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its trading platform to the same system used by the Cboe Affiliated Exchanges, which the Exchange expects to complete on October 7, 2019. Cboe Options believes offering similar functionality to the extent practicable will reduce potential confusion for market participants.

In connection with this technology migration, the Exchange has a shell structure for the Exchange's Rulebook that will become effective upon the migration of the Exchange's trading platform to the same system used by the Cboe Affiliated Exchanges (''shell Rulebook'') that resides alongside its currently effective Rulebook (''current Rulebook''), which shell Rulebook will contain the Rules that will be in place upon completion of the Cboe Options technology migration.

The proposed rule change amends the Exchange's opening auction process.[3] Pursuant to the proposed opening auction process, the Exchange will have a Queuing Period, during which the System will accept orders and quotes and disseminate expected opening information (similar to the pre-opening period described in current Rule 6.2(a)); will initiate an opening rotation upon the occurrence of certain triggers (similar to the current opening rotation triggers described in current Rule 6.2(b)); will conduct an opening rotation during which the System matches and executes orders and quotes against each other in order to establish an opening Exchange best bid and offer and trade price, if any, for each series, subject to certain price protections (similar to the opening rotation period described in current Rule 6.2(c) and the opening conditions in Rule 6.2(d)); and will open series for trading. This order of events that comprise the proposed opening auction process corresponds to the Exchange's current opening auction process described in current Rule 6.2.

Proposed Rule 5.31(a) sets forth the definitions of the following terms for purposes of the opening auction process in proposed Rule 5.31:[4]

- *Composite Market:* The term ''Composite Market'' means the market for a series comprised of (1) the higher of the then-current best appointed Market-Maker bulk message bid on the Exchange and the away best bid (''ABB'') (if there is an ABB) and (2) the lower of the then-current best appointed Market-Maker bulk message offer on the Exchange and the away best offer (''ABO'') (if there is an ABO). The term ''Composite Bid (Offer)'' means the bid (offer) used to determine the Composite Market.

The Exchange currently considers quotes of appointed Market-Makers on the Exchange[5] and quotes from any away markets, if it has activated Hybrid Agency Liaison (''HAL'') at the open, as part of its current opening conditions.[6] The Exchange does not intend to activate HAL at the open upon the technology migration and will thus apply the same opening conditions to all classes. The Exchange believes it is appropriate to consider any quotes from away markets in addition to quotes on its own market when determining whether to open a series in all classes, because consideration of all then-available pricing information may provide for more accurate opening prices.

- *Composite Width:* The term ''Composite Width'' means the width of the Composite Market (*i.e.,* the width between the Composite Bid and the Composite Offer) of a series.
- *Maximum Composite Width:* The term ''Maximum Composite Width'' means the amount that the Composite Width of a series may generally not be greater than for the series to open (subject to certain exceptions, as described below). The Market

[3] The Exchange's opening auction process is set forth in Rule 6.2 of the current Rulebook. The proposed rule change deletes Rule 6.2 of the current Rulebook and adopts Rule 5.31 in the shell Rulebook, which changes are expected to become operative on October 7, 2019.

[4] A term defined elsewhere in the Rules has the same meaning with respect to proposed Rule 5.31, unless otherwise defined in proposed Rule 5.31.

[5] The term ''quote'' in the current Rulebook corresponds to the term ''bulk message'' in the shell Rulebook. Additionally, currently on Cboe Options, only Market-Makers may submit quotes in their appointed classes.

[6] *See* current Rule 6.2(d).

Composite Widths for all classes are as follows (based on the Composite Bid for a series): [7]

Composite bid	Market composite width
0–1.99	0.50
2.00–5.00	0.80
5.01–10.00	1.00
10.01–20.00	2.00
20.01–50.00	3.00
50.01–100.00	5.00
100.01–200.00	8.00
≥200.01	12.00

The Exchange may modify these amounts during the opening auction process (which modifications the Exchange disseminates to all subscribers to the Exchange's data feeds that deliver opening auction updates).

The Maximum Composite Width corresponds to the opening exchange prescribed width range (''OEPW'') currently used on Cboe Options.[8] The Exchange will determine the Maximum Composite Width in a slightly different manner than it currently determines the OEPW; [9] however, both are intended to create a reasonable quote width to protect against a market opening with an extreme width. Currently, if the opening quote width is wider than the OEPW, but other conditions exist, the Exchange will then consider a separate quote width setting used as a price protection measure after trading opens.[10] The proposed protection measure is simplified to only be based on the Maximum Composite Width.

• *Opening Auction Updates:* The term ''opening auction updates'' means Exchange-disseminated messages that contain information regarding the expected opening of a series based on orders and quotes in the Queuing Book for the applicable trading session and, if applicable, the Global Trading Hours (''GTH'') Book,[11] including the expected opening price, the then-current cumulative size on each side at or more aggressive than the expected opening price, and whether the series would open (and any reason why a series would not open).

The proposed auction update messages correspond to the expected opening information messages (''EOIs'') the Exchange currently disseminates.[12] The information to be included in auction update messages will differ slightly from the information the Exchange currently disseminates in EOIs. For example, the Exchange currently disseminates the expected size of an opening trade and the size and side of any imbalance. As proposed, the Exchange will disseminate the then-current cumulative size on each side at or more aggressive than the expected opening price, along with information regarding whether a series will or will not open, which ultimately provides market participants with equivalent information.

• *Opening Collar:* The term ''Opening Collar'' means the price range that establishes limits at or inside of which the System determines the Opening Trade Price for a series. The Opening Collar is determined by determining the midpoint of the Composite Market, and adding and subtracting half of the applicable width amount above and below, respectively, that midpoint. The Opening Collar widths for all classes are as follows (based on the Composite Bid for a series):

Composite bid	Opening collar width
0–1.99	0.50
2.00–5.00	0.80
5.01–10.00	1.00
10.01–20.00	2.00
20.01–50.00	3.00
50.01–100.00	5.00
100.01–200.00	8.00
≥200.01	12.00

The Exchange may modify these amounts during the opening auction process (which modifications the Exchange disseminates to all subscribers to the Exchange's data feeds that deliver opening auction updates).

The Exchange currently uses the OEPW (or IEPW in certain circumstances) as the range within which the opening price must be.[13] While the Exchange proposes to use a different measure to protect against a market opening at an extreme price than it uses to protect a market against opening too wide, the new Opening Collar will be based on appointed Market-Maker quotes and away market quotes, and will be used in a similar manner to protect against the market opening at an extreme price.

• *Opening Trade Price:* The term ''Opening Trade Price'' means the price at which the System executes opening trades in a series during the opening rotation.[14]

• *Queuing Book:* The term ''Queuing Book'' means the book into which Users may submit orders and quotes (and onto which good-til-cancelled (''GTC'') and good-til-day (''GTD'') orders [15] remaining on the Book from the previous trading session or trading day, as applicable, are entered) during the Queuing Period for participation in the applicable opening rotation.[16] Orders and quotes on the Queuing Book may not execute until the opening rotation. The Queuing Book for the GTH opening auction process may be referred to as the ''GTH Queuing Book,'' and the Queuing Book for the RTH opening auction process may be referred to as the ''RTH Queuing Book.'' There is no equivalent term to a Queuing Book in current Rule 6.2. However, the System currently accepts orders and quotes during the pre-opening period, which orders and quotes rest on the book and are eligible for execution during the opening rotation.

• *Queuing Period:* The term ''Queueing Period'' means the time period prior to the initiation of an opening rotation during which the System accepts orders and quotes for participation in the opening rotation for the applicable trading session.[17] The Queuing Period is equivalent to the pre-open period described in current Rule 6.2(a).

Proposed Rule 5.31(b) describes the Queuing Period. The Queuing Period will begin at 2:00 a.m. Eastern Time for

[7] The Maximum Composite Widths are consistent with the Exchange's current authority to determine the OEPW (as defined below); the Exchange is adding this detail to the Rules. The proposed widths are similar, but narrower, than the Exchange's current width settings. *See* Cboe Options Regulatory Circular RG16–080.

[8] *See* Cboe Options Rule 6.2(d)(i)(A).

[9] The Exchange will set the Maximum Composite Width on a Composite Bid basis rather than premium basis.

[10] *See* current Rule 6.2(d) (such intraday width is referred to as the IEPW).

[11] In other words, for the Regular Trading Hours (''RTH'') opening auction in an All Sessions class, the expected opening information to be disseminated in opening auction updates prior to the conclusion of the GTH trading session will be based on orders and quotes in the RTH Queuing Book (*i.e.,* RTH Only orders) and in the GTH Book (*i.e.,* All Sessions orders).

[12] *See* current Rule 6.2(a)(ii).

[13] *See* current Rule 6.2(d)(i)(C). The proposed Opening Collar widths are consistent with the Exchange's current authority to determine the OEPW; the Exchange is adding this detail to the Rules. The proposed widths are similar, but narrower, than the Exchange's current width settings. *See* Cboe Options Regulatory Circular RG16–080.

[14] *See* current Rule 6.2(c)(i)(A).

[15] *See* Rule 5.6(d) in the shell Rulebook.

[16] In other words, at 7:30 a.m., All Sessions orders will rest on the GTH Queuing Book and be eligible to participate in the GTH opening auction process, and RTH Only orders will rest on the RTH Queuing Book and be eligible to participate in the RTH opening auction process. Additionally, unexecuted All Sessions orders resting on the GTH Book at the end of the GTH trading session will enter the RTH Queuing Book and be eligible to participate in the RTH opening auction process. This does not currently occur, because the GTH and RTH trading sessions currently operate separately and do not interact. Following the technology migration, these trading sessions will be able to interact, as they will use the same book and connectivity. *See* Rules 1.1 (definition of Book) in the shell Rulebook.

[17] *See* current Rule 6.2(a).

All Sessions Classes and at 7:30 a.m. Eastern Time for RTH Only Classes.[18] The System currently begins accepting orders in quotes at 5:00 p.m. Eastern Time [19] the previous trading day for the GTH trading session and at 7:30 a.m. Eastern Time for the RTH trading session.[20] While Users will have less time to submit orders and quotes prior to the GTH opening, the Exchange believes having one hour to submit orders and quotes in All Sessions Classes prior to the GTH opening is sufficient given that the Exchange lists fewer classes for trading during GTH, and it is the same amount of time they have to submit orders and quotes in RTH Only classes prior to the RTH trading session.[21]

Proposed Rule 5.31(b)(2) clarifies that orders and quotes on the Queuing Book are not eligible for execution until the opening rotation pursuant to proposed paragraph (e), as described below.[22] This is consistent with the current order entry period, pursuant to which orders and quotes entered for inclusion in the opening process do not execute until the opening trade pursuant to current Rule 6.2(c). During the Queueing Period, the System accepts all orders and quotes that are available for a class and trading session pursuant to Rule 5.30,[23] which are eligible for execution during the opening rotation, except as follows:

- The System rejects immediate-or-cancel (''IOC'') and fill-or-kill (''FOK'') orders during the Queuing Period; [24]
- the System accepts orders and quotes with MTP Modifiers during the Queuing Period, but does not enforce them during the opening rotation; [25]
- the System accepts stop and stop-limit orders[26] during the Queuing Period, but they do not participate during the opening rotation. The System enters any of these orders it receives during the Queuing Period into the Book following completion of the opening rotation (in time priority); [27]
- the System converts all intermarket sweep orders (''ISOs'') received prior to the completion of the opening rotation into non-ISOs; [28] and
- complex orders do not participate in the opening auction described in proposed Rule 5.31 and instead may participate in the complex order book (''COB'') opening process pursuant to proposed Rule 5.33(c).[29]

Proposed Rule 5.31(c) describes the opening auction updates the Exchange will disseminate as part of the opening auction process. As noted above, opening auction updates contain information regarding the expected opening of a series and are similar to the EOIs the Exchange currently disseminates during the pre-opening period. These messages provide market participants with information that may contribute to enhanced liquidity and price discovery during the opening auction process. Beginning at 2:00 a.m. Eastern Time for the GTH trading session and at 8:30 a.m. Eastern Time for the RTH trading session, the Exchange disseminates opening auction updates for the series.[30] The Exchange disseminates opening auction updates every five seconds, unless there are no updates to the opening information since the previously disseminated update, in which case the Exchange disseminates updates every minute, to all subscribers to the Exchange's data feeds that deliver these messages until a series opens.[31] If there have been no changes since the previous update, the Exchange does not believe it is necessary to disseminate duplicate updates to market participants at the next interval of time.

Proposed Rule 5.31(d) describes the events that will trigger the opening rotation for a class. Pursuant to current Rule 6.2(b), unless unusual circumstances exist, the System initiates the opening rotation procedure on a class-by-class basis for Regular Trading Hours:

- With respect to equity and exchange-traded product options, after the opening trade or the opening quote is disseminated in the market for the underlying security,[32] or at 9:30 a.m. Eastern Time for classes determined by the Exchange (including over-the-counter equity classes); or
- with respect to index options, at 9:30 a.m. Eastern Time, or at the later of 9:30 a.m. and the time the Exchange receives a disseminated index value for classes determined by the Exchange.

The System currently initiates the opening rotation procedure for Global Trading Hours at 3:00 a.m. Eastern Time.

The proposed opening rotation triggers are similar to the current opening rotation triggers, except the Exchange proposes to have the same trigger for all equity options and the same trigger for all index options. As proposed for Regular Trading Hours, after a time period (which the Exchange determines for all classes) following the System's observation after 9:30 a.m. Eastern Time of the first disseminated (1) transaction in the security

[18] *See* proposed Rule 5.31(b)(1).

[19] The Exchange notes the times in its current Rule are in Central Time rather than Eastern Time, as is the case in its proposed Rule.

[20] *See* current Rule 6.2(a); *see also* Cboe Options Regulatory Circular RG15–103 (July 13, 2015). The Exchange currently begins accepting orders and quotes at 7:30 a.m. Eastern Time for the RTH trading session, which time is not changing.

[21] Pursuant to C2 Options Rule 6.11(a) and EDGX Options Rule 21.7(a), the Queuing Period for the GTH trading session will similarly begin one hour prior to the beginning of that trading session on those exchanges. Current Rule 6.2(a) provides the Exchange with flexibility regarding when to begin the pre-opening period. The Exchange proposes to eliminate this flexibility from the Rules, as it does not believe it is necessary any more. If the Exchange determines to change the time at which the Queuing Period will begin, it will submit a rule filing.

[22] The proposed rule change moves the provision that states that GTC and GTD orders remaining on the Book from the previous trading day may participate in the opening process from current Rule 6.2(b) to the definition of Queuing Book in proposed Rule 5.31(a).

[23] The Exchange intends to add Rule 5.30 to the shell Rulebook in a separate rule filing, which will set forth the order types, instructions, and times-in-force the Exchange may make available for electronic trading.

[24] *See* current Rule 6.2(a)(i) and proposed Rule 5.31(a)(2)(A).

[25] *See* proposed Rule 5.31(a)(2)(B). The Exchange currently has Market-Maker trade prevention orders, which it does not accept prior to the opening. *See* Rule 6.2(a)(i).

[26] *See* proposed Rule 5.31(a)(2)(C). Current Rule 6.2(c)(i)(A) provides that all-or-none orders and orders with a stop contingency will not participate in the opening rotation in classes in which the Exchange has not activated HAL at the open. As noted above, the Exchange intends to not activate HAL at the open for any classes following the technology migration, so proposed Rule 5.31(a)(2)(C) is consistent with that current Rule.

[27] This is consistent with current functionality, and the proposed rule change is adding this detail to the Rules. *See also* Cboe Options Rule 6.2(c)(i)(B) (which states that order with a stop contingency do not participate in the opening rotation).

[28] *See* proposed Rule 5.31(a)(2)(D); *see also* current Rule 6.2(a)(i) (which does not permit ISOs to be entered during the pre-opening period).

[29] *See* current Rule 6.2(c)(i)(B) and proposed Rule 5.31(a)(2)(E). The Exchange intends to add Rule 5.33 to the shell Rulebook (equivalent to current Rule 6.53C in the current Rulebook) in a separate rule filing, which will describe the COB opening process.

[30] The Exchange only begins disseminating updates for series with locked or crossed interest or if the series needs Market-Maker bulk messages. There can only be an expected opening price to disseminate if these conditions have been met, and thus no updates will be disseminated if these conditions do not exist. *See* current Rule 6.2(a)(ii). Cboe Options currently begins disseminating EOIs at 8:30 a.m. or 9:00 a.m. Eastern Time (depending on the class), which is consistent with the proposed rule change to begin dissemination of opening auction messages no earlier than one hour prior to the expected initiation of the opening rotation for a series. The Exchange believes market participants generally want to receive this information closer to the opening of trading.

[31] *See* current Rule 6.2(a)(ii) (the Exchange currently disseminates EOIs at regular intervals or less frequently if there are no updates, and will not disseminate EOIs in certain circumstances, including if there is no locked or crossed interest (because there would be no expected opening price or size)).

[32] The ''market for the underlying security'' is either the primary listing exchange or the first exchange to open the underlying security, as determined by the Exchange on a class-by-class basis.

underlying an equity option on the primary market or (2) index value for the index underlying an index option, the System will initiate the opening rotation for the series in that class, and will disseminate a message to market participants indicating the initiation of the opening rotation. For Global Trading Hours, the System will initiate the opening rotation at 8:30 a.m. Eastern Time. For Regular Trading Hours, the opening rotation will be triggered in all equity classes by observation of the first transaction in the underlying security on the primary market (rather than some classes being triggered by a timer), and the opening rotation will be triggered in all index classes by observation of the first index value (rather than some classes being triggered by a timer), after 9:30 a.m. Eastern Time. The Exchange believes that it no longer needs the flexibility to open either equity option classes or index option classes based on a timer, and believes the proposed opening rotation triggers will simplify the process. Upon the occurrence of one of these proposed triggers for a class, the System will initiate the opening rotation for the series in that class, and will disseminate a message to market participants indicating the initiation of the opening rotation.[33]

Proposed Rule 5.31(e) describes the opening rotation process, during which the System will determine whether the Composite Market for a series is not wider than a maximum width, will determine the opening price, and will open series for trading.[34] The Maximum Composite Width Check and Opening Collar are intended to facilitate that series opening in a fair and orderly manner and at prices consistent with the current market conditions for the series and not at extreme prices, while taking into consideration prices disseminated from other options exchanges that may be better than the Exchange's at the open.

Proposed Rule 5.31(e)(1) describes the Maximum Composite Width Check, and the two sets of conditions under which a series will be eligible to open.

- If the Composite Market of a series is not crossed, and the Composite Width of a series is less than or equal to the Maximum Composite Width, the series is eligible to open (and the System determines the Opening Price as described below).
- If the Composite Market of a series is not crossed, and the Composite Width of a series is greater than the Maximum Composite Width, but there are no non-M Capacity [35] market orders or buy (sell) limit orders with prices higher (lower) than the Composite Bid (Offer) and there are no locked or crossed orders or quotes, the series is eligible to open (and the System determines the Opening Price as described below).[36]
- If neither of the conditions above are satisfied for a series, the series is ineligible to open. The Queuing Period for the series continues (including the dissemination of opening auction updates) until one of the above conditions for the series is satisfied.[37]

The following examples show the application of the Maximum Composite Width Check:

Example #1

The Maximum Composite Width for a class is 0.50, and the Composite Market is 2.00 x 1.00, comprised of an appointed Market-Maker bulk message bid of 2.00 and an appointed Market-Maker bulk message offer of 1.00. There is no other interest in the Queuing Book. The series is not eligible to open, because the Composite Market is crossed. The Queuing Period for the series will continue until the series satisfies the Maximum Composite Width Check.

Example #2

The Maximum Composite Width for a class is 0.50, and the Composite Market is 1.00 x 2.00, comprised of an appointed Market-Maker bulk message bid of 1.00 and an appointed Market-Maker bulk message offer of 2.00. There is no other interest in the Queuing Book. The series is eligible to open, because the width of the Composite Market is greater than the Maximum Composite Width and there are no locked orders or quotes in the series or non-M Capacity orders. The System will then determine the Opening Trade Price.

Example #3

The Maximum Composite Width for a class is 0.50, and the Composite Market is 1.00 x 2.00, comprised of an appointed Market-Maker bulk message bid of 1.00 and an appointed Market-Maker bulk message offer of 2.00. There is a non-M Capacity limit order to buy for $1.99 in Queuing Book. The series is not eligible to open, because the width of the Composite Market is greater than the Maximum Composite Width, and there is a non-M Capacity order at a price inside of the Composite Market. The Queuing Period for the series will continue until the series satisfies the Maximum Composite Width Check.

Example #4

The Maximum Composite Width for a class is 0.50, and the Composite Market is 1.00 x 2.00, comprised of an appointed Market-Maker bulk message bid of 1.00 and an appointed Market-Maker bulk message offer of 2.00. There is a market order to buy in the Queuing Book. The series is not eligible to open, because the width of the Composite Market is greater than the Maximum Composite Width and there is a marketable order. The Queuing Period for the series will continue until the series satisfies the Maximum Composite Width Check.

Proposed subparagraph (e)(2) describes how the System determines the Opening Trade Price. After a series satisfies the Maximum Composite Width Check described above, if there are orders and quotes marketable against each other at a price not outside the Opening Collar, the System determines the Opening Trade Price for the series.[38] The Opening Trade Price is the volume-maximizing, imbalance-minimizing price (''VMIM price'') that is not outside the Opening Collar. The VMIM price is:

- The price at which the largest number of contracts can execute (*i.e.,* the volume-maximizing price);
- if there are multiple volume-maximizing prices, the price at which the fewest number of contracts remain unexecuted (*i.e.,* the imbalance-minimizing price); or
- if there are multiple volume-maximizing, imbalance-minimizing prices, (1) the highest (lowest) price, if there is a buy (sell) imbalance, or (2) the

[33] *See* current Rule 6.2(b)(ii) and proposed Rule 5.31(d).

[34] *See* current Rule 6.2(d) (pursuant to which the Exchange will generally not open a series if the width is wider than an acceptable price range or if the opening trade price is outside of an acceptable price range). As noted above, the Exchange will similarly have a maximum quote width and acceptable opening price range, however, as noted above, the proposed ranges will be determined in a slightly different manner.

[35] Capacity M is used for orders for the account of a Market-Maker (with an appointment in the class). *See* Rule 1.1 (definition of Capacity).

[36] Similarly, pursuant to current Rule 6.2(d)(ii)(B), if the opening quote is wider than the OEPW range (but not outside another acceptable price range) and there are no orders or quotes marketable against each other or that lock or cross the OEPW range, Cboe Options will open the series.

[37] Similarly, pursuant to current Rule 6.2(d)(ii)(B), if the opening quote is wider than the OEPW range and there are orders or quotes marketable against each other or that lock or cross the OEPW range, the System does not open a series. If the opening quote is no wider than the IEPW range and there are no orders or quotes marketable against each other or that lock or cross the OEPW range, the System opens the series. Pursuant to current Rule 6.2(d)(iii), if the opening conditions are not satisfied, the opening rotation period continues, including the dissemination of EOIs until the opening conditions are satisfied.

[38] If there are no such orders, there is no Opening Trade Price. *See* current Rule 6.2(c)(i) (pursuant to which there may or may not currently be an opening trade price).

price at or nearest to the midpoint of the Opening Collar, if there is no imbalance.

The proposed process to determine an opening trade price is substantially similar to the process the Exchange currently uses. Pursuant to current Rule 6.2(c)(i)(A), the opening trade price of a series is the ''market-clearing'' price, which is the single price at which the largest number of contracts in the Book can execute (*i.e.,* the volume-maximizing price), leaving bids and offers that cannot trade with each other. If there are multiple prices at which the same number of contracts would clear, the System currently uses (1) the price at or nearest to the midpoint of the opening best bid or offer, or the widest offer (bid) point of the OEPW range if the midpoint is higher (lower) than that price point, in classes in which the Exchange has not activated HAL at the open, or (2) the price at or nearest to the midpoint of the range consisting of the higher of the opening national best bid and widest bid point of the OEPW range, and the lower of the opening national best offer and widest offer point of the OEPW range, in classes in which the Exchange has activated HAL at the open. The proposed ''tiebreakers'' described above will apply to all classes. While the proposed tiebreakers are different than the current tiebreakers, the Exchange believes the proposed volume-maximizing, imbalance-minimizing procedure is reasonable, as it will provide for the largest number of contracts in the Queuing Book that can execute at a price not outside the Opening Collar range, leaving as few as possible bids and offers in the Book that cannot execute, and will consider all pricing information available on the Exchange and from away markets.

The Exchange currently applies different opening conditions to classes in which the Exchange has activated HAL at the open and to classes in which the Exchange has not activated HAL at the open.[39] The proposed opening conditions are similar to the opening conditions the Exchange currently applies pursuant to current Rule 6.2(d)(ii), which are the opening conditions that apply to classes in which HAL is activated at the open. As noted above, the Exchange does not intend to activate HAL at the open in any classes following the technology migration, and will apply the same opening conditions to all classes. The Exchange has currently activated HAL at the open in the majority of classes that trade on the Exchange, and therefore the Exchange believes it is appropriate that the proposed opening conditions correspond to the opening conditions in Rule 6.2(d)(ii). Additionally, those opening conditions consider price information from away markets, as the proposed opening conditions do. The Exchange believes considering all available information will provide for more accurate pricing at the open.

Pursuant to current Rule 6.2(d)(ii):

- If there are no quotes on the Exchange or disseminated from at least one away exchange present in the series, the System does not open the series.[40]
- If the width between the best quote bid and best quote offer, which quotes may consist of Market-Maker quotes or bids and offers disseminated from an away exchange(s) (for purposes of this subparagraph (d)(ii), the ''opening quote'') is wider than the OEPW range and there are orders or quotes marketable against each other or that lock or cross the OEPW range, the System does not open the series. However, if the opening quote width is no wider than the IEPW range and there are no orders or quotes marketable against each other or that lock or cross the OEPW range, the System opens the series. If the opening quote width is wider than the IEPW range, the System does not open the series.
- If the opening trade price would be outside of the OEPW range or NBBO, the System opens the series by matching orders and quotes to the extent they can trade and reports the opening trade, if any, at an opening trade price not outside either the OEPW range or NBBO.
- If the opening trade would leave a market order imbalance (*i.e.,* there are more market orders to buy or to sell for the particular series than can be satisfied by the orders and quotes on the opposite side), the System opens the series by matching orders and quotes to the extent they can trade and reports the opening trade, if any, at the opening trade price.
- If the opening quote bid (offer) or NBB (NBO) crosses the opening quote offer (bid) or NBO (NBB) by more than a specified amount determined by the Exchange on a class- by-class and premium basis, the System does not open the series. If the opening quote bid (offer) or NBB (NBO) crosses the opening quote offer (bid) or NBO (NBB) by no more than the specified amount, the System opens the series by matching orders and quotes to the extent they can trade and reports the opening trade, if any, at the opening trade price.

The Exchange will use the Maximum Composite Width Check as a price protection measure to prevent orders from executing at extreme prices at the open, as it currently uses the OEPW range pursuant to the second bullet above.[41] If the width of the Composite Market (which represents the best market, as it is comprised of the better of Market-Maker bulk messages on the Exchange or any away market quotes) is no greater than the Maximum Composite Width, the Exchange believes it is appropriate to open a series under these circumstances and provide marketable orders with an opportunity to execute at a reasonable opening price (as discussed below), because there is minimal risk of execution at an extreme price.[42] However, if the Composite Width is greater than the Maximum Composite Width but there are no non-M Capacity orders[43] that lock or cross the opposite-side widest point of the Composite Market (and thus not marketable at a price at which the Exchange would open, as described below), there is similarly no risk of an order executing at an extreme price on the open. Because the risk that the Maximum Composite Width Check is intended to address is not present in this situation, the Exchange believes it is appropriate to open a series in either of these conditions. However, if neither of these conditions is satisfied, the Exchange believes there may be risk that orders would execute at an extreme price if the series open, and therefore the Exchange will not open a series.[44]

[39] The proposed rule change deletes all the references in current Rule 6.2(d) to the exposure of orders via HAL, and excludes those references in the description of the current opening conditions below.

[40] Pursuant to the proposed rule change, a series will similarly not open in this case. The proposed opening conditions require a Composite Market. Therefore, the System will not open a series (as it will not today) without bulk message bids and offers from appointed Market-Makers or bids and offers from at least one away exchange.

[41] *See* current Rule 6.2(d)(ii)(B), pursuant to which the Exchange will open a series if the opening quote is not outside the OEPW.

[42] This corresponds to current Rule 6.2(d)(ii)(B), pursuant to which the Exchange will open even if the opening quote is too wide but there are no marketable orders or quotes.

[43] Market-Maker bulk messages are considered when determining the Composite Market. The Exchange believes it is appropriate to consider Market-Maker bulk messages when determining an opening quote to ensure there will be liquidity in a series when it opens. Additionally, while it is possible for Market-Makers to submit M orders, the Exchange believes there is less risk of a Market-Maker inputting an order at an extreme price given that Market-Makers are the primary liquidity providers in the options market, and thus generally responsible for pricing the market.

[44] Pursuant to current Rule 6.2(d)(ii), the Exchange will not open a series if similar conditions exist that could create risk that orders

Continued

The Exchange will use the Opening Collar as a further price protection measure to prevent orders from executing at extreme prices at the open, as it currently uses the OEPW range pursuant to the third bullet above. If the Opening Trade Price is not outside the Opening Collar (which will be based on the best then-current market), the Exchange believes it is appropriate to open a series at that price, because there is minimal risk of execution at an extreme price. The Exchange believes there may be risk that orders would execute at an extreme price if the Opening Trade Price were outside of the Opening Collar.

As set forth above in the fifth bullet, the Exchange will similarly not open a series today if the opening quote is crossed by more than a specified amount. However, as proposed, a series will not be eligible to open if the Composite Market is crossed. The Exchange believes this slight change is appropriate given that the existence of a crossed market may indicate pricing uncertainty within the market. The Exchange believes this proposed rule change will reduce price risk for any executions that may occur during the opening rotation due to the existence of a crossed market.

The Exchange may also open a series pursuant to current Rule 6.2(e) (proposed Rule 5.31(h)), which permits the Exchange to deviate from the standard manner of the opening auction process, including by adjusting the timing of the opening rotation in any class, modifying any time periods described in proposed Rule 5.31, and delaying or compelling the opening of a series if the opening width is wider than Maximum Composite Width, when it believes it is necessary in the interests of a fair and orderly market. The Exchange will continue to make and maintain records to document all determinations to deviate from the standard manner of the opening auction process, and will periodically review these determinations for consistency with the interests of a fair and orderly market.[45]

Pursuant to proposed Rule 5.31(e)(3), if the System establishes an Opening Trade Price, the System will execute orders and quotes in the Queuing Book at the Opening Trade Price. The System will prioritize orders and quotes in the following order: market orders, limit orders and quotes with prices better than the Opening Trade Price, and orders and quotes at the Opening Trade Price.[46] The System allocates orders and quotes on a pro-rata basis pursuant to Rule 5.32). The System applies a Priority Customer overlay to all classes, except for SPX (including SPXW) and VIX (excluding VIXW).[47] If there is no Opening Trade Price, the System opens a series without a trade.

The Exchange proposes to delete current Rule 6.2(c)(iii) regarding the order in which the System will open series. The order in which the System opens series for trading is generally immaterial. The Exchange currently opens series in the order set forth in Rule 6.2(c)(iii), because it believes opening series in this order on exercise settlement value determination days enhances liquidity during the modified opening auction process set forth in current Rule 6.2, Interpretation and Policy .01. As discussed below, the Exchange proposes other enhancements to the modified opening auction process, and thus no longer believes it will be necessary to open series in this specific order. Therefore, the System will open series as the opening conditions in those series are satisfied, in no particular order.

Pursuant to proposed subparagraph (f), as is the case today, following the conclusion of the opening rotation, the System enters any unexecuted orders and quotes (or remaining portions) from the Queuing Book into the Book in time sequence (subject to a User's instructions—for example, a User may cancel an order), where they may be processed in accordance with Rule 5.32. Consistent with the OPG contingency (and current functionality), the System cancels any unexecuted OPG orders (or remaining portions) following the conclusion of the opening rotation.

Proposed Rule 5.31(g)[48] states the Exchange will open series using the same opening auction process described above following a trading halt in the class declared by the Exchange pursuant to Rule 5.20,[49] except:

- The Queuing Period will begin immediately when the Exchange halts trading in the class.
- If a User has orders or quotes resting on the Book at the time of a trading halt, the System queues those orders and quotes in the Queueing Book for participation in the opening rotation following the trading halt, unless the User entered instructions to cancel its resting orders and quotes.
- The System initiates the opening rotation for a class upon the Exchange's determination to resume trading pursuant to Rule 5.20.

The proposed rule change deletes current Rule 6.2(g) regarding the use of the opening auction process to conduct a closing rotation upon determination by the Exchange. The Exchange does not currently use the opening auction process to conduct a closing rotation, and does not intend to use the proposed opening auction process to conduct a closing rotation following the technology migration.

Proposed Rule 5.31(j) describes the modified opening auction process[50] the Exchange will use to calculate the exercise or final settlement value of expiring volatility index derivatives. As described below, the Exchange proposes to make certain enhancements to the current process, which is described in current Rule 6.2, Interpretation and Policy .01. Cboe Options and Cboe Futures Exchange, LLC (''CFE'') list options and futures, respectively, on the Cboe Volatility Index (''VIX'').[51] The exercise settlement value for VIX derivatives is determined on the morning of their expiration date through a special opening quotation (''SOQ'') of the VIX using the opening prices of a portfolio of SPX options that expire approximately 30 days later, which opening prices are determined through a modified version of the Exchange's standard opening auction process.

By providing market participants with a mechanism to buy and sell options

would execute at an extreme price if the series open.

[45] *See* proposed Rule 5.31(h).

[46] *See* current Rule 6.2(c)(i)(C). The Exchange believes it is appropriate to prioritize orders with the most aggressive prices, as it provides market participants with incentive to submit their best-priced orders.

[47] *See* current Rule 6.2, Interpretation and Policy .04. The proposed allocation during the opening rotation is consistent with the Exchange's current authority to determine the allocation algorithm used at the open, and is the same one applied to classes (and groups) today. The Exchange applies different algorithm to different classes (and groups) based on the market model and characteristics of different products. The proposed rule change merely codifies this in the Rules.

[48] *See* current Rule 6.2(f). The proposed rule regarding the opening auction process to be used following a trading halt eliminates the flexibility regarding whether there may or may not be a Queuing Period during a trading halt. The proposed rule change also provides Users with the ability to decide how their resting orders and quotes should be handled in the event of a trading halt.

[49] The Exchange intends to adopt Rule 5.20 in the shell Rulebook in a separate rule filing, which rule will correspond to Rules 6.3 and 24.7 in the current Rulebook.

[50] Current Rule 6.2, Interpretation and Policy .01 currently refers to this process as the Modified HOSS (Hybrid Opening System) Procedure.

[51] Cboe Options and CFE previously listed options and futures on other volatility indexes; however, currently, they only list VIX options and VIX futures, respectively. Options expire on an expiration date and settle to an exercise settlement value, and futures settle on a final settlement date to a final settlement value. For ease of reference, the Exchange will use the options terminology throughout the filing when referring to the final settlement date and final settlement value for VIX derivatives.

that will be used to calculate the exercise settlement value at the prices that will be used to calculate the exercise settlement value of VIX derivatives, the VIX settlement process is ''tradable.'' A tradable settlement creates the opportunity to convert the exposure of an expiring VIX derivative into a portfolio of SPX options that will be used to calculate the exercise settlement value of the expiring contract. Specifically, some market participants may desire to maintain the vega, or volatility, risk exposure of expiring VIX derivatives. Since VIX derivatives expire 30 days prior to the SPX options used to calculate their settlement value, a market participant may have a vega risk from its portfolio of index positions that the participant wants to continue to hedge after the participant's VIX derivatives expire.[52] To continue that vega coverage following expiration of a VIX derivative, a market participant may determine to trade the portfolio of SPX options used to calculate the exercise settlement value of an expiring VIX derivative, since those SPX options still have 30 more days to expiration. This trade essentially replaces the uncovered vega exposure ''hole'' created by an expiring VIX derivative.

Since the VIX settlement value converges with the value of the portfolio of SPX options used to calculate the VIX settlement value, trading this SPX option portfolio mitigates settlement risk.[53] This is because, if the SPX options that will be used to calculate the VIX settlement value execute at the open in the proportions that those options will be used in that calculation, the vega exposure obtained in the SPX option portfolio will replicate the vega exposure of the expiring VIX derivative. Because a market participant is converting vega exposure from one instrument (an expiring VIX derivative) to another (a portfolio of SPX options expiring in 30 days), the market participant is likely to be indifferent to the settlement price received for the expiring VIX derivative. Importantly, trading the next VIX derivative expiration (*i.e.,* rolling) will not accomplish the conversion of vega exposure since that VIX derivative contract would necessarily cover a different period of expected volatility and would be based on an entirely different portfolio of SPX options.

The VIX settlement process is patterned after the process used to calculate the exercise settlement value of SPX options. On the days SPX options expire, S&P calculates an SOQ of the S&P 500 Index using the opening prices of the component stocks in their primary markets. Market participants can seek to replicate the exposure of their expiring SPX options by entering orders to buy and sell the component stocks of the S&P 500 Index at their opening prices. If they are successful, market participants can effectively construct a portfolio that matches the value of the SOQ of the S&P 500 Index. At this point, the values of the derivatives and cash markets converge. In a similar way, the VIX exercise settlement value is calculated using the opening prices of SPX options that expire approximately 30 days later. Analogous to the settlement process for SPX options, market participants can replicate the exposure of their expiring VIX derivatives by entering buy and sell orders in SPX options that will be used to calculate the VIX settlement value in the proportions the Exchange will use when calculating the VIX settlement value. If they are successful, market participants can effectively construct a portfolio of SPX option positions whose value matches the exercise settlement value of the participants' VIX derivatives.

The primary feature of the modified opening auction process that currently distinguishes it from the standard opening auction process is a cut-off time for the entry of strategy orders,[54] which market participants currently submit for participation in the modified opening auction process to replicate the vega exposure of their expiring VIX derivatives. The Exchange understands that the entry of strategy orders may lead to order imbalances in the series in the settlement strip. To the extent (1) market participants seeking to replicate the vega exposure of an expiring VIX derivative position are on one side of the market (*e.g.,* strategy orders to buy SPX options) and (2) those market participants' orders predominate over other orders during the modified opening auction process, those trades may contribute to an order imbalance prior to the open. The Exchange established the strategy order cut-off time to provide market participants with time to enter additional orders and quotes to offset any such imbalances prior to the opening of these series.[55] Market participants may also, among other things, submit competitively priced non-strategy orders and quotes in response to changing market conditions following the strategy order cut-off time until the open of trading to contribute to a fair and orderly opening process.[56]

When the Exchange initially adopted the concept of a strategy order and strategy order cut-off time, VIX derivatives had only just begun trading. The Exchange believed some flexibility within the rules regarding what constituted a strategy order was appropriate in applying the strategy order cut-off time. Additionally, the flexibility permitted market participants to submit strategy orders in a manner consistent with their businesses. The

[52] The orders for an SPX option portfolio a market participant submits to the modified opening auction process to replicate the vega risk exposure of its expiring VIX derivatives may be referred to as a ''vega replicating order'' in this rule filing.

[53] In the absence of a tradable settlement, settlement risk refers to the difference between the exercise settlement value of the expiring VIX derivatives and the value of the portfolio of the option series used to calculate the exercise settlement value. The potential disparity between the exercise settlement value for expiring VIX derivatives and the value of the replicating portfolio of option series that will be used to calculate the exercise settlement value is referred to as ''slippage.'' A tradable settlement provides convergence between the exercise settlement value and the value of the portfolio of option series used to calculate the exercise settlement value (*i.e.,* eliminates slippage). While it is possible to construct a replicating portfolio of SPX options, it is highly unlikely that, absent a tradable settlement, traders would be able to trade SPX options that will be used to calculate the exercise settlement value at prices that would match the final settlement price.

[54] The Exchange deems individual orders (considered collectively) that a market participant submits for participation in the modified opening auction process to be a ''strategy'' order, based on related facts and circumstances considered by the Exchange, only if the orders: (1) Relate to the market participant's positions in expiring VIX derivatives; (2) are for option series with the expiration that the Exchange will use to calculate the exercise or final settlement value, as applicable, of the applicable VIX derivative; (3) are for option series with strike prices approximating the range of series that are later determined to constitute the constituent option series for the applicable expiration; (4) are for put (call) options with strike prices equal to or less (greater) than the ''at-the-money'' strike price; and (5) have quantities approximating the weighting formula used to determine the exercise or final settlement value, as applicable, in accordance with the VIX methodology. *See* current Rule 6.2, Interpretation and Policy .01(a) (definition of ''strategy order''). As proposed, there will continue to be a cut-off time during the modified opening auction process; however, the Exchange is eliminating the concept of a strategy order.

[55] *See* Securities Exchange Act Release Nos. 52367 (August 31, 2005), 70 FR 53401 (September 8, 2005) (SR–CBOE–2004–86) (established for the rapid opening system procedure, which his no longer used). The Commission stated it believed that the proposed rule change may serve the intended benefits of the strategy order cut-off time without imposing an undue burden on market participants. *Id.* at 53402. Pursuant to current Rule 6.2, Interpretation and Policy .01(b), the Exchange may determine a strategy order cut-off time, which may be no earlier than 9:00 a.m. Eastern Time and no later than the opening of trading. The current strategy order cut-off time is 9:20 a.m. Eastern Time.

[56] Pursuant to current Rule 6.2, Interpretation and Policy .01(b), the Exchange may determine a non-strategy order cut-off time, which may be no earlier than 9:25 a.m. Eastern Time and no later than the opening of trading. The current non-strategy order cut-off time is the opening of trading.

flexibility within the rule provided the Exchange with the ability to gain experience in monitoring trading in these products and evaluating the use of strategy orders.[57] The Exchange understands this flexibility has created some uncertainty among market participants regarding what constitutes a strategy order. As a result of this uncertainty, the Exchange understands certain market participants have hesitated to submit orders in the modified opening auction process out of concern that such orders could be deemed either a new strategy order or a modification to or cancellation of an existing strategy order.

The Exchange recently amended the rule that sets forth the characteristics of a strategy order to attempt to reduce some of this uncertainty by eliminating some of the flexibility within the rule regarding the characteristics of a strategy order, and to provide additional clarity to market participants regarding what orders they may submit following the strategy order cut-off time. The Exchange believed this clarity would reduce uncertainty among market participants and promote increased liquidity in series in the settlement strip on exercise settlement value determination days.[58]

The Exchange believes recent enhancements have eliminated some uncertainty and alleviated certain perceived risk; however, the current characteristics of a strategy order retain some level of flexibility. The Exchange understands that, due to this retained flexibility, some market participants continue to believe there is risk regarding what orders submitted after the strategy order cut-off time will be deemed either a new strategy order or a modification to or cancellation of an existing strategy order. This perceived risk may lead to reduced liquidity and may increase the time it takes to open a series at a competitive price. Therefore, the Exchange proposes to eliminate the concept of a strategy order from the modified opening auction process. There will continue to be a cut-off time (the time of which will be the same time as the current strategy order cut-off time) to provide the market with time to resolve any imbalances created by the submission of vega replicating orders. However, to further reduce any perceived risk described above, the Exchange proposes a more define [sic] approach regarding the types of orders market participants may submit following the cut-off time. The Exchange believes providing market participants with a definitive order type they may submit following the cut-off time that cannot be deemed an improper modification of an earlier submitted order will promote additional liquidity in the modified opening auction process.

All provisions of proposed Rule 5.31 will apply to the opening of constituent option series for Regular Trading Hours on exercise settlement value determination days, except as provided in proposed Rule 5.31(j).[59] The opening auction process used on those days as modified by proposed paragraph (j) is referred to as the ''modified opening auction process.''[60]

Proposed Rule 5.31(j)(1) defines the following terms for purposes of the modified opening auction process:[61]

• *VIX Derivatives:* The term ''VIX derivatives'' means VIX options listed for trading on the Exchange (as determined under Rule 4.11), VIX futures listed for trading on an affiliated designated contract market, or over-the-counter derivatives overlying VIX whose exercise or final settlement values, as applicable, are calculated pursuant to, or by reference to, as applicable, the modified opening auction process.

• *Exercise Settlement Value Determination Day:* The term ''exercise settlement value determination day'' means a day on which the Exchange determines the exercise or final settlement value, as applicable, of expiring VIX derivatives.

• *Constituent Option Series:* The term ''constituent option series'' means all SPX (including SPXW) option series listed on the Exchange with the expirations the Exchange uses to calculate the exercise or final settlement value of the expiring VIX derivative on exercise settlement value determination days.

• *Maximum Composite Width:* The term ''Maximum Composite Width'' has the meaning set forth in proposed Rule 5.31(a) (as described above), except the following Maximum Composite Widths apply to constituent option series on exercise settlement value determination days:[62]

Composite bid	Market composite width
0–0.25	0.25
0.25–0.50	0.30
0.51–1.00	0.35
1.01–2.00	0.40
2.01–5.00	0.60
5.01–10.00	0.70
10.01–20.00	1.00
20.01–30.00	1.80
30.01–40.00	2.40
40.01–50.00	3.00
50.01–100.00	6.00
100.01–200.00	9.00
≥200.01	14.00

• *Opening Collar:* The term ''Opening Collar'' has the meaning set forth in proposed Rule 5.31(a) (as described above), except the following Opening Collar widths apply to constituent option series on exercise settlement value determination days:[63]

[57] *See supra* note 55.

[58] *See* Securities Exchange Act Release No. 84436 (October 16, 2018), 83 FR 53337 (October 22, 2018) (SR–CBOE–2018–062).

[59] *See* current Rule 6.2, Interpretation and Policy .01(b).

[60] The Exchange uses the opening trade prices of series in the settlement strip (or the average of the opening bid and offer prices of a series in the settlement strip if there is no opening trade in that series) established by the modified opening auction process to calculate the exercise or final settlement value, as applicable, of expiring volatility index derivatives. *See* current Rule 24.9(a)(5)(B) (the proposed rule change moves this language to proposed Rule 5.31(j), so that all provisions in the Rules regarding the modified opening auction process are included in a single place).

[61] *See* current Rule 6.2, Interpretation and Policy .01(a). Except for the definition of settlement strip (which corresponds to the definition of constituent option series in current Rule 6.2, Interpretation and Policy .01), as discussed below, the proposed rule change makes no changes to the definitions that are in current Rule 6.2, Interpretation and Policy .01(a) and proposed to be moved to Rule 5.31(j)(1), except: (a) The proposed rule refers to volatility index derivatives as VIX derivatives, because, as noted above, those are currently the only volatility index derivatives for which the Exchange uses the modified opening auction process to determine the exercise settlement value, and to update cross-references as necessary; (b) the Exchange proposes to use the term ''constituent option series'' to refer to all SPX series with the expiration the Exchange uses to calculate the exercise or final settlement value, as that corresponds to the terminology used in the Exchange's technical specifications and documentation to which Users often refer; and (c) the Exchange proposes to use the term ''settlement strip'' instead of ''constituent option series'' to refer to the series that the Exchange will use to determine the exercise settlement value, as that corresponds to terminology regularly used by market participants.

[62] The proposed Maximum Composite Widths on exercise settlement value determination days are consistent with the Exchange's current authority to determine the OEPW; the Exchange is adding this detail to the Rules. The proposed widths on these are the same as the Exchange's current width settings. *See* Cboe Options Notice, *Operational Setting Changes for Cboe Options Acceptable Price Range (APR) and Opening Exchange Prescribed Width (OEPW)* (May 4, 2018).

[63] The proposed Opening Collar widths on exercise settlement value determination days are consistent with the Exchange's current authority to determine the OEPW; the Exchange is adding this detail to the Rules. The proposed widths on these days are the same as the Exchange's current width settings. *See* Cboe Options Notice, *Operational Setting Changes for Cboe Options Acceptable Price Range (APR) and Opening Exchange Prescribed Width (OEPW)* (May 4, 2018).

Composite bid	Opening collar width
0–0.25	0.25
0.25–0.50	0.30
0.51–1.00	0.35
1.01–2.00	0.40
2.01–5.00	0.60
5.01–10.00	0.70
10.01–20.00	1.00
20.01–30.00	1.80
30.01–40.00	2.40
40.01–50.00	3.00
50.01–100.00	6.00
100.01–200.00	9.00
≥200.01	14.00

• *Settlement Strip:* The term ''settlement strip'' means the constituent option series with strike prices within a specified strike range used to calculate the exercise or final settlement value, as applicable, of expiring VIX derivatives. As further discussed below, the proposed rule change provides that the Exchange will determine this strike range pursuant to an algorithm. The Exchange will disseminate the highest call strike and the lowest put strike that establish the strike range to all subscribers to the Exchange's data feeds that deliver opening auction update messages, no later than 8:45 a.m. Eastern Time on exercise settlement value determination days. The Exchange may update the strike range until 9:15 a.m. Eastern Time pursuant to an algorithm due to changes to the value of the VIX Index, prices of related futures, or other algorithmic inputs. The Exchange disseminates any such updates as soon as reasonably possible.

• *Settlement Liquidity Opening Order and SLOO:* The terms ''settlement liquidity opening order'' and ''SLOO'' mean a limit order in a constituent option series designated with an OPG Time-in-Force that Users may submit to the Exchange only on exercise settlement value determination days following the cut-off time described below. The System cancels a SLOO (or remaining portion) that does not execute during the modified opening auction process.[64]

○ If the limit price of a buy (sell) SLOO crosses the midpoint of the then-current Opening Collar upon entry, the System adjusts the SLOO's price to equal the midpoint of the Opening Collar (rounded up (down) to the nearest minimum increment), except for a sell SLOO when the midpoint is less than or equal to 0.175. If the midpoint of the Opening Collar changes during the Queuing Period, the System re-adjusts the SLOO's price to equal the new Opening Collar midpoint (rounded as provided above), up to its limit price.

○ The prices of SLOOs in the Queuing Book are not disseminated in the Exchange's Multicast PITCH and Multicast TOP data feeds.

As discussed above, the Exchange proposes to eliminate the concept of a strategy order, and thus the proposed rule change deletes the portions of the current rule describing the characteristics of strategy orders and non-strategy orders.

Proposed Rule 5.31(j)(3) states that during the Queuing Period, the System accepts orders and quotes in constituent option series as follows, subject to proposed Rule 5.31(b)(2): [65]

• The System accepts all orders and quotes (except SLOOs, which the System rejects), and any changes to or cancellations of those orders and quotes, prior to 9:20 a.m. (Eastern Time).[66]

• After 9:20 a.m. (Eastern Time) (until the opening of trading in a series), the System only accepts (1) SLOOs (including changes to and cancellations of SLOOs); and (2) bulk message bids and offers (including changes to and cancellations of bulk message bids and offers submitted before and after the cut-off time) from Market-Makers with an SPX appointment. The System rejects all other orders and quotes (and changes to and cancellations of orders and quotes submitted prior to the cut-off time).

While the proposed rule change eliminates the concept of strategy orders, the proposed modified opening auction process is similar to the current process. The proposed rule change will have no impact on orders that may be submitted prior to the cut-off time. All market participants may currently submit all orders and quotes, including vega replicating orders (*i.e.,* strategy orders), in constituent option series (subject to restrictions set forth in current Rule 6.2, which are similar to the restrictions in proposed Rule 5.31(b) and, as noted above, will apply to the modified opening auction process). The proposed rule change will permit this same order and quote entry activity prior to the cut-off time, including the submission of orders to replicate the vega exposure of expiring VIX derivatives (*i.e.,* the equivalent of current strategy orders).

The Exchange expects market participants to continue to use the modified opening auction process to replicate the vega exposure of their expiring VIX derivatives. To continue to provide market participants with sufficient time to submit additional interest to offset any imbalances that may be created by the submission of these orders, the Exchange will retain an order entry cut-off time. Currently, only non-strategy orders may be submitted following the strategy order cut-off time. While a non-strategy order is defined as any order that is not, or that does not modify or cancel, a strategy order, the current rule identifies two specific types of interest that are not strategy orders, and they are therefore permissible following the cut-off time:

• A buy (sell) order in a settlement strip series if an EOI disseminated no more than two minutes prior to the time a market participant submitted the order included a sell (buy) imbalance and the size of the order is not larger than the size of the imbalance in the EOI, regardless of whether the market participant previously submitted a strategy order or has positions in expiring volatility index derivatives; or

• a bid or offer in a settlement strip series submitted by a Market-Maker with an appointment in a class with settlement strip series, for bona fide market-making purposes in accordance with current Rule 8.7 and the Exchange Act for its market-maker account prior to the open of trading for participation in the modified opening auction process.

The explicit permission to submit these orders and quotes following the strategy order cut-off time is consistent with the operational purpose of establishing a strategy order cut-off time, which was to provide sufficient time for market participants to submit liquidity to offset the size of any imbalances created by the submission of volatility replicating orders and to contribute to a competitively priced opening process. The orders and quotes that may be submitted after the cut-off time will continue to be limited in a manner consistent with this purpose. The System, however, will automatically enforce these order entry limitations, which will eliminate any responsibility currently placed on market participants to determine whether the orders and quotes they submit following the strategy order cut-off time would be permissible under current Rules.

[64] Users may not designate bulk messages as SLOOs.

[65] In other words, the conditions regarding order and quote entry set forth in proposed Rule 5.31(b)(2) apply to the submission of orders and quotes to the modified opening auction process.

[66] As noted above, this is the same time as the current strategy order cut-off time. The proposed rule change eliminates the Exchange's current flexibility regarding the cut-off time. There is currently only one class to which the modified opening auction process applies, so there is no need for class-by-class flexibility. The Exchange will submit a rule filing if it determines to change the cut-off time.

By eliminating the concept of a strategy order and only permitting two specific types of market activity following the cut-off time, the Exchange believes the proposed rule change will eliminate any existing uncertainty among market participants with respect to what orders they may submit following the cut-off time. All market participants may submit SLOOs following the cut-off time, which will serve a similar purpose as the non-strategy orders that market participants may currently submit. The proposed SLOO repricing functionality will prevent the entry of a SLOO from creating or adding to an imbalance that would prevent a constituent option series from opening.

The Exchange believes permitting sell SLOOs to cross the midpoint of the Opening Collar in any series with a midpoint of 0.175 or less will provide market participants with opportunities to execute against bids in lower-valued series. If there is a low bid in a series, a market participant may be willing to sell at that price, and the Exchange believes that not adjusting the price of a sell SLOO in that situation will encourage liquidity and price improvement over Market-Maker quotes in these lower-valued series.[67] For example, assume the Composite Market (and the Opening Collar) for a series is 0 to 0.30, and thus the midpoint of the Opening Collar is $0.15. An order to buy at $0.05 rests in the Queuing Book. If a market participant submits a SLOO to sell at $0.05, it would be able to execute against the resting order during the opening rotation, rather than be slid to a price of $0.15. The Exchange believes this is reasonable, because it would allow for the potential execution of sell orders in series with no Market-Maker bid and Market-Maker offers less than or equal to $0.35 (which is the maximum possible Opening Collar offer for the midpoint to be $0.175). The maximum midpoint of $0.175 is reasonable because, with a higher maximum midpoint, there may be an increased risk of having a sell order execute at a potentially erroneous low price in a series that is not truly no-bid.

Additionally, permitting SLOOs to cross the midpoint of the Opening Collar in these series will also not create or increase an imbalance that would prevent a series from opening. For example, assume the Composite Market is 0–0.25, as is the Opening Collar. The midpoint of the Opening Collar is 0.125. If there is a buy order for one contract at $0.05, and a market participant enters a SLOO to sell 10,000 contracts at $0.05, the VMIM price ($0.05) is within the Opening Collar, and therefore series would be eligible to open. Instead, assume the Composite Market is 0.25–0.50, as is the Opening Collar. The midpoint of the Composite Market is 0.375. If there is a buy order for one contract at $0.05, and a market participant enters a SLOO to sell 10,000 contracts at $0.05, the VMIM price is $0.05, which is outside of the Opening Collar, and thus the series would not open.

Pursuant to the proposed rule change, market participants will no longer need to manually review opening auction updates to determine if it is permissible to submit orders to offset any imbalances. The proposed rule change reduces the types of orders market participants may submit following the cut-off time; however, the Exchange believes it may attract greater liquidity than the current system, because it will reduce uncertainty for market participants regarding the submission of orders following the cut-off time, which may encourage them to submit SLOOs to offset order imbalances. SLOOs will also provide market participants with a definitive order type they may use to contribute to the competitive pricing within constituent option series following the cut-off time, without creating an imbalance condition that would prevent a series from opening. The Exchange believes elimination of the perceived risk described above will enhance liquidity in the modified opening auction process, which would contribute to a fair and orderly opening in constituent option series.

Market-Makers with an SPX appointment will continue to be able to submit bulk message bids and offers (including changes to and cancellations of bulk message bids and offers submitted before and after the cut-off time) following the cut-off time, as they may currently do today.[68] In the options market, it is important for Market-Makers to be able to provide liquidity to execute against interest submitted by other market participants. Pursuant to current Rule 8.7 (which the Exchange expects to move to Rule 5.51 in the shell Rulebook), a Market-Maker has general obligations to, among other things, engage (to a reasonable degree under existing circumstances) in dealings for the Market-Maker's own account when there exists a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.,* an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. As described above, the submission of strategy orders (or any orders, including orders intended to replicate vega exposure of expiring VIX derivatives) may lead to order imbalances in constituent option series. As noted above, Market-Maker quotes also play a significant role in the price protection measures the Exchange uses to protect against opening executions occurring at extreme prices. In order for the System to open settlement strip series for trading and to achieve the most competitive prices, the Exchange believes Market-Market participation throughout the entire modified opening auction process may add liquidity to the process and promote a fair and orderly opening and settlement process. Therefore, the Exchange believes it is important to continue to permit Market-Makers to submit quotes (and updates to their quotes) following the cut-off time.

Market-Maker quoting activity on exercise settlement value determination days will continue to be subject to all applicable Rules, including:

- Current Rule 4.1 (which the Exchange intends to move to Rule 8.1 in the shell Rulebook), which prohibits a Trading Permit Holder from engaging in acts or practices inconsistent with just and equitable principles of trade.
- Current Rule 4.6 (which the Exchange intends to move to Rule 8.6 in the shell Rulebook), which prohibits (among other things) a Trading Permit Holder from effecting or inducing the purchase, sale, or exercise of any security for the purpose of creating or inducing a false, misleading, or artificial appearance of activity in such security or in the underlying security, or for the purpose of unduly or improperly influencing the market price of such security or of the underlying security or for the purpose of making a price that

[67] For similar reasons, the Exchange will convert a market order to sell in a no-bid series into a limit order to sell at the minimum increment of the series. *See* Rule 6.13(b)(vi).

[68] The term ''bulk message'' in the proposed rule is equivalent to the term ''quote'' in the current rule. The current rule requires a Trading Permit Holder with which the Market-Maker is affiliated to establish, maintain, and enforce reasonably designed written policies and procedure (including information barriers, as applicable), taking into consideration the nature of the Trading Permit Holder's business and other facts and circumstances, to prevent the misuse of material nonpublic information (including the submission of strategy orders); and that a Market-Maker have no actual knowledge of any previously submitted strategy orders. Because the proposed rule change eliminates the concept of a strategy order and the ability for any orders submitted prior to the cut-off time to be modified after the cut-off time, the proposed rule change eliminates these requirements.

does not reflect the true state of the market in such security or in the underlying security.

• Current Rule 4.17 (which the Exchange intends to move to Rule 8.17 in the shell Rulebook), which requires a Trading Permit Holder to establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such Trading Permit Holder's business, to prevent the misuse, in violation of the Exchange Act and the Rules, of material, nonpublic information by the Trading Permit Holder or persons associated with the Trading Permit Holder.

• Current Rule 8.7 (which the Exchange intends to move to Rule 5.51 in the shell Rulebook), which requires Market-Makers to, among other things, enter into transactions in their market-making capacity that constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not to make bids or offers or enter into transactions that are inconsistent with such course of dealings.

The Exchange believes the proposed rule changes regarding permissible market activity following the cut-off time will encourage all market participants to participate and quote competitively in the modified opening auction process, including to offset imbalances and contribute to price transparency and liquidity in constituent option series at the open, which will promote a fair and orderly opening on exercise settlement value determination days. All Trading Permit Holder activity following the cut-off time will continue to be subject to all applicable Rules, including 8.1, 8.6, and 8.17 (each as described above). The Exchange will continue to review all Trading Permit Holder activity in constituent series on exercise settlement value determination days for compliance with these and all other applicable Rules.

As noted above, the proposed rule change adds to the definition of settlement strip (currently referred to as ''constituent option series'' in the current rules) that the Exchange will determine the strike range of the settlement strip and will disseminate it to all subscribers to the Exchange's data feeds that deliver opening auction update messages, no later than 8:45 a.m. Eastern Time on exercise settlement value determination days. The Exchange may update this strike range until 9:15 a.m. Eastern Time, and will disseminate any updates during that time period as soon as reasonably possible. Therefore, the final strike range of the settlement strip that the Exchange disseminates at 9:15 a.m. Eastern Time to market participants will be identical to that which the Exchange will use to calculate the VIX settlement value itself.

Currently, to select the settlement strip, the VIX methodology excludes from the universe of out-of-the-money SPX put and call options in any SPX series that have a zero bid price. The methodology then truncates the SPX series used to calculate the VIX settlement value after encountering two consecutive series having ''zero-bid'' prices, even if further out-of-the-money series have an opening trade price and are ''non-zero'' bid. The current VIX settlement methodology selects these series based on the opening trade prices, and then posts the actual series used to calculate the SOQ after the settlement. In other words, the settlement strip is set after the opening rotation in those series is complete, because only those series that have a bid remaining immediately after the open are eligible for inclusion in the settlement calculation.

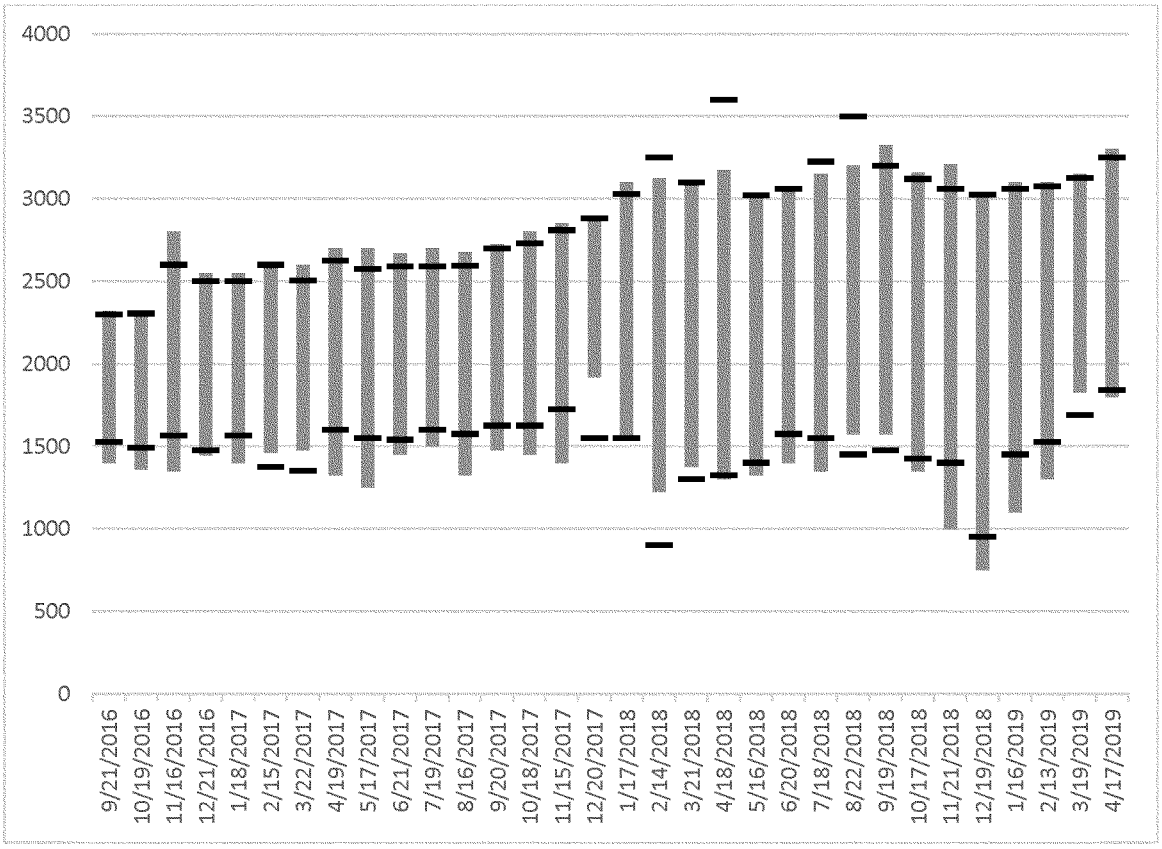
As proposed, the Exchange will determine the strike range of the settlement strip prior to the settlement pursuant to an algorithm designed to approximate the same settlement strip as would be used pursuant to the current methodology based on various market inputs available on expiration settlement value determination days. As discussed above, one of the reasons the Exchange uses a tradable settlement is to provide market participants with the opportunity to convert the exposure of an expiring VIX derivative into a portfolio of series that comprise the settlement strip to maintain their vega risk exposure of expiring VIX derivatives. Market participants currently submit these vega replicating orders in the series they believe (but do not know when submitting them) will ultimately comprise the settlement strip. However, if their estimation is incorrect, their resulting vega risk exposure may not be perfectly replicated (*i.e.,* is subject to slippage). By setting the strike range of the final settlement strip no later than 9:15 a.m. Eastern Time, market participants will have sufficient time prior to the cut-off time to enter or modify their vega replicating orders to match the actual settlement strip. The Exchange believes determination of the strike range of the settlement strip prior to the cut-off time, and disseminating to market participants the high call strike and low call put of this strike range, is consistent with the purpose of the tradable settlement, as it will provide market participants with an opportunity to achieve accurate replication of the vega risk exposure of their expiring VIX derivatives.

The following charts contrast the strikes ranges actually employed in previous exercise settlement value determination days versus the strike ranges the proposed approach would have employed. The vertical lines identify the actual strikes used in the settlement strips on the exercise settlement value determination days during the timeframes in the charts, and the horizontal lines identify the highest call strike and lowest put strike that Exchange's algorithm would have used on those exercise settlement value determination days.[69]

The Exchange applied the approach it intends to use to determine the strike range of the settlement strip to 32 previous exercise settlement value determination days for VIX derivatives with standard expirations between September 21, 2016 and April 19, 2019 to compare which settlement strip the formula would have selected to the actual settlement strip on those days. The Exchange also determined how use of the settlement strip determined by the formula as proposed would have changed the actual VIX settlement value on those days. There was no directional bias in the differences observed and the average absolute difference was 0.09 in those cases.

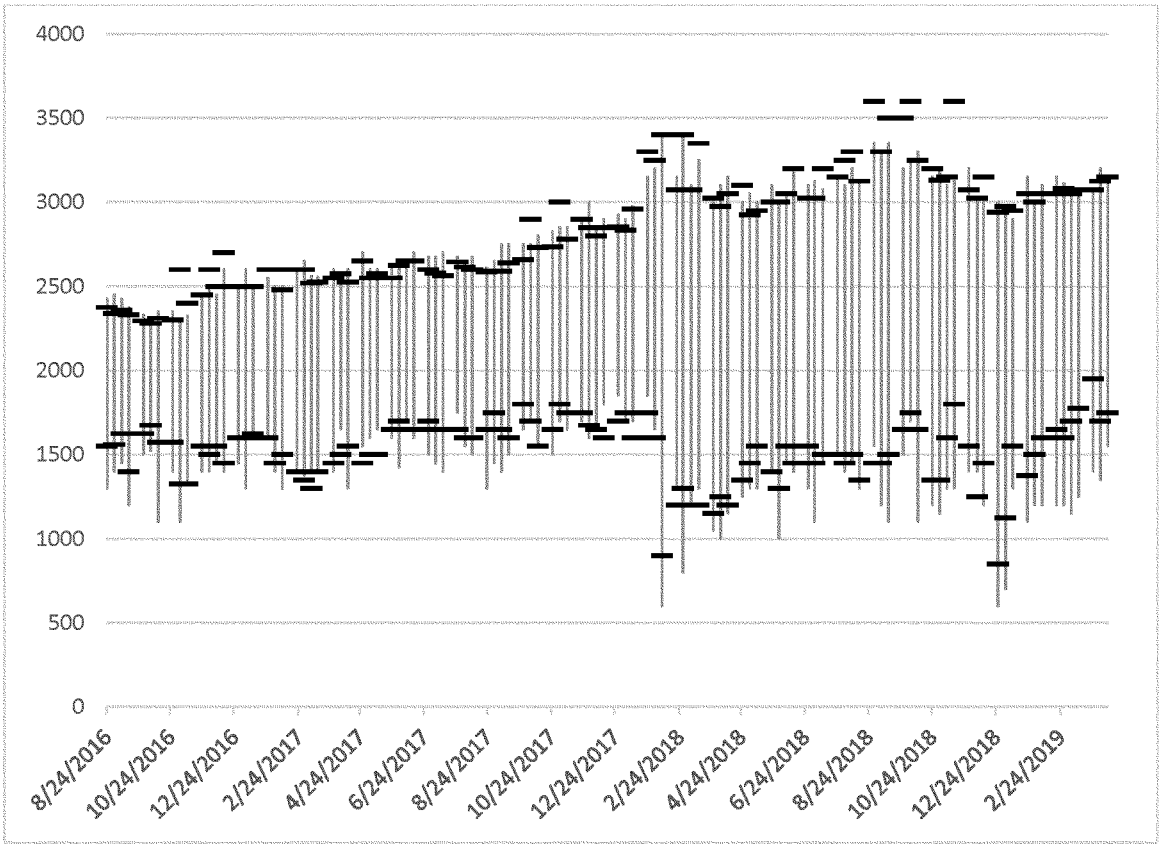
[69] Note the Exchange did not apply the algorithm it intends to use to make any updates to the strike range after 8:45 a.m. Eastern Time.

Comparison of Settlement Strip (VIX Derivatives with Standard Expirations)



Similarly, the Exchange applied the approach it intends to use to determine the strike range of the settlement strip to 107 previous exercise settlement value determination days for VIX derivatives with weekly expirations between August 24, 2016 and April 10, 2019 to compare which settlement strip the formula would have selected to the actual settlement strip on those days. The Exchange also determined how use of the settlement strip determined by the formula as proposed would have changed the actual VIX settlement value on those days. There was no directional bias in the differences observed and the average absolute difference was 0.07 in those cases.

Comparison of Settlement Strip (VIX Derivatives with Weekly Expirations)



The Exchange intends to begin determining the strike range for the settlement strip prior to the opening rotation on the first exercise settlement value determination date following the technology migration (which would be October 9, 2019), and thus, this selection process would apply to the settlement of VIX derivative positions that were created prior to this change. The Exchange believes the Exchange is providing the marketplace and investors with sufficient notice that the Exchange will determine the strike range for the settlement strip used to determine the exercise settlement value for all VIX derivative contracts listed for trading prior to and after the System migration. Additionally, because the approach the Exchange intends to use is designed to approximate the same settlement strip as would be used pursuant to the current methodology, and in light of the Exchange's analysis described above, the Exchange believes the proposed rule change will have a de minimis impact, if any, on the settlement strip (and thus the VIX settlement value) that would have been selected (and thus the VIX settlement value) if the current procedure had been applied to existing VIX derivatives.

Additionally, while the Exchange believes the current settlement process is not readily susceptible to manipulation, the proposed rule change may provide additional protection against manipulation since the Exchange will be solely responsible for determining the strike range used of the settlement strip. This is because the non-zero bid provision and two consecutive zero-bid provisions in the current VIX settlement methodology will no longer be used for determining the settlement strip used to calculate the exercise settlement value for VIX derivatives. The Exchange's algorithm that will determine the strike range of the settlement strip will employ numerous market inputs, including prices (both on the exercise settlement value determination day (including during the GTH trading day) and the previous trading day) of SPX options, SPY options, e-mini S&P 500 options. Therefore it is unlikely for one of these inputs of the Exchange's algorithm to have a material impact on the determination of the strike range. The Exchange believes this feature will therefore will further enhance the modified opening auction process in a manner that contributes to a fair and orderly opening and settlement process and that protects investors.

Proposed Rule 5.31(j)(4) states the opening rotation on exercise settlement value determination days will be the same as the opening rotation that occurs on all other days, with one exception. Specifically, the opening rotation on exercise settlement value determination days will occur as follows:

- First, the System will conduct the Maximum Composite Width check, as set forth in proposed Rule 5.31(e)(1). As noted above, the Exchange will have different Maximum Composite Widths applicable to constituent series on exercise settlement value determination days.
- Second, after a series satisfies the Maximum Composite Width Check described in proposed subparagraph (e)(1), if there are orders and quotes marketable against each other at a price not outside the Opening Collar, the System determines the Opening Trade Price for the series. As noted above, the Exchange will have different Opening Collar widths applicable to constituent series on exercise settlement value determination days. If there are no such orders or quotes, there is no Opening Trade Price. The System will determine

the VMIM price pursuant to proposed subparagraphs (e)(2)(A) through (C), as described above (in the same manner as it determines the VMIM price on all other days). During the opening rotation on non-exercise settlement value determination days, the Opening Trade Price is the VMIM price that is not outside the Opening Collar. In other words, if the System determines that the VMIM price is outside of the Opening Collar, rather than not open, the System will use the collar limit as the opening price. For example, assume the Composite Market is 1.00—1.20, with size 100 x 100, and the Opening Collar range is 1.00—1.20. There is also an order to sell 100 at 1.25 and an order to buy 101 for 1.25 in the Queuing Book. The VMIM is 1.25, which is outside the Opening Collar. The System instead will use 1.20 as the Opening Trade Price, and trade 100 contracts of the buy order with 100 contracts of the Market-Maker offer at 1.20, which is the VMIM price not outside the Opening Collar.

On exercise settlement value determination days for constituent series, this part of the opening rotation process will be different than on other days. Pursuant to proposed Rule 5.31(j)(4)(C), if (1) the VMIM price is outside the Opening Collar or (2) there would be unexecuted market orders (or remaining portions), the series would not open.[70] In either case, the Queuing Period for the series continues (including the dissemination of opening auction updates) until the VMIM price is not outside the Opening Collar, or the Exchange opens the series pursuant to proposed paragraph (h). Using the same example as above, assume the Composite Market is 1.00—1.20, with size 100 x 100, and the Opening Collar is 1.00—1.20. There is also an order to sell 100 at 1.25 and an order to buy 101 for 1.25 in the Queuing Book. The VMIM is 1.25, which is outside the Opening Collar range, so the series is not eligible to open. As another example, using the same Composite Market and Opening Collar, but the only liquidity in the Queuing Book is a market order to buy 101. The VMIM is 1.20, but the series is not eligible to open because there would be an unexecuted portion of a market order remaining.

While this approach is different than the proposed opening auction process on other days, it is consistent with the current opening auction process in classes in which HAL is not activated at the open.[71] The Exchange does not activate HAL at the open for SPX, and therefore the proposed approach is consistent with an opening condition that applies to the current modified opening auction process. The Exchange proposes to keep this same opening requirement in place for the modified opening auction process, because the opening trading prices that will be used to determine the settlement values of expiring VIX derivatives will be determined by prices of interest in the market (subject to, but not capped by, an Exchange-determined price range to protect against potentially erroneous executions). The Exchange believes maintaining this same opening condition for the modified opening auction process will contribute (as it does today) to a fair and orderly auction and settlement process.

- Third, if the System establishes an Opening Trade Price, the System executes orders and quotes in the Queuing Book at the Opening Trade Price, and if there is no Opening Trade Price, the System opens a series without a trade, as set forth in proposed Rule 5.31(e)(3).

Proposed Rule 5.31(j)(2)(A) states that, to the extent the Exchange makes a determination for the opening auction process pursuant to proposed Rule 5.31, it may make a separate determination for the modified opening auction process pursuant to proposed paragraph (j), including but not limited to (1) the Opening Collar width, (2) the Maximum Composite Width, and (3) the time intervals at which the Exchange disseminates opening auction updates. This is consistent with current Exchange authority pursuant to current Rule 6.2, Interpretation and Policy .05; the proposed rule change merely states this explicitly in the Rules. Given the unique purpose of the modified opening auction process, the Exchange believes this flexibility is appropriate to permit the Exchange to facilitate a fair and orderly opening and settlement process.

Proposed Rule 5.31(j)(2)(B) states the Exchange may determine it is necessary in the interests of a fair and orderly market (for example, due to the existence of unusual market conditions or circumstances) to delay the time at which the System begins attempting to observe an opening rotation trigger pursuant to proposed subparagraph (d)(1) above for the modified opening auction process. If that delay occurs, the Exchange will determine a revised time and announce it to market participants as soon as reasonably possible. Additionally, to correspond to that revised time, the Exchange will adjust (1) the times at which it determines the strike range of the settlement strip, and (2) the order entry cut-off time.[72] Proposed Rule 5.31(j)(2)(C) states the Exchange may determine it is necessary in the interests of a fair and orderly market (for example, due to the existence of unusual market conditions or circumstances) to not use the modified opening auction process described in proposed paragraph (j). If that occurs, the Exchange will announce that to market participants as soon as reasonably possible. These proposed provisions are consistent with current Exchange authority pursuant to current Rule 6.2(e) and proposed Rule 5.31(h); the proposed rule change merely states this explicitly in the Rules, and references the specific times in the proposed modified opening auction process that may be adjusted given such unusual conditions or circumstances.

Proposed Rule 5.31(j)(5) states a User may submit multiple orders and quotes in accordance with proposed subparagraph (j)(3). If, during the opening rotation, the System executes an order or quote of that User against another order or quote of that User, the Exchange does not deem that fact alone to cause these executions to be considered violations of Section 9(a)(1) of the Exchange Act, and instead will evaluate other facts and circumstances.[73] The Exchange reviews all activity, including these executions, during the modified opening auction

[70] As is the case on all other days, on an exercise settlement value determination day, if the VMIM price is not outside the Opening Collar, it is the Opening Trade Price, and the System opens the series pursuant to proposed subparagraph (e)(3). *See* proposed subparagraph (j)(4)(B).

[71] *See* current Rule 6.2(d)(i)(C) and (D).

[72] For example, if the Exchange determine to delay the time at which the System begins attempting to observe an opening rotation trigger from 9:30 a.m. to 12:00 p.m., the times between which the Exchange would determine the strike range of the settlement strip would move from 8:45 a.m. through 9:15 a.m. to 11:15 a.m. through 11:45 a.m.; and the cut-off time would move from 9:20 a.m. to 11:50 a.m.

[73] Section 9(a)(1) of the Exchange Act states it is unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange, for the purpose of creating a false or misleading appearance of active trading in any security other than a government security, or a false or misleading appearance with respect to the market for any such security, (a) to effect any transaction in such security which involves no change in the beneficial ownership thereof, (b) to enter an order or orders for the purpose of such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties, or (c) to enter any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

process for compliance with the Rules and the Exchange Act, including current Rule 4.7 (which the Exchange intends to propose to move to Rule 10.6 in the shell Rulebook).[74]

Market participants may currently submit multiple orders and quotes to the modified opening auction process.[75] It is possible that a User's order or quote may execute against another order or quote of that User. For example, if a User today submits a strategy order prior to the cut-off time, and then submits a non-strategy order in response to an imbalance EOI following the cut-off time, it is possible for those orders to execute against each other during the opening rotation. Similarly, as proposed, a market participant may submit orders that replicate the vega exposure of its expiring VIX derivatives prior to the cut-off time, and then submit a SLOO after the cut-off time to contribute liquidity to the opening process (including to offset any imbalances). In both cases, the purpose of submitting the second order (assuming there were no other factors demonstrating a different purpose) was not to execute against the strategy order (and thus effect a transaction that involves no change in beneficial ownership to create a false or misleading appearance of active trading in SPX options), but rather to contribute liquidity to the modified opening auction process to offset an existing imbalance and to contribute to a fair and orderly opening process for that series.

The Exchange proposes to expressly state in the Rules that, subject to other facts and circumstances (such as that may demonstrate a different purpose for the submission of the orders), the Exchange will not consider self-trades resulting from the execution of a User's orders against each other during the opening rotation of the modified opening auction process to be violations of Section 9(a)(1) of the Exchange Act. If the Exchange observes other facts and circumstances surrounding these executions that demonstrate these orders may have been submitted for improper purposes (*i.e.,* not for bona fide reasons to submit orders to the modified opening auction process), the Exchange may review that activity for compliance with Section 9(a)(1) of the Exchange Act, and all other sections of the Securities Exchange Act of 1934 (the ''Act'') and the Rules. The following are examples of occurrences of self-trades that, based on the facts and circumstances (assuming there were no other circumstances that may indicate manipulative intent), appear not to have been conducted for an improper purpose, and thus to be self-trades the Exchange would not deem to be violations of Section 9(a)(1) of the Exchange Act:

Example #1

Strike range of settlement strip determined at 9:15 a.m. Eastern Time: 2800 through 3200 calls, and 2800 through 1500 puts

Best SPX Market-Maker Quote Range in the 2000 put series at 9:20 a.m. Eastern Time: 0–0.20 (0 × 500 contracts)

Firm A submits vega replicating market order to buy 1,000,000 vega at 9:17 a.m. Eastern Time

Firm B submits vega replicating market order to buy 500,000 vega at 9:18 a.m. Eastern Time

This example focuses on the 2000 put series, in which Firm A has a market order to buy 1,000 contracts of the 2000 put and Firm B has a market order to buy 500 contracts of the 2000 put. At the 9:20 cut-off time, the book depth shows a GTC order to sell 10,000 of the 2000 put for 0.50 was previously submitted. The Opening Collar range is 0 to 0.25.[76] At 9:20 a.m., the then-current expected opening price based on orders and quotes in the Queuing Book is 0.50, at which price there are 1,500 contracts to buy (from the vega replicating orders of Firms A and B) and 1,500 contracts to sell (from the resting GTC order), which price is outside of the Opening Collar. As a result, the opening auction updates indicate more sellers are needed at a price of no more than 0.25 in order for the series to open. At 9:22 a.m., Firm A sees one of those messages and submits a SLOO to sell 500 of the 2000 put at 0.20. The same imbalance continues to exist (because more contracts will execute at a price of 0.50 than 0.20), so the opening auction updates continue, except the amount of the imbalance has been reduced (there are now 1,500 contracts to buy and 1,000 contracts to sell at that price). At 9:28 a.m., Firm C sees one of those messages and submits a SLOO to sell 500 at 0.15. As a result, there are 1500 contracts on each side of the market to open with an Opening Trade Price of 0.20. Assuming no other sellers enter the market prior to the opening of trading, during the opening rotation:

- Firm A buys 1,000 contracts of the 2000 put at 0.20
- Firm B buys 500 contracts of the 2000 put at 0.20
- Firm A sells 500 contracts of the 2000 put at 0.20
- Firm C sells 500 contracts of the 2000 put at 0.20
- Market-Makers sell 500 contracts of the 2000 put at 0.20

If the System executed some or all of the contracts comprising Firm A's SLOO against 500 contracts comprising part of Firm A's vega replicating market order to buy, based on this information (and in the absence of other facts and circumstances demonstrating a different intent), it appears Firm A submitted the SLOO because it deemed that submission to be in Firm A's interest to try to execute against contra-side interest causing the imbalance and ensure the series opens at a reasonable price, rather than to influence the settlement price. Therefore, the Exchange would not view execution of Firm A's SLOO against its vega replicating order would not be deemed a violation of Section 9(a)(1) of the Exchange Act.

Example #2

Strike range of settlement strip determined at 9:15 a.m. Eastern Time: 2800 through 3200 calls, and 2800 through 1500 puts

Best SPX Market-Maker Quote Range in the 2800 call series at 9:20 a.m. Eastern Time: 10.00–11.00 (500 × 500 contracts)

Firm A submits vega replicating market order to buy 1,000,000 vega at 9:17 a.m. Eastern Time

Firm B submits vega replicating market order to sell 500,000 vega at 9:18 a.m. Eastern Time

This example focuses on the 2800 call series, in which Firm A has a market order to buy 200 contracts of the 2800 call and Firm B has a market order to sell 100 contracts of the 2800 call. The

[74] Current Rule 4.17 (which the Exchange intends to move to Rule 8.17 in the shell Rulebook) states no TPH may effect or induce the purchase, sale, or exercise of any security for the purpose of creating or inducing a false, misleading, or artificial appearance of activity in such security or in the underlying security, or for the purpose of unduly or improperly influencing the market price of such security or of the underlying security or for the purpose of making a price that does not reflect the true state of the market in such security or in the underlying security. No TPH or any other person or organization subject to the jurisdiction of the Exchange may directly or indirectly participate in or have any interest in the profit of a manipulative operation or knowingly manage or finance a manipulative operation.

[75] While current Rule 6.2, Interpretation and Policy .01 does not explicitly state this principle, there is no restriction on market participants submitting multiple orders and quotes to the modified opening auction process.

[76] Assume for a Composite Bid of 0, the Exchange has determined the width of the Opening Collar is 0.30, and the range is determined by adding and subtracting half of that width to the Market-Maker quote midpoint of 0.10.

Opening Collar range is 10.10–10.90.[77] At 9:20 a.m., the then-current expected opening price based on orders and quotes in the Queuing Book is 11.00, at which price there are 200 contracts to buy (from the vega replicating order of Firm A) and 200 contracts to sell (from Market-Makers), which price is outside of the Opening Collar. As a result, the opening auction updates indicate more sellers are needed at a price of no more than 10.90 in order for the series to open. At 9:22 a.m., Firm A sees one of those messages and submits a SLOO to sell 100 of the 2800 call at 10.80. As a result, there are 200 contracts on each side of the market to open with an Opening Trade Price of 10.90. Assuming no other sellers enter the market prior to the opening of trading, during the opening rotation:

- Firm A buys 200 contracts of the 2800 call at 10.90
- Firm A sells 100 contracts of the 2800 call at 10.90
- Firm B sells 100 contracts of the 2800 call at 10.90

In this case, the 100 contracts from Firm A's SLOO executed against 100 contracts of Firm A's vega replicating market order to buy. Based on this information (and in the absence of other facts and circumstances demonstrating a different intent), it appears Firm A submitted the SLOO because it deemed that submission to be in Firm A's interest to try to execute against contra-side interest causing the imbalance and ensure the series opens at a reasonable price, rather than to influence the settlement price. Therefore, the Exchange would not view execution of Firm A's SLOO against its vega replicating order would not be deemed a violation of Section 9(a)(1) of the Exchange Act.

Example #3

Strike range of settlement strip determined at 9:15 a.m.: 2800 through 3200 calls, and 2800 through 1500 puts

Firm A submits vega replicating market order to buy 3,000,000 vega at 9:17 a.m. Eastern Time Eastern Time Firm B submits vega replicating market order to buy 1,500,000 vega at 9:18 a.m. Eastern Time

As a result, the opening auction updates indicate more sellers are needed in most of the strikes in the settlement strip series. At 9:25 a.m., Firm A determines from the auction update messages that the indicative VIX value may be above 17.5 with a total amount of 4,500,000 vega. Separately, the auction update messages indicate at least 1,000,000 vega to sell is necessary to open. Firm A responds to these auction update messages by submitting a SLOO in each series in the settlement strip that need sellers based on 1,000,000 vega with an indicative VIX value of 16.5. Other market participants also submit SLOOs to offset the imbalances. The indicative VIX settlement value is 16.75. Assuming no other sellers enter the market prior to the opening of trading, during the opening rotation:

- Firm A buys 3,000,000 vega at 16.75
- Firm B buys 1,500,000 vega at 16.75
- Firm A sells 1,000,000 vega at 16.75
- MMs sell 3,500,000 vega at 16.75

If the System executed some or all of the contracts comprising Firm A's SLOO to sell against contracts comprising part of Firm A's vega replicating market order to buy, based on this information (and in the absence of other facts and circumstances demonstrating a different intent), it appears Firm A submitted the SLOO because it deemed that submission to be in Firm A's interest to try to execute against contra-side interest causing the imbalance and ensure the series opens at a reasonable price, rather than to influence the settlement price. Therefore, the Exchange would not view execution of Firm A's SLOO against its vega replicating order would not be deemed a violation of Section 9(a)(1) of the Exchange Act.

The Exchange has an adequate surveillance program in place to review options activity during the modified opening auction process that occurs on each exercise settlement value determination day. The Exchange is updating its surveillance program to reflect the proposed amendments to the process, and will continue to review its surveillance program to determine whether additional enhancements are necessary or appropriate.

The Exchange will continue to evaluate the modified opening auction process to identify potential enhancements, and intends to modify the procedure as it deems appropriate to contribute to a fair and orderly opening process. A fair and orderly opening in these series benefits all market participants who trade in the volatility index derivatives and series that comprise the settlement strip.

The proposed rule change deletes current Rule 6.2, Interpretation and Policy .02(a) regarding the Exchange's ability to determine minimum size requirements for Market-Maker opening quotes. The Exchange currently does not impose a minimum size requirement for opening quotes, and does not intend to. The proposed rule change also deletes current Rule 6.2, Interpretation and Policy .02(b) regarding the Exchange's ability to set bid/ask differential requirements for Market-Makers' opening quotes, as the Exchange no longer intends to impose these requirements on Market-Maker opening quotes.[78] As noted above, pursuant to current Rule 8.7 (which the Exchange expects to move to Rule 5.51 in the shell Rulebook), a Market-Maker has general obligations to, among other things, engage (to a reasonable degree under existing circumstances) in dealings for the Market-Maker's own account when there exists a lack of price continuity, a temporary disparity between the supply of and demand for an option (*i.e.,* an imbalance), to compete with other Market-Makers to improve markets in its appointed classes, and to update market quotations in response to changed market conditions in its appointed classes. Therefore, the Exchange believes at this time it is unnecessary to impose other obligations on Market-Makers. Additionally, the Exchange believes the proposed Maximum Composite Width and Opening Collars that generally must be satisfied for a series to open will further incentive [sic] Market-Makers to submit competitive quotes.

The proposed rule change deletes current Rule 6.2, Interpretation and Policy .05 regarding Exchange determinations, as it is duplicative of Rule 1.5 in the shell Rulebook.

The Exchange intends to add a rule regarding the use of aftermarket valuation processes for SPX options, as currently described in Rule 6.2, Interpretation and Policy .06, to the shell Rulebook in a separate rule filing. Because proposed Rule 5.31 relates solely to the opening of option series, the Exchange believes it is appropriate to move the provision regarding non-trading closing rotations to a different rule.

The proposed rule change moves the provision regarding how the existence of a limit up-limit down state in a class will impact the opening auction process from current Rule 6.2, Interpretation and Policy .07 to proposed Rule 5.31(i). The proposed rule change makes no substantive changes to that provision.

[77] Assume for a Composite Bid of 10.00, the Exchange has determined the width of the Opening Collar is 0.80, and the range is determined by adding and subtracting half of that width to the Market-Maker quote midpoint of 10.50.

[78] The Exchange notes other options exchanges do not impose these requirements on Market-Makers at the opening of trading. *See, e.g.,* C2 Rule 6.11.

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.[79] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[80] 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)[81] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed opening auction process is substantially similar to the Exchange's current opening auction process. The Exchange believes the proposed opening auction process will continue to create opportunities for price discovery based on then-current market conditions when the Exchange opens series for trading. The Exchange believes the proposed opening auction process will promote competitive liquidity and open series at prices consistent with then-current market conditions, and thus will promote a fair and orderly opening process.

While the proposed Queuing Period for the GTH trading session begins later than the current order entry period, the Exchange believes market participants will continue to have sufficient time prior to the GTH trading session to submit orders and quotes for participation in the opening auction process for that trading session. This proposed rule change promotes just and equitable principles of trade, as it provides market participants with the same amount of time to submit orders and quotes for participation in the opening auction process for the RTH trading session (approximately one hour).

The proposed rule change will remove impediments to and perfect the mechanism of a free and open market, and protect investors by ensuring market participants will continue to have access to robust information regarding the opening of a series. While the information the Exchange will disseminate in opening auction updates will differ slightly from the information the Exchange currently disseminates in EOIs, the information to be disseminated is equivalent to the currently disseminated information, and will continue to provide market participants with transparency that will permit them to participate in the opening auction process and contribute to, and benefit from, the price discovery the auction may provide. The Exchange believes the proposed opening auction updates are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, because all market participants may subscribe to the Exchange's data feeds that deliver these messages, and thus all market participants will have access to this information.

The proposed opening rotation triggers are substantially similar to the current events that will trigger series openings on the Exchange. The proposed trigger events will remove impediments to and perfect the mechanism of a free and open market and a national market system, as they ensure that during Regular Trading Hours, the underlying securities will have begun trading, or the underlying index values will have begun being disseminated, before the System opens a series for trading. As this information will not be available during Global Trading Hours, the Exchange believes it is appropriate to continue to begin the opening rotation for Global Trading Hours at a specified time. Additionally, the Exchange believes its current flexibility to open certain equity option classes and certain index option classes based on different triggers is no longer necessary. The Exchange believes opening all equity option classes based on the same trigger will protect investors by simplifying the process.

The proposed Maximum Composite Width Check and Opening Collar will protect investors by providing price protection measures to prevent orders from executing at extreme prices at the open. The Exchange believes it is appropriate to open a series under the proposed circumstances and provide marketable orders with an opportunity to execute at a reasonable opening price (as discussed below), because there is minimal risk of execution at an extreme price. These proposed price protection mechanisms are substantially similar to the current price protection mechanisms the Exchange applies during the opening auction process, as they are based on all available pricing information, including Market-Maker bulk messages (which are generally used to price markets for series) and any quotes disseminated from away markets. The proposed price protection mechanisms, like the current price protection mechanisms, will also consider whether there are crossing orders or quotes when determining whether the opening width and trade price are reasonable. As a result, the Exchange believes the proposed process to determine an Opening Trade Price will incorporate then-current market conditions. While the Exchange proposes to calculate the maximum width and opening price range in a slightly different manner, the Exchange believes this proposed manner is reasonable and will promote a fair and orderly opening.

The Exchange believes the proposed modified opening auction process will protect investors, as it will continue to provide investors with the opportunity to submit vega replicating orders and other liquidity into the auction. The proposed modified opening auction process will function in a substantially similar manner as the current modified opening auction process. The proposed elimination of the concept of strategy orders and the adoption of a systematically enforced (and thus definitive) approach regarding the types of orders market participants may submit following the cut-off time is the primary difference between the current and proposed auction process. The Exchange believes this change will provide clarity and certainty to market participants regarding the orders and quotes they may submit following the cut-off time, which may encourage them to provide additional liquidity to the modified opening auction process. All market participants will have the opportunity following the cut-off time to address order imbalances and provide price transparency to the auction process without the perceived risk of potentially modifying a previously submitted strategy order.

The Exchange believes the proposed rule change removes an impediment that may have discouraged market participants from submitting orders to offset imbalances and from providing price discovery in response to changing market conditions prior to the open. As a result, the Exchange believes the proposed rule change to permit all Users to submit SLOOs, which functionally cannot create or increase an imbalance, and to continue to let appointed SPX Market-Makers update quotes following the cut-off time, should result in

[79] 15 U.S.C. 78f(b).

[80] 15 U.S.C. 78f(b)(5).

[81] *Id.*

increased liquidity in the modified opening auction process. This increased liquidity may increase execution opportunities, reduce imbalances in series in the settlement strip, promote price transparency, and increase the presence of quotes within the Opening Collar range. This will ultimately benefit all market participants who trade VIX derivatives and the SPX option series that comprise the settlement strip.

The proposed rule change that the Exchange will determine the strike range of the settlement strip prior to the opening of trading is consistent with one of the primary purposes of the modified opening auction process, which is to provide investors with an opportunity to replicate the vega risk exposure of their expiring VIX derivatives. The proposed rule change will benefit investors, as it will provide market participants with the opportunity to perfectly replicate this exposure, as they will have a minimum of five minutes to enter or modify their vega replicating orders prior to the cut-off time to conform them to the actual settlement strip.

The Exchange also believes the modified opening auction process, including the change pursuant to which the Exchange will determine the strike range of the settlement strip prior to the cut-off time, will continue to be designed to prevent fraudulent and manipulative acts and practices. The proposed rule change may provide additional protection against manipulation since the Exchange will be solely responsible for determining the strike range of the settlement strip, meaning it would become impossible for anyone to attempt to manipulate the VIX settlement process by attempting to artificially affect which SPX series will have zero bids at the opening. The Exchange believes this will therefore will [sic] further enhance the modified opening auction process in a manner that contributes to a fair and orderly opening and settlement process and that protects investors.

All market participants (include those that may submit orders and quotes following the cut-off time) will continue to be required to abide by current Rules 4.1 (Just and Equitable Principles of Trade), 4.7 (Manipulation), and 4.18 (Prevention of the Misuse of Material, Nonpublic Information). The Exchange will continue to conduct surveillance to monitor all trading activity in constituent option series on exercise settlement value determination days, including but not limited to monitoring the entry of orders and quotes following the cut-off time, as well as compliance with other Rules.

The proposed rule change is generally intended to align system functionality currently offered by the Exchange with other Cboe Affiliated Exchange functionality in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. The proposed opening auction process (other than the modified opening auction process, which only occurs on the Exchange) is virtually identical to the opening auction process on two other Cboe Affiliated Exchanges.[82] A consistent technology offering, in turn, will simplify the technology implementation, changes, and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. The Exchange believes this consistency will promote a fair and orderly national options market system. When Cboe Options migrates to the same technology as that of the Cboe Affiliated Exchanges, Users of the Exchange and other Cboe Affiliated Exchanges will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change to amend the standard opening auction process will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it will apply to orders and quotes of all market participants in the same manner. The order types that may not be accepted prior to the opening of trading, or that may not participate in the opening of trading, are substantially similar to the restrictions currently in place. The Exchange does not believe that the proposed rule change to amend the standard opening auction process will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it is designed to open series on the Exchange in a fair and orderly manner. The Exchange believes the proposed opening auction process will continue to provide market participants with an opportunity for price discovery based on then-current market conditions when the Exchange opens series for trading. This will facilitate the presence of sufficient liquidity in a series when it opens, and increase the ability of series to open at prices consistent with then-current market conditions (at the Exchange and other exchanges) rather than at extreme prices that could result in unfavorable executions to market participants. Additionally, as discussed above, the proposed opening auction process is substantially similar to the opening auction process in the rules of certain Cboe Affiliated Exchanges.[83]

The Exchange does not believe that the proposed rule change to amend the modified opening auction process will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it will apply to orders and quotes of all market participants in the same manner. The proposed rule change will continue to permit all market participants to submit orders and quotes, including vega replicating orders, prior to a cut-off time that will provide market participants with sufficient time to respond to imbalances (which is consistent with the initial purpose of the cut-off time). All market participants may submit SLOOs following the cut-off time, which will be handled by the System in the same manner. Market-Makers will continue to have the ability to submit quotes following the cut-off time to offset imbalances and update the prices of their quotes in response to changing market conditions prior to the open.

The Exchange does not believe the proposed rule change to amend the modified opening auction process will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it is designed to promote a fair and orderly opening and settlement process for series that trade on the Exchange and are used to determine the exercise settlement value for VIX derivatives. The Exchange believes the proposed rule change will contribute to price transparency and liquidity in the series that comprise the settlement strip, and thus to a fair, competitive, and orderly opening and settlement process on exercise settlement value determination days.

[82] *See* C2 Rule 6.11 and EDGX Options Rule 21.7.

[83] *See* C2 Rule 6.11 and EDGX Options Rule 21.7.

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–2019–034 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2019–034. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2019–034 and should be submitted on or before August 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[84]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15475 Filed 7–19–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86391; File No. SR–NYSEAMER–2019–27]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule by Revising the Options Regulatory Fee

July 16, 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 July 2, 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'') by revising the Options Regulatory Fee (''ORF''), effective August 1, 2019. 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to revise the amount of the ORF, effective August 1, 2019. Specifically, to respond to increased options transaction volumes in 2018, which reverted (in part) in the first half of 2019, the Exchange proposes to lower the ORF to $0.0054 (from $0.0055) per contract side for the remainder of 2019.

Background

As a general matter, the Exchange may only use regulatory funds such as ORF ''to fund the legal, regulatory, and surveillance operations'' of the Exchange.[4] More specifically, the ORF is designed to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of ATP Holders (the ''ATP Regulatory Costs''). The majority of the ATP Regulatory Costs are direct expenses, such as the costs related to in-house staff, third-party service providers, and technology. The direct expenses support the day-to-day regulatory work relating to the ATP Holders, including surveillance, investigation, examinations and

[84] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange considers surveillance operations part of regulatory operations. The limitation on the use of regulatory funds also provides that they shall not be distributed. *See* Twelfth Amended and Restated Operating Agreement of NYSE American LLC, Article IV, Section 4.05 and Securities Exchange Act Release No. 79114 (October 18, 2016), 81 FR 73117 (October 24, 2016) (SR–NYSEMKT–2013–93).

enforcement. Such direct expenses represent approximately 91% of the Exchange's total ATP Regulatory Costs. The indirect expenses include human resources and other administrative costs.

The ORF is assessed on ATP Holders for options transactions that are cleared by the ATP Holder through the Options Clearing Corporation (''OCC'') in the Customer range regardless of the exchange on which the transaction occurs.[5] All options transactions must clear via a clearing firm and such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from ATP Holder clearing firms by the OCC on behalf of NYSE American,[6] the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such ATP Holders. In addition, the Exchange notes that the regulatory costs relating to monitoring ATP Holders with respect to Customer trading activity are generally higher than the regulatory costs associated with ATP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating ATP Holders that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the ATP Holder's relationship with its Customers via more labor-intensive exam-based programs.[7] As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* ATP Holder proprietary transactions) of its regulatory program.

ORF Revenue and Monitoring of ORF

Exchange rules establish that the Exchange may only increase or decrease the ORF semi-annually, that any such fee change will be effective on the first business day of February or August, and that market participants must be notified of any such change via Trader Update at least 30 calendar days prior to the effective date of the change.[8]

Because the ORF is based on options transactions volume, ORF revenue to the Exchange is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from ATP Holders will increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from ATP Holders will decrease as well. Accordingly, the Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue does not exceed regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the ''Commission'').

In addition, because Exchange rules establish that ORF may be adjusted only every six months, the Exchange does not believe it is appropriate to adjust ORF based on short-term changes in options transaction volume.[9] For example, if options volume materially increases or decreases during a six-month period, the Exchange believes it is appropriate to wait an additional six-month period to assess whether such increase or decrease in options volume either continues, is sustained at that level, or reverses in such a way that the average reported options transaction volume in fact has remained stable year over year.

Proposal

The Exchange is proposing to decrease the amount of ORF that will be collected by the Exchange from $0.0055 per contract side to $0.0054 per contract side. The Exchange proposes this change because from 2017 to 2018, options transaction volume increased to a level that if the ORF is not adjusted, the ORF revenue to the Exchange year-over-year could exceed a material portion of the Exchange's regulatory costs.

The last time the Exchange changed the ORF fee was February 2014.[10] Over that time, options transaction volumes fluctuated with a slight increase beginning in 2017. But prior to the 2018 increases in options transaction volume, any prior options transaction volume increases did not result in the ORF revenue to the Exchange increasing to levels such that the Exchange recovered via the ORF more than a material portion of the Exchange's regulatory costs. The Exchange believes that 2018 was a unique year because, from 2017 to 2018, there was a 23.95% year-over-year increase in Total Industry Customer equity and ETF option average daily volume (''TCADV'').[11] By contrast, the year-over-year TCADV in prior years was down between 2014 and 2016. For example, TCADV decreased 3.1% from 2014 to 2015 and 2.3% from 2015 to 2016. The year-over-year options volume experienced a slight uptick from 2016 to 2017, when TCADV increased 2.0%, which was followed in 2018 by the 23.95% spike in volume. In 2019, options volume has declined year-over-year by 4.5%—which is the largest drop in year-over-year options volume since 2011 to 2012. Thus, options volumes for the first five months of 2019 have not sustained the 2018 volume level and have in fact declined from that level.

To determine whether ORF fees should be adjusted, the Exchange has reviewed not only the increase in options transaction volume in 2018, but also options transaction volume in the first five months of 2019. Based on 2019 transaction volumes, which are down by 4.5%, the Exchange projects that for the remainder of 2019, options transaction volume likely will continue to decline from the 2018 high.

The Exchange believes that is has sufficient information based both on the 2018 options transaction volume and the trend in options transaction volume in 2019 to determine how to adjust the ORF for the second half of 2019. Taking into consideration both the increase in

[5] *See* Fee Schedule, Section VII, Regulatory Fees, Options Regulatory Fee (''ORF''), *available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[6] *See id.* The Exchange uses reports from OCC when assessing and collecting the ORF. The ORF is not assessed on outbound linkage trades. An ATP Holder is not assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE American. *See id.*

[7] The Exchange notes that many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. The Exchange and other options SROs are parties to a 17d–2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. *See, e.g.,* Securities Exchange Act Release No. 61588 (February 25, 2010).

[8] *See* Fee Schedule, *supra* note 5.

[9] In 2013, in response to feedback from participants requesting greater certainty as to when ORF changes may occur, the Exchange modified its Fee Schedule to specify that it may only increase or decrease the ORF semi-annually. *See* Securities Exchange Act Release No. 70499 (September 25, 2013), 78 FR 60361 (October 1, 2013) (SR–NYSEMKT–2013–76).

[10] *See* Securities Exchange Act Release No. 71410 (January 24, 2014), 79 FR 5506 (January 31, 2014) (SR–NYSEMKT–2014–09).

[11] TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options. The Exchange believes that TCADV is a proxy for how to measure trends in options transaction volume. *See supra* note 5, Fee Schedule, Key Terms and Definitions.

options transaction volume in 2018—which translated to increased ORF revenue to the Exchange—and the reduced options transaction volume in 2019, which results in reduced ORF revenue to the Exchange, the Exchange proposes to decrease the ORF from $0.0055 to $0.0054 per contract side, effective August 1, 2019.[12] The proposed decrease is based on the Exchange's estimated projections for its regulatory costs, balanced with the recent increase in options volumes. The Exchange cannot predict whether options volume will remain at the 2018 level going forward and projections for future regulatory costs are estimated, preliminary and may change. However, the Exchange believes that revenue generated from the ORF (as modified) will continue to cover a material portion, but not all, of the Exchange's regulatory costs.

Consistent with the Fee Schedule, the Exchange has notified ATP Holders of the proposed change to the ORF via Trader Update at least of the thirty (30) calendar days prior to the proposed operative date, August 1, 2019.[13] The Exchange believes that this will ensure that market participants are prepared to configure their systems to account properly for the revised ORF.

Finally, The Exchange proposes to delete obsolete language in the ORF rule text, regarding Mini Options, which was inadvertently not eliminated when the Exchange filed a ''clean up'' fee filing to remove all such references.[14]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [15] of the Act, in general, and Section 6(b)(4) and (5) [16] of the Act, in particular, in that 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 and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the ORF does not exceed a material portion of the Exchange's regulatory costs. The Exchange has designed the ORF to generate revenues that would be less than or equal to the Exchange's regulatory costs, which is consistent with the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. As noted above, the Exchange may only use regulatory funds such as ORF ''to fund the legal, regulatory, and surveillance operations'' of the Exchange.[17] In this regard, the ORF is designed to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of ATP Regulatory Costs.

To determine whether ORF fees should be adjusted, the Exchange considered not only the increase in options transaction volume in 2018, but also options transaction volume in the first five months of 2019, which is down. Based on 2019 options transaction volume (to date), which is down by 4.5%, and the Exchange's projection that such volumes will remain stable at best and continue to decline at worse, the Exchange believes it is reasonable to decrease the amount of ORF collected by the Exchange from $0.0055 per contract side to $0.0054 per contract side.

The Exchange believes that the proposal deleting outdated reference to products no longer traded (*i.e.,* Mini Options) is reasonable as it would streamline the Fee Schedule by removing superfluous language thereby making the Fee Schedule easier for market participants to navigate.[18]

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal is an equitable allocation of fees among its market participants. The Exchange believes that the proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from ATP Holder clearing firms by the OCC on behalf of NYSE American, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such ATP Holders. In addition, the Exchange notes that the regulatory costs relating to monitoring ATP Holders with respect to Customer trading activity are generally higher than the regulatory costs associated with ATP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating ATP Holders that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the ATP Holder's relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* ATP Holder proprietary transactions) of its regulatory program. Thus, the Exchange believes the modified ORF would be equitably allocated in that it is charged to all ATP Holders on all their transactions that clear in the Customer range at the OCC.

The Proposed Fee Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes that the proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from ATP Holder clearing firms by the OCC on behalf of NYSE American, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such ATP Holders. In addition, the Exchange notes that the regulatory costs relating to monitoring ATP Holders with respect to Customer trading activity are generally higher than the regulatory costs associated with ATP Holders that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating ATP Holders that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to

[12] *See* proposed Fee Schedule, Section VII, Regulatory Fees, ORF. The Exchange proposes to make clear that the current fee would be in effect until the end of July. *See id.*

[13] *See* current (and proposed) Fee Schedule, Section VII, Regulatory Fees, ORF. *See* also Trader Update, dated June 25, 2018, NYSE Options—Options Regulatory Fee (ORF) Modifications, *available here: https://www.nyse.com/trader-update/history#110000139057.*

[14] *See id. See also* Securities Exchange Act Release No. 84603 (November 14, 2018), 83 FR 58795 (November 21, 2018) (NYSEAmer–2018–48) (filing to eliminate obsolete charges, including removing obsolete references to fees for Mini Options).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See supra* note 4.

[18] *See supra* note 14.

review not only the trading activity on behalf of Customers, but also the ATP Holder's relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* ATP Holder proprietary transactions) of its regulatory program. Thus, the Exchange believes the modified ORF is not unfairly discriminatory because it is charged to all ATP Holders on all their transactions that clear in the Customer range at the OCC.

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 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.

Intramarket Competition. The Exchange believes the proposed fee change would not impose an undue burden on competition as it is charged to all ATP Holders on all their transactions that clear in the Customer range at the OCC; thus, the amount of ORF imposed is based on the amount of Customer volume transacted. The Exchange believes that the proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. In addition, because the ORF is collected from ATP Holder clearing firms by the OCC on behalf of NYSE American, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such ATP Holders.

Intermarket Competition. The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total regulatory revenues do not exceed total regulatory costs.

Finally, the Exchange does not believe that the proposed deletion of obsolete references to Mini Options would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as these changes are not intended to address any competitive issues and would instead add more specificity, clarity and transparency regarding this functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [19] of the Act and subparagraph (f)(2) of Rule 19b–4 [20] 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) [21] 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 No. SR–NYSEAMER–2019–27 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 No. SR–NYSEAMER–2019–27. 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 No. SR–NYSEAMER–2019–27, and should be submitted on or before August 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15470 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(2).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–504, OMB Control No. 3235–0561]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 12d3–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities

and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 12(d)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a) generally prohibits registered investment companies (''funds''), and companies controlled by funds, from purchasing securities issued by a registered investment adviser, broker, dealer, or underwriter (''securities-related businesses''). Rule 12d3–1 (''Exemption of acquisitions of securities issued by persons engaged in securities related businesses'' (17 CFR 270.12d3–1)) permits a fund to invest up to five percent of its assets in securities of an issuer deriving more than fifteen percent of its gross revenues from securities-related businesses, but a fund may not rely on rule 12d3–1 to acquire securities of its own investment adviser or any affiliated person of its own investment adviser.

A fund may, however, rely on an exemption in rule 12d3–1 to acquire securities issued by its subadvisers in circumstances in which the subadviser would have little ability to take advantage of the fund, because it is not in a position to direct the fund's securities purchases. The exemption in rule 12d3–1(c)(3) is available if (i) the subadviser is not, and is not an affiliated person of, an investment adviser that provides advice with respect to the portion of the fund that is acquiring the securities, and (ii) the advisory contracts of the subadviser, and any subadviser that is advising the purchasing portion of the fund, prohibit them from consulting with each other concerning securities transactions of the fund, and limit their responsibility in providing advice to providing advice with respect to discrete portions of the fund's portfolio.

Based on an analysis of fund filings, the staff estimates that approximately 216 fund portfolios enter into subadvisory agreements each year.[1] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 12d3–1. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f–3, 17a–10, and 17e–1 and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 12d3–1 for this contract change would be 0.75 hours.[2] Assuming that all 216 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 162 burden hours annually.[3]

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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Candace Kenner, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 17, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15528 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[1] Based on data from Morningstar Direct, as of December 31, 2018, there are 12,459 registered funds (open-end funds, closed-end funds, and exchange-traded funds), 4,615 of which have subadvisory relationships (approximately 37%). 583 new funds were established in 2018. 583 new funds × 37% = 216 funds.

[2] This estimate is based on the following calculation (3 hours ÷ 4 rules = .75 hours).

[3] This estimate is based on the following calculation: (0.75 hours × 216 portfolios = 162 burden hours).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86390; File No. SR–NYSEArca–2019–49]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule by Revising the Options Regulatory Fee

July 16, 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 July 2, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 Arca Options Fee Schedule (''Fee Schedule'') by revising the Options Regulatory Fee (''ORF''), effective August 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 of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to revise the amount of the ORF, effective August 1, 2019. Specifically, to respond to increased options transaction volumes in 2018, which reverted (in part) in the first half of 2019, the Exchange proposes to lower the ORF to $0.0054 (from $0.0055) per contract side for the remainder of 2019.

Background

As a general matter, the Exchange may only use regulatory funds such as ORF ''to fund the legal, regulatory, and surveillance operations'' of the Exchange.[4] More specifically, the ORF is designed to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of OTP Holders and OTP Firms (the ''OTP Regulatory Costs''). The majority of the OTP Regulatory Costs are direct expenses, such as the costs related to in-house staff, third-party service providers, and technology. The direct expenses support the day-to-day regulatory work relating to the OTP Holders or OTP Firms, including surveillance, investigation, examinations and enforcement. Such direct expenses represent approximately 91% of the Exchange's total OTP Regulatory Costs. The indirect expenses include human resources and other administrative costs.

The ORF is assessed on OTP Holders or OTP Firms for options transactions that are cleared by the OTP Holder or OTP Firm through the Options Clearing Corporation (''OCC'') in the Customer range regardless of the exchange on which the transaction occurs.[5] All options transactions must clear via a clearing firm and such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from OTP Holder or OTP Firm clearing firms by the OCC on behalf of NYSE Arca,[6] the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such OTP Holders or OTP Firms. In addition, the Exchange notes that the regulatory costs relating to monitoring OTP Holders or OTP Firms with respect to Customer trading activity are generally higher than the regulatory costs associated with OTP Holders or OTP Firms that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders or OTP Firms that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holder's or OTP Firm's relationship with its Customers via more labor-intensive exam-based programs.[7] As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* OTP Holder or OTP Firm proprietary transactions) of its regulatory program.

ORF Revenue and Monitoring of ORF

Exchange rules establish that the Exchange may only increase or decrease the ORF semi-annually, that any such fee change will be effective on the first business day of February or August, and that market participants must be notified of any such change via Trader Update at least 30 calendar days prior to the effective date of the change.[8]

Because the ORF is based on options transactions volume, ORF revenue to the Exchange is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from OTP Holders or OTP Firms will increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from OTP Holders or OTP Firms will decrease as well. Accordingly, the Exchange monitors the amount of revenue collected from the ORF to ensure that this revenue does not exceed regulatory costs. If the Exchange determines regulatory revenues exceed regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the ''Commission'').

In addition, because Exchange rules establish that ORF may be adjusted only every six months, the Exchange does not believe it is appropriate to adjust ORF based on short-term changes in options transaction volume.[9] For example, if options volume materially increases or decreases during a six-month period, the Exchange believes it is appropriate to wait an additional six-month period to assess whether such increase or decrease in options volume either continues, is sustained at that level, or reverses in such a way that the average reported options transaction volume in fact has remained stable year over year.

Proposal

The Exchange is proposing to decrease the amount of ORF that will be collected by the Exchange from $0.0055 per contract side to $0.0054 per contract side. The Exchange proposes this change because from 2017 to 2018, options transaction volume increased to a level that if the ORF is not adjusted, the ORF revenue to the Exchange year-over-year could exceed a material portion of the Exchange's regulatory costs.

The last time the Exchange changed the ORF fee was February 2014.[10] Over that time, options transaction volumes fluctuated with a slight increase beginning in 2017. But prior to the 2018 increases in options transaction volume, any prior options transaction volume increases did not result in the ORF revenue to the Exchange increasing to levels such that the Exchange recovered via the ORF more than a material portion of the Exchange's regulatory costs. The Exchange believes that 2018 was a unique year because, from 2017 to 2018, there was a 23.95% year-over-

[4] The Exchange considers surveillance operations part of regulatory operations. The limitation on the use of regulatory funds also provides that they shall not be distributed. See Bylaws of NYSE Arca, Inc., Art. II, Sec. 2.06.

[5] *See* Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (''ORF''), *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[6] *See id.* The Exchange uses reports from OCC when assessing and collecting the ORF. The ORF is not assessed on outbound linkage trades. An OTP Holder or OTP Firm is not assessed the fee until it has satisfied applicable technological requirements necessary to commence operations on NYSE Arca. *See id.*

[7] The Exchange notes that many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. The Exchange and other options SROs are parties to a 17d–2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. *See, e.g.,* Securities Exchange Act Release No. 61588 (February 25, 2010).

[8] *See* Fee Schedule, *supra* note 5.

[9] In 2013, in response to feedback from participants requesting greater certainty as to when ORF changes may occur, the Exchange modified its Fee Schedule to specify that it may only increase or decrease the ORF semi-annually. *See* Securities Exchange Act Release No. 70500 (September 25, 2013), 78 FR 60361 (October 1, 2013) (SR–NYSEArca–2013–91).

[10] *See* Securities Exchange Act Release No. 71007 (January 24, 2014), 79 FR 5499 (January 31, 2014) (SR–NYSEArca–2014–06).

year increase in Total Industry Customer equity and ETF option average daily volume (''TCADV'').[11] By contrast, the year-over-year TCADV in prior years was down between 2014 and 2016. For example, TCADV decreased 3.1% from 2014 to 2015 and 2.3% from 2015 to 2016. The year-over-year options volume experienced a slight uptick from 2016 to 2017, when TCADV increased 2.0%, which was followed in 2018 by the 23.95% spike in volume. In 2019, options volume has declined year-over-year by 4.5%—which is the largest drop in year-over-year options volume since 2011 to 2012. Thus, options volumes for the first five months of 2019 have not sustained the 2018 volume level and have in fact declined from that level.

To determine whether ORF fees should be adjusted, the Exchange has reviewed not only the increase in options transaction volume in 2018, but also options transaction volume in the first five months of 2019. Based on 2019 transaction volumes, which are down by 4.5%, the Exchange projects that for the remainder of 2019, options transaction volume likely will continue to decline from the 2018 high.

The Exchange believes that is has sufficient information based both on the 2018 options transaction volume and the trend in options transaction volume in 2019 to determine how to adjust the ORF for the second half of 2019. Taking into consideration both the increase in options transaction volume in 2018—which translated to increased ORF revenue to the Exchange—and the reduced options transaction volume in 2019, which results in reduced ORF revenue to the Exchange, the Exchange proposes to decrease the ORF from $0.0055 to $0.0054 per contract side, effective August 1, 2019.[12] The proposed decrease is based on the Exchange's estimated projections for its regulatory costs, balanced with the recent increase in options volumes. The Exchange cannot predict whether options volume will remain at the 2018 level going forward and projections for future regulatory costs are estimated, preliminary and may change. However, the Exchange believes that revenue generated from the ORF (as modified) will continue to cover a material portion, but not all, of the Exchange's regulatory costs.

Consistent with the Fee Schedule, the Exchange has notified OTP Holders or OTP Firms of the proposed change to the ORF via Trader Update at least of the thirty (30) calendar days prior to the proposed operative date, August 1, 2019.[13] The Exchange believes that this will ensure that market participants are prepared to configure their systems to account properly for the revised ORF.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)[14] of the Act, in general, and Section 6(b)(4) and (5)[15] of the Act, in particular, in that 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 and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee change is reasonable because it would help ensure that revenue collected from the ORF does not exceed a material portion of the Exchange's regulatory costs. The Exchange has designed the ORF to generate revenues that would be less than or equal to the Exchange's regulatory costs, which is consistent with the view of the Commission that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. As noted above, the Exchange may only use regulatory funds such as ORF ''to fund the legal, regulatory, and surveillance operations'' of the Exchange.[16] In this regard, the ORF is designed to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of OTP Regulatory Costs.

To determine whether ORF fees should be adjusted, the Exchange considered not only the increase in options transaction volume in 2018, but also options transaction volume in the first five months of 2019, which is down. Based on 2019 options transaction volume (to date), which is down by 4.5%, and the Exchange's projection that such volumes will remain stable at best and continue to decline at worse, the Exchange believes it is reasonable to decrease the amount of ORF collected by the Exchange from $0.0055 per contract side to $0.0054 per contract side.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal is an equitable allocation of fees among its market participants. The Exchange believes that the proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from OTP Holder or OTP Firm clearing firms by the OCC on behalf of NYSE Arca, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such OTP Holders or OTP Firms. In addition, the Exchange notes that the regulatory costs relating to monitoring OTP Holders or OTP Firms with respect to Customer trading activity are generally higher than the regulatory costs associated with OTP Holders or OTP Firms that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders or OTP Firms that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holder's or OTP Firm's relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* OTP Holder or OTP Firm proprietary transactions) of its regulatory program. Thus, the Exchange believes the modified ORF would be equitably allocated in that it is charged to all OTP Holders or OTP Firms on all their transactions that clear in the Customer range at the OCC.

The Proposed Fee Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes that the

[11] TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options. The Exchange believes that TCADV is a proxy for how to measure trends in options transaction volume. *See supra* note 5, Fee Schedule, Endnote 8.

[12] *See* proposed Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (''ORF''). The Exchange proposes to make clear that the current fee would be in effect until the end of July. *See id.*

[13] *See* current (and proposed) Fee Schedule, Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, Regulatory Fees, Options Regulatory Fee (''ORF''). *See* also Trader Update, dated June 25, 2018, NYSE Options—Options Regulatory Fee (ORF) Modifications, *available here: https://www.nyse.com/trader-update/history#110000139057.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] *See supra* note 4.

proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. Because the ORF is collected from OTP Holder or OTP Firm clearing firms by the OCC on behalf of NYSE Arca, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such OTP Holders or OTP Firms. In addition, the Exchange notes that the regulatory costs relating to monitoring OTP Holders or OTP Firms with respect to Customer trading activity are generally higher than the regulatory costs associated with OTP Holders or OTP Firms that do not engage in Customer trading activity, which tends to be more automated and less labor-intensive. By contrast, regulating OTP Holders or OTP Firms that engage in Customer trading activity is generally more labor intensive and requires a greater expenditure of human and technical resources as the Exchange needs to review not only the trading activity on behalf of Customers, but also the OTP Holder's or OTP Firm's relationship with its Customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* OTP Holder or OTP Firm proprietary transactions) of its regulatory program. Thus, the Exchange believes the modified ORF is not unfairly discriminatory because it is charged to all OTP Holders or OTP Firms on all their transactions that clear in the Customer range at the OCC.

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 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.

Intramarket Competition. The Exchange believes the proposed fee change would not impose an undue burden on competition as it is charged to all OTP Holders or OTP Firms on all their transactions that clear in the Customer range at the OCC; thus, the amount of ORF imposed is based on the amount of Customer volume transacted. The Exchange believes that the proposed ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms. In addition, because the ORF is collected from OTP Holder or OTP Firm clearing firms by the OCC on behalf of NYSE Arca, the Exchange believes that using options transactions in the Customer range serves as a proxy for how to apportion regulatory costs among such OTP Holders or OTP Firms.

Intermarket Competition. The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total regulatory revenues do not exceed total regulatory costs.

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) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] 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) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2019–49 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 No. SR–NYSEArca–2019–49. 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 No. SR–NYSEArca–2019–49, and should be submitted on or before August 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15469 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86386; File No. SR–NYSE–2019–37]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Offer a New Monthly Rebate for Designated Market Makers Assigned 30 or Fewer Securities

July 16, 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 July 1, 2019, New York Stock Exchange LLC (''NYSE'' 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 its Price List to offer a new monthly rebate for Designated Market Makers (''DMM'') assigned 30 or fewer securities. The Exchange proposes to implement the fee change effective July 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 of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to offer a new monthly rebate to Designated Market Makers (''DMM'') assigned 30 or fewer securities.

The proposed change responds to the current competitive environment by offering an additional incentive to existing, smaller DMMs to quote on the Exchange. The proposed incentive also seeks to attract new DMMs in order to expand and diversify the pool of Exchange DMMs.

The Exchange proposes to implement the fee change effective July 1, 2019.

Competitive Environment

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.'' [4]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [5] Indeed, equity trading is currently dispersed across 13 exchanges,[6] 31 alternative trading systems,[7] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).[8] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in June 2019, the Exchange averaged less than 9.2% market share (excluding auctions) of executed volume of equity trades in all securities.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange against which market makers can quote, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange fees that relate to providing incentives for market makers to compete for order flow.

In response to this competitive environment, the Exchange has established incentives for its DMMs to quote at specified levels. The proposed fee change is designed to (1) encourage market maker quoting by offering an additional incentive to existing, smaller DMMs to quote on the Exchange, and (2) attract new DMMs in order to expand and diversify the pool of Exchange DMMs.

Proposed Rule Change

The Exchange proposes to pay to a DMM with 30 or fewer assigned securities a new, monthly rebate of $1,500 per security, up to a maximum of $10,000. The proposed rebate would be payable for each security assigned to such a DMM in the previous month (regardless of whether the stock price exceeds $1.00) for which that DMM provides quotes at the National Best Bid (''NBB'') and National Best Offer (''NBO,'' together the ''NBBO'') at least 25% of the time in the applicable month. As proposed, the monthly rebate would be in addition to the current rate on transactions and would be prorated to the number of trading days in a month that an eligible security is assigned to a DMM.

For example, if a DMM is assigned 8 securities during the entire month of March, in April, if the DMM provides quotes at the NBBO in the applicable security at least 25% of the time, the Exchange would calculate the DMM's rebate as $8 \times \$1{,}500 = \$12{,}000$. Since the proposed benefit is capped at $10,000 per month, the DMM would receive a credit of $10,000.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[6] *See* Cboe Global Markets, U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/*. *See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data (June 3, 2019), available at *https://otctransparency.finra.org/otctransparency/AtsIssueData*. Although 54 alternative trading systems were registered with the Commission as of May 31, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm*.

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/*.

[9] *See id.*

The proposed rule change is designed to provide smaller market makers (*i.e.,* DMMs with 30 or fewer assigned securities) with an added incentive to quote in their assigned securities at the NBBO at least 25% of the time in a given month. As described above, member organizations have a choice of where to send order flow. The Exchange believes that incentivizing DMMs on the Exchange to quote at the NBBO more frequently could attract additional orders to the Exchange and contribute to price discovery. In addition, additional liquidity-providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation.

Moreover, the Exchange believes that the proposed change is designed to attract additional DMMs to the Exchange. Currently, the Exchange has five DMMs, only one of which has fewer than 30 assigned securities and therefore could qualify for the rebate. The Exchange's affiliate, NYSE Arca, Inc. (''NYSE Arca''), for instance, has more than three times as many primary market makers.[10] The Exchange cannot predict with certainty whether and how many member organizations would avail themselves of the opportunity to become an Exchange DMM. However, the Exchange believes that the proposed rebate could incentivize additional firms to become DMMs on the Exchange by making it easier for smaller entrants.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[12] 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 Proposed Change Is Reasonable

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. Specifically, 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.'' [13]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [14] Indeed, equity trading is currently dispersed across 13 exchanges,[15] 31 alternative trading systems,[16] and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 18% of the market share of executed volume of equity trades (whether including or excluding auction volume).[17] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in June 2019, the Exchange had 9.2% market share of executed volume of equity trades (excluding auction volume).[18]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange against which market makers can quote, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange fees that relate to providing incentives for market makers to compete for order flow.

The Exchange believes that the proposal to offer an additional rebate to a DMM with 30 or fewer assigned securities if it increases its quoting at the NBBO is a reasonable means to improve market quality, attract additional order flow to a public market, and enhance execution opportunities for member organizations on the Exchange, to the benefit of all market participants. The proposed change is also a reasonable attempt to attract additional DMMs to the Exchange by providing a financial incentive for smaller firms to become DMMs. The Exchange notes that the proposal would also foster liquidity provision and stability in the marketplace and reduce smaller DMM's reliance on transaction fees. The proposal would also reward DMMs, who have greater risks and heightened quoting and other obligations than other market participants.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace and reducing smaller DMM's reliance on transaction fees. Moreover, the proposal is an equitable allocation of fees because it would reward DMMs for their increased risks and heightened quoting and other obligations. As such, it is equitable to offer smaller DMMs an additional flat, per security credit up to a maximum amount with the current credits for orders that add liquidity.

The proposed rebate is also equitable because it would apply equally to all existing and potential DMM firms of a certain size. The Exchange notes that there is currently only one DMM firm that could qualify for the proposed rebate based on its number of assigned securities. The Exchange believes the proposed rebate could provide an incentive for other market participants to become DMMs on the Exchange. The Exchange believes that the proposal would provide an equal incentive to all member organizations to become DMMs, and that the proposal constitutes an equitable allocation of fees because all similarly situated member organizations would be eligible for the same rebate.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. For example, member organizations could display quotes on competing exchanges rather than

[10] There are 18 competing Lead Marker Makers (''LMMs'') on NYSE Arca. *See https://www.nyse.com/markets/nyse-arca/membership.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) & (5).

[13] *See* Regulation NMS, 70 FR at 37499.

[14] *See* Transaction Fee Pilot, 84 FR at 5253.

[15] *See* Cboe Global Markets, U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[16] *See* FINRA ATS Transparency Data (June 3, 2019), available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* Although 54 alternative trading systems were registered with the Commission as of May 31, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[17] *See* Cboe Global Markets U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/.*

[18] *See id.*

quoting sufficiently on the Exchange to meet the 25% NBBO quoting requirement. The Exchange believes that offering this rebate would provide a further incentive for smaller and new DMMs to quote and trade their assigned securities on the Exchange, and will generally allow the Exchange and DMMs to better compete for order flow, thus enhancing competition. The Exchange also believes that the requirement of 30 or more assigned securities to qualify for the credit is not unfairly discriminatory because it would apply equally to all member organizations.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[19] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would incentivize DMMs on the Exchange to quote at the NBBO more frequently, which could attract additional liquidity and contribute to price discovery. Additional liquidity-providing quotes benefit all market participants because it provides greater execution opportunities on the Exchange and improves the public quotation. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition. The proposed change is designed to attract additional order flow and new DMMs to the Exchange. The Exchange believes that the proposed rebate would continue to incentivize smaller DMMs to quote at the NBBO more frequently, which could attract additional liquidity and contribute to price discovery. Greater liquidity benefits all market participants because it provides greater execution opportunities on the Exchange. The proposed rebate would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted, for the month of June 2019, the Exchange's market share of intraday trading (excluding auctions) was 9.2%.[21] In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on 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) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] 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) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2019–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–37 and should be submitted on or before August 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15472 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78f(b)(8).

[20] Regulation NMS, 70 FR at 37498–99.

[21] *See* note 9, *supra.*

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–91, OMB Control No. 3235–0088]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 15Ba2–5.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 15Ba2–5 (17 CFR 240.15Ba2–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

On July 7, 1976, effective July 16, 1976 (*see* 41 FR 28948, July 14, 1976), the Commission adopted Rule 15Ba2–5 under the Exchange Act to permit a duly-appointed fiduciary to assume immediate responsibility for the operation of a municipal securities dealer's business. Without the rule, the fiduciary would not be able to assume operation until it registered as a municipal securities dealer. Under the rule, the registration of a municipal securities dealer is deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such municipal securities dealer, provided that such fiduciary files with the Commission, within 30 days after entering upon the performance of his duties, a statement setting forth as to such fiduciary substantially the same information required by Form MSD or Form BD. The statement is necessary to ensure that the Commission and the public have adequate information about the fiduciary.

There is approximately 1 respondent per year that requires an aggregate total of 4 hours to comply with this rule. This respondent makes an estimated 1 annual response. Each response takes approximately 4 hours to complete. Thus, the total compliance burden per year is 4 burden hours. The approximate internal compliance cost per hour is $20, resulting in a total internal cost of compliance for the respondent of approximately $80 (*i.e.,* 4 hours × $20).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 17, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15531 Filed 7–19–19; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10826]

Designation of Ali Maychou, aka Abu Abdul Rahman Ali al Sanhaji, aka Abu 'Abd Al-Rahman Ali al-Sanhaji, aka Abou abderrahman al-Senhadji, aka Abou Abderrahmane al-Sanhaji, aka Abderahmane al Maghrebi as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Ali Maychou, also known as Abu Abdul Rahman Ali al Sanhaji, also known as Abu 'Abd Al-Rahman Ali al-Sanhaji, also known as Abou abderrahman al-Senhadji, also known as Abou Abderrahmane al-Sanhaji, also known as Abderahmane al Maghrebi, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: July 2, 2019.

Michael R. Pompeo,

Secretary of State.

[FR Doc. 2019–15541 Filed 7–19–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Disposal of Aeronautical Property at Asheville Regional Airport, Asheville, NC (AVL)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration is requesting public comment on a request by Greater Asheville Regional Airport Authority, to release of land (0.76 acres) at Asheville Regional Airport from federal obligations.

DATES: Comments must be received on or before August 21, 2019.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address:

Memphis Airports District Office, Attn: Tommy L. Dupree, Assistant Manager, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Lew Bleiweis, Executive Director, Greater Asheville Regional Airport Authority at the following address:

61 Terminal Drive, Suite 1, Fletcher, NC 28732.

FOR FURTHER INFORMATION CONTACT: Tommy L. Dupree, Assistant Manager, Federal Aviation Administration, Memphis Airports District Office, 2600, Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for disposal at Asheville Regional Airport, 61 Terminal Drive, Fletcher, NC 28732, under the provisions of 49 U.S.C. 47107(h)(2). The FAA determined that the request to release property at Asheville Regional Airport (AVL) submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of these properties does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The request consists of the following: The Greater Asheville Regional Airport Authority is proposing the release of airport property totaling 0.76 acres, more or less. This land is to be used by the North Carolina Department of Transportation (NCDOT) for United States Department of Transportation (USDOT) Federal Highway Administration (FHWA) system improvements (0.49 acres) and a permanent drainage and utility easement (0.27 acres). The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at Asheville Regional Airport (AVL) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for aviation facilities at Asheville Regional Airport (AVL). The proposed use of this property is compatible with airport operations.

This request will release this property from federal obligations. This action is taken under the provisions of 49 U.S.C. 47107(h)(2).

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Asheville Regional Airport.

Issued in Memphis, Tennessee on July 15, 2019.

Tommy L. Dupree,

Assistant Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2019–15533 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Westfield-Barnes Regional Airport, Westfield, Massachusetts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps for Westfield-Barnes Regional Airport, as submitted by the City of Westfield, Massachusetts, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979, are in compliance with applicable requirements.

DATES: The effective date of the FAA's determination on the noise exposure maps is June 13, 2019.

FOR FURTHER INFORMATION CONTACT: Richard Doucette, (781) 238–7613, Federal Aviation Administration, New England Region, Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Westfield-Barnes Regional Airport are in compliance with applicable requirements of Part 150, effective June 13, 2019.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps that meet applicable regulations and that depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted such noise exposure maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval that sets forth the measures the operator has taken, or proposes, for the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure map and related descriptions submitted by Westfield, Massachusetts. The specific maps under consideration were ''Figure 3–9. DNL Contours for Average Daily Aircraft Operations for CY2019'' (page 41) and ''Figure 4–1. DNL Contours for Average Daily Aircraft Operations for CY2024 NEM'' (page 53) in the submission. The FAA has determined that these maps for Westfield-Barnes Regional Airport are in compliance with applicable requirements. This determination is effective on June 13, 2019.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of 14 CFR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted the map or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of 14 CFR part

150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Westfield-Barnes Regional Airport, 110 Airport Drive, Westfield, MA 01085.

Federal Aviation Administration, New England Region, Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803.

Questions may be directed to the individual named above under the heading: **FOR FURTHER INFORMATION CONTACT**.

Issued in Burlington, Massachusetts on June 13, 2019.

Richard P. Doucette,

Environmental Program Manager, FAA New England Region, Airports Division.

[FR Doc. 2019–15527 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lake, Cook and McHenry Counties, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to rescind a notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for the Tri-County Access Project, a proposed transportation improvement project in Lake, Cook and McHenry counties in Illinois.

FOR FURTHER INFORMATION CONTACT:

Arlene K. Kocher, Division Administrator, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703. Phone: (217) 492–4600.

Rocco Zucchero, Chief Planning Officer, Illinois Tollway, 2700 Ogden Avenue, Downers Grove, Illinois 60515, Phone 630–241–6800. Anthony Quigley, Deputy Director of Highways, Region 1 Engineer, Illinois Department of Transportation, 201 West Center Court, Schaumburg, Illinois 60196, Phone: 847–705–4401.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Illinois Tollway and the Illinois Department of Transportation, issued a notice of intent to prepare an environmental impact statement (EIS) on July 16, 2018 (83 FR 32947). The project proposal was to reduce congestion, improve reliability of travel, improve travel options connecting major origins and destinations, and improve local and regional travel efficiency in the project area.

Due to a change in transportation priorities, further work on the EIS for the Tri-County Access project EIS is cancelled and no further activities will occur.

Comments or questions concerning this notice should be directed to FHWA, the Illinois Tollway, or the Illinois Department of Transportation at the addresses provided above.

Authority: 23 U.S.C. 315; 23 CFR 771.123; 49 CFR 1.48

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Dated: July 15, 2019.

Arlene K. Kocher,

Division Administrator, Federal Highway Administration, Springfield, Illinois.

[FR Doc. 2019–15464 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for Judicial Review of actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, the Freight Corridor Improvement Project, on Interstate 5 (I–5) from State Route 134 (SR–134) (Postmile 27.0) to the Templin Highway Undercrossing (Postmile R67.0) Los Angeles County, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 19, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Susan Tse-Koo, Senior Environmental Planner, Division of Environmental Planning, California Department of Transportation. Address: 100 S Main Street MS16A, Los Angeles CA 90012, Regular Office Hours M–F 8:00 a.m. to 5:00 p.m., Phone number (213) 897–1821, Email *Susan.Tse@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and the Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans have taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California.

Caltrans is proposing a Freight Corridor Improvement Project (Project) along I–5 in Los Angeles County from SR–134 (Postmile 27.0) to Templin Highway Undercrossing (Postmile R67.0) by increasing the vertical clearance to 16'-6'' and eliminating load capacity restrictions for heavy loads. The proposed project will increase vertical clearance at Roscoe Blvd. Overcrossing (OC), Sunland Blvd. OC, Olinda St. Pedestrian Overcrossing (POC), Tuxford Off-ramp OC, Lankershim Blvd. OC, Peoria St. OC, Laurel Canyon Blvd. OC, and Sheldon St. OC. This will be accomplished by replacing the bridges and raising the bridge profiles by approximately 1 to 2 feet at the Overcrossings and about 4 feet at Olinda St. POC. The proposed project will also eliminate the load capacity restrictions for heavy loads at the Los Angeles River Bridge and Separation and Templin Highway Undercrossing by repairing the steel girders and un-staggering the steel cross frames at the Los Angeles River Bridge and Separation and by replacing the Templin Highway Undercrossing. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA) with Finding of No Significant Impact (FONSI) for the project, approved on May 30, 2019, and in other documents in the FHWA project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA, FONSI can be viewed and downloaded from the project website at: *https://dot.ca.gov/caltrans-near-me/*

district-7/district-7-programs/d7-environmental-docs.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
2. Memorandum of Understanding with FHWA for NEPA assignment dated, December 23, 2016
3. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
4. Title VI of the Civil Rights Act of 1967
5. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980
6. Resource Conservation and Recovery Act (RCRA) of 1976
7. Safe, Accountable, Flexible and Efficient, Transportation Equity Act, A Legacy for Users (SAFETEA–LU)
8. Section 4(f), Department of Transportation Act of 1966

(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. 139(*l*)(1).

Issued on: July 15, 2019.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–15500 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for Judicial Review of actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, where the project limits extend approximately 2 miles north of SR–91 along I–15, approximately 2 miles west of I–15 along SR–91 and approximately 0.5 mile east of I–15 along SR–91 to Prominade Avenue in the County of Riverside, State of California. A new Variable Toll Message Sign (VTMS) is proposed along eastbound SR 91, just west of the Orange/Riverside County line. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 19, 2019. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Shawn Oriaz, Senior Environmental Planner, Caltrans District 8; 464 W 4th St, MS–827, San Bernardino, CA 92401–1400, 8:00 a.m.–4:00 p.m.; (909) 388–7034; *shawn.oriaz@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024, or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Construct a tolled express lane connector from eastbound SR 91 Express Lanes to northbound I–15 Express Lanes and a connector from southbound I–15 Express Lanes to westbound SR 91 Express Lanes. The project will also extend the SR 91 eastbound Express Lane to approximately ½ mile east of the I–15/SR 91 interchanges and widen eastbound SR 91 to accommodate extending the #4 General Purpose lane from the SR 91 bridge over Arlington Channel to east of Promenade Avenue. Outside widening is proposed along northbound I–15 in the vicinity of Hidden Valley Parkway interchange to accommodate the new express lane connectors. Finally, a new VTMS is proposed along eastbound SR 91, just west of the Orange/Riverside County line.

[Project Number 0800000136]

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) approved on August 10, 2012, in the Revalidation was completed to address design changes and update the project review approved on June 14, 2019, the Record of Decision (ROD) for the project approved on June 14, 2019, and in other documents in the FHWA project records. The FEIS, Revalidation, ROD, and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIS, Revalidation, and ROD can also be viewed and downloaded from the project website at *https://www.rctc.org/15-91-express-lanes-connector/.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. E.O. 12372, Intergovernmental Review;
2. E.O. 11990, Protection of Wetlands;
3. E.O. 12088, Pollution Control Standards;
4. E.O. 13112, Invasive Species;
5. E.O. 11988, Floodplain Management;
6. Council on Environmental Quality regulations;
7. National Environmental Policy Act (NEPA);
8. Department of Transportation Act of 1996;
9. Federal Aid Highway Act of 1970;
10. Clean Air Act Amendments of 1990;
11. Department of Transportation Act of 1966; Section 4(f);
12. Clean Water Act of 1977 and 1987;
13. Endangered Species Act of 1973;
14. Migratory Bird Treaty Act;
15. National Historic Preservation Act of 1966, as amended; and
16. Historic Sites Act of 1935.

(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. 139(*l*)(1).

Issued on: July 15, 2019.

Tashia J. Clemmons,

Director, Planning and Environmental, Federal Highway Administration, Sacramento, California.

[FR Doc. 2019–15499 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for the Metropolitan Transportation Authority New York City Transit (MTA NYCT) Canarsie Tunnel Project Revised Alternative Service Plan. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject project and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to 23 U.S.C. 139(l). A claim seeking judicial review of FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before December 19, 2019.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Juliet Bochicchio, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–9348. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation project listed below. The actions on the project, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project file for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed project as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) requirements [23 U.S.C. 138, 49 U.S.C. 303], Section 106 of the National Historic Preservation Act [54 U.S.C. 306108], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The project and actions that are the subject of this notice follow: *Project name and location:* The Metropolitan Transportation Authority New York City Transit Revised Alternative Service Plan, in New York City, New York. *Project Sponsor:* Metropolitan Transportation Authority New York City Transit (MTA NYCT). *Project description:* The project proposes to implement a Revised Alternative Service Plan, Revised Construction Means and Methods, and Extended Work Hours for the Canarsie Tunnel Project in New York City, New York. Previously, in 2015, FTA issued categorical exclusions (CE), for the Canarsie Tunnel Restoration and Resiliency Projects, in 2016, FTA issued a CE for the Canarsie Tunnel Core Capacity and State of Good Repair Project, and in 2018, FTA issued a Finding of No Significant Impact (FONSI) for the Canarsie Tunnel Alternative Service Plan. The Core Capacity, State of Good Repair, and Alternative Service Plan Projects included full-tunnel closure and partial-tunnel closure construction options as well as preliminary concepts of MTA NYCT's Alternative Service Plans for displaced transit riders. MTA NYCT submitted a draft Re-Evaluation for the proposal to FTA on March 1, 2019. MTA NYCT then submitted to FTA for approval a final Re-Evaluation on April 17, 2019. Because the Revised Alternative Service Plan as outlined in this Re-Evaluation is consistent with previously approved CEs and FONSI, FTA affirms the previous environmental decision documents associated with the Canarsie Tunnel Project remain valid, the proposed changes will not result in significant environment impacts, and no supplemental environmental review is necessary for the proposed changes.

Final agency action: MTA NYCT's Environmental Re-evaluation for the Canarsie Tunnel Project: Revised Alternative Service Plan, Revised Construction Means and Methods, and Extended Work Hours, dated April 19, 2019.

Supporting Documentation: MTA NYCT's Environmental Re-evaluation Consultation Form for the Canarsie Tunnel Project: Revised Alternative Service Plan, Revised Construction Means and Methods, and Extended Work Hours, New York City, New York, dated April 17, 2019.

Authority: 23 U.S.C. 139(l)(1).

Elizabeth S. Riklin,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2019–15539 Filed 7–19–19; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

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 name of one person that has 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 this person is blocked, and U.S. persons are generally prohibited from engaging in transactions with him.

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 (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On July 16, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. MOUSSA, Bah Ag (a.k.a. DIARRA, Bamoussa; a.k.a. DIARRA, Rabia; a.k.a. MOUSSA, Ba Ag), Kidal, Mali; Nara, Mali; DOB 01 Jan 1958; alt. DOB 31 Dec 1952; alt. DOB 28 Oct 1956; alt. DOB 1958; nationality Mali; Gender Male (individual) [SDGT].

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for acting for or on behalf of JAM'AT NUSRAT AL–ISLAM WAL–MUSLIMIN, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

Also designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of IYAD AG GHALI, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: July 16, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–15471 Filed 7–19–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

United States Mint

Suspension of Bent and Partial Coin Exchange by United States Mint

ACTION: Notice.

Under the authority of 31 U.S.C. 5120, the United States Mint established a program by which the public could exchange bent and partial coins for reimbursement. Regulations governing the program appear at 31 CFR part 100, subpart C.

The United States Mint has suspended the exchange program due to the possibility of unlawful material being submitted for redemption. The United States Mint is committed to ensuring the integrity of circulating coins, and is currently engaged in testing materials and assessing the security of the program. Until further notice, the United States Mint will not process any new applications or material for redemption. Any and all updates on the status of the exchange program will be posted on the following web page as soon as updates become available: *https://www.usmint.gov/news/consumer-alerts/mutilated-coin-program.*

The redemption of uncurrent coins, as defined by 31 CFR 100.10(a), is unaffected by this suspension. Uncurrent coins may still be redeemed by Federal Reserve banks and branches in accordance with the criteria and procedures set forth in 31 CFR 100.10.

FOR FURTHER INFORMATION CONTACT: Thomas V. Johnson, Chief of Corporate Communications, United States Mint, Washington, DC, at (202) 354–7718 or *thomas.v.johnson@usmint.treas.gov.*

Authority: 31 U.S.C. 5120.

Dated: July 15, 2019.

David J. Ryder,

Director, United States Mint.

[FR Doc. 2019–15490 Filed 7–19–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0823]

Agency Information Collection Activity: Expanded Access to Non-VA Care Through the MISSION Program: Veterans Community Care Program

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 20, 2019.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Brian McCarthy, Office of Regulatory and Administrative Affairs (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Brian.McCarthy4@va.gov.* Please refer to ''OMB Control No. 2900–0823'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Brian McCarthy at (202) 615–9241.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Expanded Access to Non-VA Care through the MISSION Program: Veterans Community Care Program, VA Forms 10–10143, 10–10143a, 10–10143b, 10–10143c and 10–10143e.

OMB Control Number: 2900–0823.

Type of Review: Non-substantive change to a currently approved collection.

Abstract: Section 101 of the VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 requires VA to implement the Veterans Community Care Program to furnish care in the community to covered Veterans through eligible entities and providers, under circumstances as further prescribed in the MISSION Act. VA currently collects information that will be required to implement the Veterans Community Care Program (VCCP) under the Veterans Choice Program, through an OMB approved collection 2900–0823. OMB Collection 2900–0823 includes VA Form 10–10143, Election to Receive Authorized Non-VA Care and Selection of Provider for the Veterans Choice Program; VA Form 10–10143a, Health-Care Plan Information for the Veterans Choice Program; VA Form 10–10143b, Submission of Medical Record Information under the Veterans Choice Program; VA Form 10–10143c, Submission of Information on Credentials and Licenses by Eligible Entities and Providers; and VA Form 10–10143e,Secondary Authorization Request for VA Community Care.

VA seeks to update OMB collection 2900–0823 to implement the Veterans Community Care Program by updating the title of VA forms and any associated statutory citations to be consistent with the new program and the MISSION Act, and by updating burden hours to account for estimated increased use of community care under the new program.

This collection of information is required to properly adjudicate and implement the requirements of the MISSION Act.

a. VA Form 10–10143 will collect Veteran information on whether covered Veterans would elect to receive authorized care under the Veterans Community Care Program (VCCP) if certain conditions are met, as required by 38 U.S.C. 1703(d)(3). This form also

will allow a covered Veteran to specify a particular non-VA entity or provider.

b. VA Form 10–10143a will collect other health insurance information from covered Veterans who elect to participate in the VCCP, as required by 38 U.S.C. 1705A. This information also is required by 38 U.S.C. 1703(j), which requires VA to recover or collect reasonable charges for community care that is furnished from a health care plan contract described in 38 U.S.C. 1729.

c. VA Form 10–10143b will collect health records of covered Veterans from non-VA health care entities and providers for care authorized under the VCCP, as required by 38 U.S.C. 1703(a)(2)(A), which requires VA to establish a mechanism to receive medical records from non-VA providers. A copy of all medical and dental records (including but not limited to images, test results, and notes or other records of what care was provided and why) related to a Veteran's care provided under the VCCP must be submitted to VA, including any claims for payment for the furnishing of such care.

d. VA Form 10–10143c will collect information from non-VA entities and providers concerning relevant credentials and licenses as required for such entities or providers to furnish care and services generally. This information is authorized by section 133 of the MISSION Act, which requires VA to establish competency standards for non-VA providers, as well as 38 U.S.C. 1703C(a)(1), which requires VA to establish certain standards of quality for furnishing care and services (including through non-VA providers).

e. VA Form 10–10143e will collect secondary authorization requests from non-VA entities and providers to furnish care and services in addition to or supporting the original authorization for care. This information is required by 38 U.S.C. 1703(a)(3), which establishes that a covered Veteran may only receive care or services under the VCCP upon VA's authorization of such care or services.

VA Form 10–10143

Affected Public: Individuals or households.

Estimated Annual Burden: 610,833 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 3,665,000.

VA Form 10–10143a

Affected Public: Individuals or households.

Estimated Annual Burden: 610,833 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 3,665,000.

VA Form 10–10143b

Affected Public: Private Sector.

Estimated Annual Burden: 1,039,332 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Average of 34 times annually.

Estimated Number of Respondents: 366,823.

VA Form 10–10143c

Affected Public: Private Sector.

Estimated Annual Burden: 10,190 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 122,274.

VA Form 10–10143e

Affected Public: Private Sector.

Estimated Annual Burden: 611,372 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Average of 5 times annually.

Estimated Number of Respondents: 366,823.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–15496 Filed 7–19–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 84 Monday,
No. 140 July 22, 2019

Part II

Federal Deposit Insurance Corporation

Privacy Act of 1974; System of Records; Notice

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of Modified Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the FDIC proposes the following changes to its Privacy Act system of records notices: Revise one existing routine use and add one new routine use in all system notices to conform with Office of Management and Budget (OMB) guidance to federal agencies regarding response and remedial efforts in the event of a data breach; Add one new routine use to permit disclosure of Freedom of Information Act (FOIA) request records to the Office of Government Information Services (OGIS) so that it may fulfill its statutory responsibilities; and Make non-substantive editorial and formatting changes to all system notices for clarity and to conform to the updated system notice template prescribed in OMB Circular A–108. We hereby publish this notice for comment on the proposed actions.

DATES: This action will become effective on July 22, 2019. The routine uses in this action will become effective 30 days after publication, unless the FDIC makes changes based on comments received. Written comments should be submitted on or before the effective date.

ADDRESSES: Interested parties are invited to submit written comments identified by *Privacy Act Systems of Records* by any of the following methods:

- *Federal eRulemaking Portal: http://regulations.gov.* Follow the instructions for submitting comments.
- *Agency website: https://www.FDIC.gov/regulations/laws/federal.* Follow the instructions for submitting comments on the FDIC website.
- *Email: Comments@fdic.gov.*
- *Mail:* Gary Jackson, Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW, Virginia Square D–8012, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Shannon Dahn, Chief, Privacy Section, Phone (703) 516–1162, Email *sdahn@fdic.gov*; or Gary Jackson, Counsel, Phone (703) 562–2677, Email, *gjackson@fdic.gov.*

SUPPLEMENTARY INFORMATION: The Privacy Act, 5 U.S.C. 552a, at subsection (b)(3), requires each agency to publish, for public notice and comment, routine uses describing any disclosures of information about an individual that the agency intends to make from a Privacy Act system of records without the individual's prior written consent, other than those which are authorized directly in the Privacy Act at subsections (b)(1)–(2) and (b)(4)–(12). The Privacy Act defines ''routine use'' at subsection (a)(7) to mean a disclosure for a purpose compatible with the purpose for which the record was collected.

In accordance with OMB Memorandum M–17–12, issued January 3, 2017, titled ''*Preparing for and Responding to a Breach of Personally Identifiable Information,*'' the FDIC is modifying its current general routine use number (4) and adding a new general routine use number (5) to each system notice to authorize the FDIC to disclose information when necessary to obtain assistance with a suspected or confirmed data breach or to assist another agency in its response to a breach. The first routine use presented below is a revised version of current general routine use number (4) prescribed in former OMB Memorandum M–07–16 and first published in the **Federal Register** by the FDIC on October 29, 2007 (72 FR 61131). The second new general routine use presented below is being added to each the FDIC system notice as number (5) and all routine uses have been renumbered to account for this addition.

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

The FDIC is also adding a new routine use to the FDIC 30–64–0022, Freedom of Information Act and Privacy Act Request Records, as presented below. This new routine use will permit records to be provided to the National Archives and Records Administration, Office of Government Information Services (OGIS) for purposes set forth under 5 U.S.C. 552(h), including to review agency compliance with FOIA, provide mediation services to resolve FOIA disputes, and identify policies and procedures for improving FOIA compliance.

(9) To the National Archives and Records Administration, Office of Government Information Services (OGIS) to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

In addition, this notice makes non-substantive editorial and formatting changes to all system notices for clarity and to conform to the updated system notice template prescribed in OMB Circular A–108. More detailed information on the revised systems of records may be viewed in the complete text below.

The report of modified systems of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act'' and the Privacy Act, 5 U.S.C. 552a(r).

The FDIC last published a complete list of its system notices in the **Federal Register** on October 30, 2015 (80 FR 66981). This publication may be viewed on the FDIC's Privacy Program web page at *www.fdic.gov/about/privacy.*

Index of FDIC Privacy Act Systems of Records in this Publication

4. Changes in Financial Institution Control Ownership Records. 30–64–0004
5. Consumer Complaint and Inquiry Records. 30–64–0005
6. Employee Financial Disclosure Records. 30–64–0006
7. FDIC Learning and Development Records. 30–64–0007
8. Chain Banking Organizations Identification Records. 30–64–0008
9. Safety and Security Incident Records. 30–64–0009
10. Investigative Files of the Office of Inspector General. 30–64–0010
11. Corporate Applicant Recruiting, Evaluating, and Electronic Referral Records. 30–64–0011
12. Financial Information Management Records. 30–64–0012
13. Insured Financial Institution Liquidation Records. 30–64–0013
14. Personnel Benefits and Enrollment Records . 30–64–0014
15. Personnel Records. 30–64–0015
16. Professional Qualification Records for Municipal Securities Dealers, Securities Representatives, and U.S. Government. Securities Brokers/Dealers. 30–64–0016
17. Employee Medical and Health Assessment Records. 30–64–0017
18. Grievance Records. 30–64–0018
19. Potential Bidders List. 30–64–0019
20. Telephone Call Detail Records. 30–64–0020
21. Fitness Center Records. 30–64–0021
22. Freedom of Information Act and Privacy Act Request Records. 30–64–0022
23. Affordable Housing Program Records. 30–64–0023
24. Unclaimed Deposit Account Records. 30–64–0024
25. Beneficial Ownership Filings (Securities Exchange Act). 30–64–0025
26. Transit Subsidy Program Records. 30–64–0026
27. Parking Program Records. 30–64–0027
28. Office of the Chairman Correspondence Records. 30–64–0028
29. Congressional Correspondence Records. 30–64–0029
30. Legislative Information Tracking System Records. 30–64–0030
31. Online Ordering Request Records. 30–64–0031
32. Reserved. 30–64–0032
33. Emergency Notification Records. 30–64–0033
34. Office of Inspector General Inquiry Records. 30–64–0034
35. Identity, Credential and Access Management Records. 30–64–0035

Appendix A—FDIC Regional Offices

www.fdic.gov/about/contact/directory

FDIC Atlanta Regional Office, 10 Tenth Street NE, Suite 800, Atlanta, GA 30309–3906

FDIC Boston Regional Office, 15 Braintree Hill Office Park, Suite 200, Braintree, MA 02184–8701

FDIC Chicago Regional Office, 300 South Riverside Plaza, Suite 1700, Chicago, IL 60606

FDIC Dallas Regional Office, 1601 Bryan Street, Suite 1410, Dallas, TX 75201–3479

FDIC Kansas City Regional Office, 1100 Walnut Street, Suite 2100, Kansas City, MO 64106

FDIC Memphis Area Office, 6060 Primacy Parkway, Suite 300, Memphis, TN 38119–5770

FDIC New York Regional Office, 350 Fifth Avenue, Suite 1200, New York, NY 10118–0110

FDIC San Francisco Regional Office, 25 Jessie Street at Ecker Square, Suite 2300, San Francisco, CA 94105–2780

SYSTEM NAME AND NUMBER:

Honors Attorney Applicant Records, FDIC–30–64–0001.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Legal Division, FDIC, 550 17th Street NW, Washington, DC 20429; and Atlanta Regional Office, FDIC, 10 Tenth Street, Suite 800, Atlanta, Georgia 30309.

SYSTEM MANAGER(S):

Assistant General Counsel, Open Bank Regional Affairs Section, Legal Division, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The information in this system is used to evaluate the qualifications of individuals who apply for honors attorney positions in the Legal Division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of honors attorney with the Legal Division of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references; applicants' resumes; application forms; and in some instances, comments of individuals who interviewed applicants; documents relating to an applicant's suitability or eligibility; writing samples; and copies of academic transcripts and class ranking.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants; references supplied by the applicants; current and/or former employers of the applicants; and FDIC employees who interviewed the applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or

national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To individuals or concerns whose names were supplied by the applicant as references and/or past or present employers in requesting information about the applicant.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name. Records of unsuccessful applicants are indexed first by job position category and year and then by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of unsuccessful applicants are maintained two years after their submission; records of successful applicants become a part of the Personnel Records, FDIC 30–64–0015. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel. Some paper records may be maintained in a locked room accessible only to authorized personnel during a finite initial review period.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 12 CFR part 310.13(b), investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identity of a source who furnished information to the FDIC under an express promise of confidentiality.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Financial Institution Investigative and Enforcement Records, FDIC–30–64–0002.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5, 6, 7, 8, 9, 18, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1818, 1819, 1828, 1829).

PURPOSE(S) OF THE SYSTEM:

The information is maintained to support the FDIC's regulatory and supervisory functions by providing a centralized system of information (1) for conducting and documenting investigations by the FDIC or other financial supervisory or law enforcement agencies regarding conduct within financial institutions by directors, officers, employees, and customers, which may result in the filing of suspicious activity reports or criminal referrals, referrals to the FDIC Office of the Inspector General, or the initiation of administrative enforcement actions; and (2) to identify whether an individual is fit to serve as a financial institution director, officer, employee or controlling shareholder.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who participate or have participated in the conduct of or who are or were connected with financial institutions, such as directors, officers, employees, and customers, and who have been named in suspicious activity reports or administrative enforcement orders or agreements. Financial institutions include banks, savings and loan associations, credit unions, other similar institutions, and their affiliates whether or not federally insured and whether or not established or proposed.

(2) Individuals, such as directors, officers, employees, controlling shareholders, or persons who are the subject of background checks designed to uncover criminal activities bearing on the individual's fitness to be a director, officer, employee, or controlling shareholder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency or intra-agency correspondence or memoranda; criminal referral reports; suspicious activity reports; newspaper clippings; Federal, State, or local criminal law enforcement agency investigatory reports,

indictments and/or arrest and conviction information; and administrative enforcement orders or agreements. *Note:* Certain records contained in this system (principally criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other federal law enforcement agencies) are the property of federal law enforcement agencies. Upon receipt of a request for such records, the FDIC will notify the proprietary agency of the request and seek guidance with respect to disposition. The FDIC may forward the request to that agency for processing in accordance with that agency's regulations.

RECORD SOURCE CATEGORIES:

Financial institutions; financial institution supervisory or regulatory authorities; newspapers or other public records; witnesses; current or former FDIC employees; criminal law enforcement and prosecuting authorities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To a financial institution affected by enforcement activities or reported criminal activities;

(12) To the Internal Revenue Service and appropriate State and local taxing authorities;

(13) To other Federal, State or foreign financial institutions supervisory or regulatory authorities; and

(14) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third Parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name. Records of unsuccessful applicants are indexed first by job position category and year and then by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records for name and identification checks that document criminal history or lack thereof on proposed bank directors, officer, and purchasers are maintained five years. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of

identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Administrative and Personnel Action Records, FDIC–30–64–0003.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Legal Division, Executive Secretary Section, FDIC, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Legal Division, Executive Secretary Section, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 8, 9, and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829).

PURPOSE(S) OF THE SYSTEM:

The system is maintained to record the administrative and personnel actions taken by the FDIC Board of Directors, standing committees, or other officials.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of administrative enforcement actions or other personnel actions by the FDIC Board of Directors or by standing committees of the FDIC and individuals who have been the subject of administrative actions by FDIC officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Minutes of the meetings of the FDIC Board of Directors or standing committees and orders of the Board of Directors, standing committees, or other officials as well as annotations of entries into the minutes and orders.

RECORD SOURCE CATEGORIES:

Intra-agency records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To the U.S. Office of Personnel Management, General Accounting Office, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is

necessary and relevant to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media, microfilm, and paper format within individual file folders, minute book ledgers and index cards.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Permanent.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel. A security copy of certain microfilmed portions of the records is retained at another location.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Changes in Financial Institution Control Ownership Records, FDIC–30–64–0004.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

PURPOSE(S) OF THE SYSTEM:

The system maintains information on individuals involved in changes of control of FDIC-insured financial institutions for the period 1989 to 1995 and is used to support the FDIC's regulatory and supervisory functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who acquired or disposed of voting stock in an FDIC-insured financial institution resulting in a change of financial institution control or ownership; and

(2) Individuals who filed or are included as a member of a group listed in a ''Notice of Acquisition of Control'' of an FDIC-insured financial institution. Note: The information is maintained only for the period 1989 to 1995. Commencing in 1996 the records were no longer collected nor maintained on an individual name or personal identifier basis and are not retrievable by individual name or personal identifier. Beginning in 1996, information concerning changes in financial institution control is collected and maintained based upon the name of the FDIC-insured financial institution or specialized number assigned to the FDIC-insured financial institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the name of proposed acquirer; statement of assets and liabilities of acquirer; statement of income and sources of income for each acquirer; statement of liabilities for each acquirer; name and location of the financial institution; number of shares to be acquired and outstanding; date ''Change in Control Notice'' or ''Notice of Acquisition of Control'' was filed; name and location of the newspaper in which the notice was published and date of publication. For consummated transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on institution's books, number of shares acquired and outstanding. If stock of a holding company is involved, the name and location of the holding company and the institution(s) it controls.

RECORD SOURCE CATEGORIES:

Persons who acquired control of an FDIC-insured financial institution; the insured financial institution or holding company in which control changed; filed ''Change in Control Notice'' form and ''Notice of Acquisition of Control'' form during the period 1989 to 1995; federal and state financial institution supervisory authorities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of

the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To other Federal or State financial institution supervisory authorities.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records for the period 1989 to 1995 are indexed and retrieved by name of the individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained ten years. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Consumer Complaint and Inquiry Records, FDIC–30–64–0005.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Depositor and Consumer Protection, FDIC, 550 17th Street NW, Washington, DC 20429, and FDIC Regional Offices for complaints or inquiries originating within or involving an FDIC-insured depository institution located in an FDIC region. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Deputy Director, Consumer and Community Affairs, Division of Depositor and Consumer Protection, FDIC, 550 17th Street NW, Washington, DC 20429, or the Regional Director, Division of Supervision and Consumer Protection for records maintained in FDIC Regional Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Section 202(f) of Title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)).

PURPOSE(S) OF THE SYSTEM:

The system maintains correspondence from individuals regarding complaints or inquiries concerning activities or practices of FDIC-insured depository institutions. The information is used to identify concerns of individuals, to manage correspondence received from individuals and to accurately respond to complaints, inquiries, and concerns expressed by individuals. The information in this system supports the FDIC regulatory and supervisory functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted complaints or inquiries concerning activities or practices of FDIC-insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records of other communications between the FDIC and the individual submitting a complaint or making an inquiry, including copies of supporting documents and contact information including name, email address, online identity verification information, and any other information voluntarily supplied by the individual. This system may also contain regulatory and

supervisory communications between the FDIC and the FDIC-insured depository institution in question and/or intra-agency or inter-agency memoranda or correspondence relevant to the complaint or inquiry.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; FDIC-insured depository institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other parties providing information to the FDIC in an attempt to resolve the complaint or inquiry.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To the insured depository institution which is the subject of the complaint or inquiry when necessary to investigate or resolve the complaint or inquiry;

(12) To authorized third-party sources during the course of the investigation in order to resolve the complaint or inquiry. Information that may be disclosed under this routine use is limited to the name of the complainant or inquirer and the nature of the complaint or inquiry and such additional information necessary to investigate the complaint or inquiry; and

(13) To the Federal or State supervisory/regulatory authority that has direct supervision over the insured depository institution that is the subject of the complaint or inquiry.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media is indexed and retrieved by unique identification number which may be cross referenced to the name of complainant or inquirer.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained seven years. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Employee Financial Disclosure Records, FDIC–30–64–0006.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are located in FDIC Divisions and Offices to which individuals covered by the system are assigned. Duplicate copies of the records are located in the Legal Division, Executive Secretary Section, Ethics Unit, FDIC, 550 17th Street NW, Washington, DC 20429. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Ethics Program Manager, Executive Secretary Section, Legal Division, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 and 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1822(f)); Title I of the Ethics in Government Act (5 U.S.C. App. 101); Section 17 of the Stock Act (18 U.S.C. 208); Executive Orders 12674 and 12731, as amended; and 5 CFR parts 2634, 2635, and 3201.

PURPOSE(S) OF THE SYSTEM:

The records are maintained to assure compliance with the standards of conduct for Government employees established by Executive Orders Federal Statute, and FDIC regulations and to determine if a conflict of interest exists between employment of individuals by the FDIC and their personal employment and financial interests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, prospective employees, and special government employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains statements of personal and family financial holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions and determinations of ethics counselors; information related to conflict of interest determinations; relevant personnel information and ethics training records; and information contained on the forms described below. *Note:* This system includes only records maintained by the FDIC. Associated records are described and covered by the Office of Government Ethics government-wide system of records OGE/GOVT–1 (Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records) or OGE/GOVT–2 (Executive Branch Confidential Financial Disclosure Reports).

(1) Confidential Financial Disclosure Report—contains listing of personal and family investment holdings, interests in business enterprises and real property, creditors, and outside employment for covered employees.

(2) Confidential Report of Indebtedness—contains information on extensions of credit to employees, including loans and credit cards, by FDIC-insured depository institutions or their subsidiaries; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured financial institutions or subsidiaries thereof.

(3) Confidential Report of Interest in FDIC-Insured Depository Institution Securities—contains a brief description of an employee's direct or indirect interest in the securities of an FDIC-insured depository institution or affiliate, including a depository institution holding company, and the date and manner of acquisition or divestiture; a brief description of an employee's direct or indirect continuing financial interest through a pension or retirement plan, trust or other arrangement, including arrangements resulting from any current or prior employment or business association, with any FDIC-insured depository institution, affiliate, or depository institution holding company; and a certification acknowledging that the employee has read and understands the rules governing the ownership of securities in FDIC-insured depository institutions.

(4) Employee Certification and Acknowledgment of Standards of Conduct Regulation—contains employee's certification and acknowledgment that he or she has received a copy of the Standards of Ethical Conduct for Employees of the FDIC.

(5) Public Financial Disclosure Form—contains a description of an employee's personal and family investment holdings, including interests in business enterprises or real property, non-investment income, creditors, former or future employer information, outside positions, and other affiliations for political appointees.

(6) Notification of Post-Employment Negotiation or Agreement and Recusal Statement—contains notice of any negotiation for, or agreement of, future employment or compensation with a non-federal entity and requisite recusal statement.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual or a person or entity designated by the individual; FDIC employees designated as Ethics Counselors or Deputy Ethics Counselors; FDIC automated personnel records system; and other employees or individuals to whom the FDIC has provided information in connection with evaluating the records maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems,

programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections; and

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of nominees to Presidentially Appointed Senate confirmed (PAS) positions who are not confirmed are retained one year. All other records are retained six years, except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Entries maintained in electronic media are deleted, except that paper format documents and electronic media entries needed in an ongoing investigation will be retained until no longer needed for the investigation. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

FDIC Learning and Development Records, FDIC–30–64–0007.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC Corporate University, 3501 Fairfax Drive, Arlington, VA 22226, and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Assistant Director, Educational Support Services, Corporate University, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Sections 4(b) and 6(e) of the Inspector General Act of 1978, as amended (5 U.S.C. App).

PURPOSE(S) OF THE SYSTEM:

The system is used to record and manage comprehensive learning and development information that is available to learners, training administrators, and management. The system is also used to schedule training events, enroll students, launch online training, and run reports. The system is used to track training, career development, certifications, commissions, continuing education and learner skills and competencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former employees and other individuals that have attended or completed training conducted or sponsored by the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the schedule of the individual's training classes and other educational programs attended or completed, dates of attendance, continuing education credits earned, tuition fees and expenses for external training, and related information. Also contains information on career development, certification compliance, commissioning tests, career development, and learner skills and competencies. The system used by the Office of Inspector General may also contain information on educational degrees or professional memberships and other similar information.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee about whom the record is maintained, employee supervisors, training administrators, the training facility or institution attended, and

FDIC automated personnel records systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To educational institutions for purposes of enrollment and verification of employee attendance and performance;

(12) To vendors, professional licensing boards or other appropriate third parties, for the purpose of verification, confirmation, and substantiation of training or licensing requirements;

(13) To the U.S. Office of Personnel Management and other Federal, State, and foreign authorities for purposes of enrollment verification, attendance, and related information of employees who attend FDIC sponsored training; and

(14) To other Federal Offices of Inspector General or other entities for purposes of conducting quality assessments or peer reviews of the OIG or any of its components.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained 10 years after employee separation from the FDIC. Disposal is by shredding or other appropriate methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Chain Banking Organizations Identification Records, FDIC–30–64–0008.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429, and FDIC Regional Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Director, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j), 1819).

PURPOSE(S) OF THE SYSTEM:

This system identifies and maintains information of possible linked FDIC-insured depository institutions or holding companies which, due to their common ownership, present a concentration of resources that could be susceptible to common risks. The information in this system is used to support the FDIC's regulatory and supervisory functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own or control two or more insured depository institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the names of and contact information for individuals who, either alone or in concert with others, own or control two or more insured depository institutions as well as the insured depository institutions names, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate holding entity and percentage of holding company held by controlling individual or group.

RECORD SOURCE CATEGORIES:

Examination reports and related materials; regulatory filings; and Change in Financial Institution Control Notices filed pursuant to 12 U.S.C. 1817(j).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To other Federal or State financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of insured depository institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Certain records are archived in off-line storage and all records are periodically updated to reflect changes. Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Safety and Security Incident Records, FDIC–30–64–0009.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC, Division of Administration, 550 17th Street NW, Washington, DC 20429, and FDIC Regional or area Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Chief, Security Operations, Security and Emergency Preparedness Section, Corporate Services Branch, Division of Administration, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to support the administration and maintenance of a safety and security incident investigation, tracking and reporting system involving FDIC facilities, property, personnel, contractors, volunteers, or visitors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and past FDIC employees, contractors, volunteers, visitors, and others involved in the investigation of accidents, injury, criminal conduct, and related civil matters involving the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains investigative reports, correspondence and other communications that may include, without limitation, name, home and office address and phone numbers, physical characteristics, vehicle information, and associated information.

RECORD SOURCE CATEGORIES:

The sources of records in this category include current FDIC employees, contractors, members of the public, witnesses, law enforcement officials, medical providers, and other parties providing information to the FDIC to facilitate an inquiry or resolve the complaint.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under

such contract, grant, agreement or project; and

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, date, or case number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained seven years. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(c)(3), (d)(5), (e)(1), (e)(4)(G), (H), and (I), (f) and (k).

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Investigative Files of the Office of Inspector General, FDIC–30–64–0010.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226. In addition, records are maintained in OIG field offices. OIG field office locations can be obtained by contacting the Assistant Inspector General for Investigations at said address.

SYSTEM MANAGER(S):

Assistant Inspector General for Investigations, FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended (5 U.S.C. App.).

PURPOSE(S) OF THE SYSTEM:

Pursuant to the Inspector General Act, the system is maintained for the purposes of (1) conducting and documenting investigations by the OIG or other investigative agencies regarding FDIC programs and operations in order to determine whether employees or other individuals have been or are engaging in violations of laws, regulations, contracts, etc., waste, fraud and abuse with respect to the FDIC's programs or operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities which were the subject of investigations; (4) reporting investigative findings to other FDIC Divisions or Offices for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; and (5) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act or those of other federal instrumentalities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FDIC employees and individuals involved in or associated with FDIC programs and operations including contractors, subcontractors, vendors and other individuals associated with investigative inquiries and investigative cases, to include but not be limited to witnesses, complainants, suspects and those contacting the OIG Hotline.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files, including memoranda, computer-generated background information, correspondence including payroll records, call records, email records, electronic case management, forensic, and tracking files, OIG Hotline-related records, reports of investigations with related exhibits, statements, affidavits, records or other pertinent documents, reports from or to other law enforcement bodies, pertaining to violations or potential violations of criminal laws, fraud, waste, and abuse with respect to administration of FDIC programs and operations, and violations of employee and contractor Standards of Conduct as set forth in section 12(f) of the Federal Deposit Insurance Act (12 U.S.C. 1822(f)), 12 CFR parts 336, 366, and 5 CFR parts 2634, 2635, and 3201. Records in this system may contain personally identifiable information such as names, social security numbers, dates of birth and addresses. This system may also contain such information as employment history, bank account numbers and information, drivers licenses, educational records, criminal history, photographs, voice recordings, and other information of a personal nature provided or obtained in connection with an investigation.

RECORD SOURCE CATEGORIES:

Official records of the FDIC; current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants. Records in this system may have originated in other FDIC systems of records and subsequently transferred to this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To the appropriate Federal, State, local, foreign or international agency or authority which has responsibility for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order to assist such agency or authority in fulfilling these responsibilities when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal (collectively referred to as the adjudicative bodies) in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings (collectively, the litigated proceedings) when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary in order for the adjudicatory bodies, or any of them, to perform their official functions in connection with the presentation of evidence relative to the litigated proceedings;

(3) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding to assist those representatives by providing them with information or evidence for use in connection with such litigation or proceedings;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To a grand jury agent pursuant either to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury;

(7) To the subjects of an investigation and their representatives during the course of an investigation and to any other person or entity that has or may have information relevant or pertinent to the investigation to the extent necessary to assist in the conduct of the investigation;

(8) To third-party sources during the course of an investigation only such information as determined to be necessary and pertinent to the investigation in order to obtain information or assistance relating to an audit, trial, hearing, or any other authorized activity of the OIG;

(9) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(10) To a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary for the FDIC to obtain information concerning the hiring or retention of an employee, a security clearance determination or adjudication, the letting of a contract, or the issuance of a license, grant, or other benefit;

(11) To a Federal agency responsible for considering suspension or debarment action where such record is determined to be necessary and relevant to that agency's consideration of such action;

(12) To a consultant, person or entity who contracts or subcontracts with the FDIC or OIG, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a);

(13) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the OIG, the FDIC or the Federal Government in order to assist those entities or individuals in carrying out their obligation under the related contract, grant, agreement or project;

(14) To the U.S. Office of Personnel Management, Government Accountability Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with hiring or retaining an employee, rendering advice requested by OIG, making a security clearance determination or adjudication, reporting an investigation of an employee, reporting an investigation of prohibited personnel practices, letting a contract or issuing a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter;

(15) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(16) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(17) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(18) To a financial institution affected by enforcement activities or reported criminal activities authorities to ascertain the knowledge of or involvement in matters that have been developed during the course of the investigation;

(19) To the Internal Revenue Service and appropriate State and local taxing authorities for their use in enforcing the

relevant revenue and taxation law and related official duties;

(20) To other Federal, State or foreign financial institutions supervisory or regulatory authorities for their use in administering their official functions, to include examination, supervision, litigation, and resolution authorities with respect to financial institutions, receiverships, liquidations, conservatorships, bridge institutions, and similar functions;

(21) To appropriate Federal agencies and other public authorities for use in records management inspections;

(22) To a governmental, public or professional or self-regulatory licensing organization for use in licensing or related determinations when such record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed;

(23) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC or to obtain information in the course of an investigation (to the extent permitted by law). Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt; and

(24) To other Federal Offices of Inspector General or other entities for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components, or for statistical purposes.

Note: In addition to the foregoing, a record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name of individual, unique investigation number assigned, referral number, social security number, or investigative subject matter.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records regarding ''significant'' investigations (*i.e.,* those receiving national media attention, involving a Congressional investigation, or otherwise having been deemed to have historic value) are retained permanently, with offering to the National Archives and Records Administration after ten years. For records that are investigative in nature but not related to a specific investigation, the retention period is five years. For records related to a specific investigation, except significant investigations (national media attention, Congressional investigation, or substantive changes in agency policies and procedures), the retention period is ten years after the Office of Investigations' closure of the file. Records in this system having reached the end of their retention period, and not subject to any litigation or other holds are to be destroyed or placed in secured bins for destruction by an FDIC contractor.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic system files are accessible only by authorized personnel and are safeguarded with user passwords or passcodes and authentication verification, network/database permission, and software controls. File folders are maintained in safes or lockable metal file cabinets and lockable offices accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system of records, to the extent that it consists of information compiled for the purpose of criminal investigations, has been exempted from the requirements of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4)(G) and (H); (e)(5); (e)(8); (e)(12); (f); (g); and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, this system of records, to the extent that it consists of investigatory material compiled: (A) For other law enforcement purposes (except where an individual has been denied any right, privilege, or benefit for which he or she would otherwise be entitled to or eligible for under Federal law, so long as the disclosure of such information would not reveal the identity of a source who furnished information to the FDIC under an express promise that his or her identity would be kept confidential); or (B) solely for purposes of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the FDIC on a confidential basis, has been exempted from the requirements of subsections (c)(3); (d); (e)(1); (e)(4)(G) and (H); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), respectively. Note, records in this system that originated in another system of records shall be governed by the exemptions claimed for this system as well as any additional exemptions claimed for the other system.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Corporate Applicant Recruiting, Evaluating and Electronic Referral Records, FDIC–30–64–0011.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226, and FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226.

SYSTEM MANAGER(S):

Assistant Director, Information Systems and Services Section, Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); 5 U.S.C. 1104; and Section 8C(b) of the Inspector General Act, as amended (5 U.S.C. App.).

PURPOSE(S) OF THE SYSTEM:

The records are collected and maintained to monitor and track individuals filing employment applications with the FDIC or OIG and to assess recruiting goals and objectives.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the FDIC or OIG in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, other contact information, social security number, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

RECORD SOURCE CATEGORIES:

Information originates from position vacancy announcements, applications for employment submitted by individuals, and the applicant qualification and processing system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained three years or until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Financial Information Management Records, FDIC–30–64–0012.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Finance, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. Records concerning garnishments, attachments, wage assignments and related records concerning FDIC employees are located with the Legal Division, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. Some information, including travel and lodging reservations is collected and maintained, on behalf of the FDIC by Sato Travel Services at 4601 N Fairfax Drive, Suite 170, Arlington, VA 22203. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Director, Division of Finance, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. For records about FDIC employees concerning garnishments, attachments, wage assignments and related records, the system manager is the Legal Division, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)).

PURPOSE(S) OF THE SYSTEM:

The records are maintained for the FDIC and the failed financial institution receiverships managed by the FDIC. The records are used to manage and account for financial transactions and financial activities of the FDIC. The records and associated databases and subsystems provide a data source for the production of reports and documentation for internal and external management reporting associated with the financial operations of the FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees; current and former vendors and contractors providing goods and/or services to the FDIC; current and former employees, advisory committee members and others who travel for the FDIC; current and former FDIC customers; and individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver. Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains (1) employee payroll, benefit, and disbursement-related records; (2) contractor and vendor invoices and other accounts payable records; (3) customer records related to accounts receivables; (4) payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver; and (5) accounting and financial management records. The payroll and/or disbursement records include, without limitation, employees' mailing addresses and home addresses; dependents' names and dates of birth; financial institution account information; social security number and unique employee identification number; rate and amount of pay; tax exemptions; tax deductions for employee payments; and corporate payments information for tax reporting. Records relating to employee, advisory committee and other claims for reimbursement of official travel expenses include, without limitation, travel authorizations, vouchers showing amounts claimed, medical certification and narratives with information about the traveler's medical or physical conditions, exceptions taken as a result of audit, and amounts paid. Other records maintained on employees include reimbursement claims for relocation expenses consisting of authorizations, advances, vouchers of amounts claimed and amounts paid; reimbursement for educational expenses or professional membership dues and licensing fees and similar reimbursements; awards, bonuses, and buyout payments; advances or other funds owed to the FDIC; and garnishments, attachments, wage assignments or related records. Copies of receipts/invoices provided to the FDIC for reimbursement may contain credit card or other identifying account information. Contractor, vendor, and other accounts payable records consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents, vendor addresses and financial institution account information, vendor invoice statements; amounts paid, and vendor tax identification number. Copies of documentation supporting vendor invoice statements may contain identifying data, such as account number. Customer information is also captured as necessary for the collection of accounts receivable. Payment records for individuals who were depositors or claimants of failed financial institutions for which the FDIC was appointed receiver include name, address, and payment amount; tax id numbers or social security numbers are also included for depositors or claimants when an informational tax return must be filed. The records also include general ledger and detailed trial balances and supporting data. Note: This system includes only records maintained by the FDIC. Associated records maintained by the government travel card issuer and travel services provider are described and covered by the government-wide system of records GSA/GOVT–3 (Travel Charge Card Program), and GSA/GOVT–4 (Contracted Travel Services Program).

RECORD SOURCE CATEGORIES:

The information is obtained from the individual upon whom the record is maintained; other government agencies; contractors; or from another FDIC office maintaining the records in the performance of their duties. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial authority.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To auditors employed by the U.S. Government Accountability Office;

(12) To the Internal Revenue Service and appropriate State and local taxing authorities;

(13) To vendors, carriers, or other appropriate third parties by the FDIC Office of Inspector General for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations; and

(14) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are indexed and retrievable by social security number or specialized identifying number; paper format records are generally indexed and retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Financial management records are maintained seven years. Records relating to banking transaction authorization forms, garnishments, attachments and wage assignments are maintained three years after termination. Disposal is by shredding or other appropriate disposal systems. Summary Corporate accounting records are considered permanent and do not contain personal information.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or

email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Insured Financial Institution Liquidation Records, FDIC–30–64–0013.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429, and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Dallas, Texas 7520. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429; and Deputy Director, Field Operations Branch, FDIC, 1601 Bryan Street, Dallas, Texas 75201.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1823) and applicable state laws governing the liquidation of assets and winding-up of the affairs of financial institutions.

PURPOSE(S) OF THE SYSTEM:

The records support the receivership, conservatorship, and other resolution functions of the FDIC authorized by applicable Federal and state statutes. The records are maintained to: (a) Identify and manage loan obligations and assets acquired from failed FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator, or from FDIC-insured financial institutions that were provided assistance by the FDIC; (b) identify, manage and discharge the obligations to creditors, obligees and other claimants of FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator, or of FDIC-insured financial institutions that were provided assistance by the FDIC; and (c) support resolution planning, administration, and research in accordance with statutory mandates.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were obligors, obligees, or subject to claims of FDIC-insured financial institutions for which the FDIC was appointed receiver or conservator of FDIC-insured financial institutions that were provided assistance by the FDIC and the FDIC is acting as receiver or conservator of certain of the financial institution's assets. Note: Only records reflecting personal information are subject to the Privacy Act. This system also contains records concerning failed financial institution receiverships, corporations, other business entities, and organizations whose records are not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the individual's files held by the closed or assisted financial institution, including loan or contractual agreements, related documents, and correspondence. The system also contains FDIC asset files, including judgments obtained, restitution orders, and loan deficiencies arising from the liquidation of the obligor's loan asset(s) and associated collateral, if any; information relating to the obligor's financial condition such as financial statements and income tax returns; asset or collateral verifications or searches; appraisals; and potential sources of repayment. FDIC asset files also include intra- or inter-agency memoranda, as well as notes, correspondence, and other documents relating to the liquidation of the loan obligation or asset. FDIC receivership claim files may include all information related to claims filed with the receivership estate by a failed financial institution's landlords, creditors, service providers or other obligees or claimants. Note: Records held by the FDIC as receiver are a part of this system only to the extent that the state law governing the receivership is not inconsistent or does not otherwise establish specific requirements.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained; appraisers retained by the originating financial institution or the FDIC; investigative and/or research companies; credit bureaus and/or services; loan servicers; court records; references named by the individual; attorneys or accountants retained by the originating financial institution or the FDIC; participants in the obligation(s) of the individual; officers and employees of the financial institution; congressional offices that may initiate an inquiry; and other parties providing services to the FDIC in support of the resolution functions of the FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to

such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors or entities performing services for the FDIC in connection with the liquidation of an individual's obligation(s), including judgments and loan deficiencies or in connection with the fulfillment of a claim filed with the FDIC. Third party contractors include, but are not limited to, asset marketing contractors; loan servicers; appraisers; environmental contractors; attorneys retained by the FDIC; collection agencies; auditing or accounting firms retained to assist in an audit or investigation of the FDIC's resolution activities; grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To prospective purchaser(s) of the individual's obligation(s), including judgments and loan deficiencies, for the purpose of informing the prospective purchaser(s) about the nature and quality of the loan obligation(s) to be purchased;

(12) To Federal or State agencies, such as the Internal Revenue Service or State taxation authorities, in the performance of their governmental duties, such as obtaining information regarding income, including the reporting of income resulting from a compromise or write-off of a loan obligation;

(13) To participants in the loan obligation in order to fulfill any contractual or incidental responsibilities in connection with the loan participation agreement;

(14) To the Department of the Treasury, federal debt collection centers, other appropriate federal agencies, and private collection contractors or other third parties authorized by law, for the purpose of collecting or assisting in the collection of delinquent debts owed to the FDIC. Disclosure of information contained in these records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, and the existence, validity, amount, status and history of the debt.

(15) To Federal or State agencies or to financial institutions where information is relevant to an application or request by the individual for a loan, grant, financial benefit, or other entitlement;

(16) To Federal or State examiners for the purposes of examining borrowing relationships in operating financial institutions that may be related to an obligation of an individual covered by this system; and

(17) To the individual, the individual's counsel or other representatives, insurance carrier(s) or underwriters of bankers' blanket bonds or other financial institution bonds in conjunction with claims made by the FDIC or litigation instituted by the FDIC or others on behalf of the FDIC against former officers, directors, accountants, lawyers, consultants, appraisers, or underwriters of bankers' blanket bonds or other financial institution bonds.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed by financial institution number, name of failed or assisted insured institution, name of individual, social security number, and loan number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Insured Financial Institution Liquidation and Unclaimed Deposit Account Records are maintained ten years after termination of the receivership or as established by state or Federal law or court order, if longer. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets and/or in secured vaults or warehouses accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Personnel Benefits and Enrollment Records, FDIC–30–64–0014.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices). The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees. The FDIC also has agreements with T. Rowe Price, Benefit Allocation Systems, and other benefit plan contractors to provide employee benefits and related administrative services.

SYSTEM MANAGER(S):

Deputy Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Executive Order 9397.

PURPOSE(S) OF THE SYSTEM:

The records are collected, maintained and used to support the administration and management of FDIC personnel benefits programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC employees and their dependents who are enrolled in FDIC-sponsored, health, life, and other insurance or benefit programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains general personnel and enrollment information for FDIC-sponsored flexible spending account (FSA) plans and insurance plans (life, dental, vision, or long-term disability). This may include information such as an individual's name, earnings, number and name of dependents, gender, date of birth, home address, social security number, employee locator information (including email and office addresses), claims for FSA reimbursements, and related correspondence.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records in the systems noted in System Location.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(11) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(12) To the Internal Revenue Service and appropriate State and local taxing authorities;

(13) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(14) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(15) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(16) To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return;

(17) To Benefit Allocation Systems, T. Rowe Price, and other benefit providers, carriers, vendors, contractors, and agents to process claims and provide related administrative services involving FDIC personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by the name, social security number, or system-specific assigned number of the employee.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained ten years after employee separation. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Personnel Records, FDIC–30–64–0015.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429, and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees.

SYSTEM MANAGER(S):

Deputy Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street NW, Washington, DC 20429; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819), Executive Order 9397; and Section 8C(b) of the Inspector General Act, as amended (5 U.S.C. App.).

PURPOSE(S) OF THE SYSTEM:

The records are collected, maintained and used to support the administration and management of the FDIC personnel and benefits programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC or OIG employees, contractors, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to personnel actions and determinations made about individuals while employed or seeking employment. These records may contain information about an individual relating to name, birth date, Social Security Number (SSN), personal telephone numbers and addresses, employment applications, background, identity verification and credentials, duty station telephone numbers and addresses, compensation, performance, separation, Internal Revenue Service (IRS) or court-ordered levies, emergency contacts, and related records and correspondence. These records may also contain Equal Employment Opportunity (EEO) group information about FDIC employees, such as race, national origin, sex and disability information. Note: Records maintained by the FDIC in the official personnel file are described in the government-wide Privacy Act System Notice known as OPM/GOVT–1 and other government-wide system notices published by the Office of Personnel Management, and are not included within this system.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued,

when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(11) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(12) To the Internal Revenue Service and appropriate State and local taxing authorities;

(13) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(14) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(15) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(16) To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by individual name, social security number, or other unique identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Official personnel records are maintained sixty-five years after employee separation from the Federal Service. Other personnel records include employment applications, identity verification, performance, court-ordered levies, correspondence, emergency contacts, etc. are kept until superseded up to six months after the employee separates or transfers from the FDIC. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel using PIV cards. Paper records are maintained in lockable metal file cabinets in a locked room accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email

efoia@fdic.gov. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Professional Qualification Records for Municipal Securities Dealers, Municipal Securities Representatives, and U.S. Government Securities Brokers/Dealers, FDIC–30–64–0016.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Risk Management Supervision, Risk Management Policy Branch, FDIC, 550 17th Street NW, Washington, DC 20429. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Senior Examination Specialist—Trust, Risk Management Policy Branch, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 15B(c), 15C, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4, 78o–5, and 78q and 78w); and Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The records are maintained to comply with the registration requirements of municipal securities dealers, municipal securities representatives, and U.S. Government securities brokers or dealers and associated persons contained in the Securities Exchange Act of 1934 and to support the FDIC's regulatory and supervisory functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who are or seek to be associated with municipal securities brokers or municipal securities dealers which are FDIC-insured, state-chartered financial institutions (including insured state-licensed branches of foreign financial institutions), not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such financial institutions; and

(2) Persons who are or seek to be persons associated with U.S. Government securities dealers or brokers which are FDIC-insured state-chartered financial institutions, other than members of the Federal Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain identifying information, detailed educational and employment histories, examination information, disciplinary information, if any, and information concerning the termination of employment of individuals covered by the system. Identifying information includes name, address, date and place of birth, and may include social security number.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, municipal securities dealers and U.S. Government securities dealers and brokers (as such dealers are described in ''Categories of Individuals Covered by the System'' above), and Federal, State, local, and foreign governmental authorities and self-regulatory organizations or agencies which regulate the securities industry.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To the appropriate Federal, State, local, or foreign agency or authority or to the appropriate self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a)(26)), to the extent disclosure is determined to be

necessary and pertinent for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order, when the information by itself or together with additional information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or regulation, rule or order issued pursuant thereto;

(12) To assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in this system, in which the FDIC or one of its past or present employees is a party, to the extent that the information is relevant to the proceeding;

(13) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to an FDIC inquiry concerning a person who is or seeks to be associated with a municipal securities dealer as a municipal securities principal or representative or a U.S. Government securities broker or a U.S. Government securities dealer;

(14) To a Federal, State, local, or foreign governmental authority or a self-regulatory organization in connection with the issuance of a license or other benefit to the extent that the information is relevant and necessary; and

(15) To a registered dealer, registered broker, registered municipal securities dealer, U.S. Government securities dealer, U.S. Government securities broker, or an insured financial institution that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by name and dealer registration number or FDIC financial institution certificate number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained ten years from the date of submission. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Employee Medical and Health Assessment Records, FDIC–30–64–0017.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Health Unit, Corporate Services Branch, Division of Administration, FDIC, located at the following addresses: 550 17th Street NW, Washington, DC 20429; 3501 Fairfax Drive, Arlington, VA 22226; 1310 Courthouse Road, Arlington VA 22226; and Health Units located in FDIC Regional Offices; and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.)

SYSTEM MANAGER(S):

Health, Safety and Environmental Program Manager, Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); and Sections 4(b), 6(e), and 8C(b) of the Inspector General Act, as amended (5 U.S.C. App.).

PURPOSE(S) OF THE SYSTEM:

The records are collected and maintained to identify potential health issues and concerns of an individual, to identify and collect information with respect to claims for injury or illness while in the performance of duty, to evaluate and diagnose medical conditions reported by an individual to the FDIC Health Unit, and to identify necessary contacts in the event of a medical emergency involving the covered individual. The records collected and maintained by the Office of Inspector General are used to determine compliance with Office of Inspector General policies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC and OIG employees, and other individuals who seek information, treatment, medical accommodations, participate in health screening programs administered by the FDIC, or file claims seeking benefits under the Federal Employees' Compensation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of the employee, including name, age, height, weight, history of certain medical conditions, health screening records; dates of visits to the FDIC Health Unit, diagnoses, and treatments administered; ergonomic reviews and assessments; the name and telephone number of the person to contact in the event of a medical emergency involving the employee; and reports of injury or illness while in the performance of duty. The system used by the Office of Inspector General contains the results of physical and other medical examinations of OIG employees. Note: This system includes only records maintained by the FDIC.

Associated records, if any, are described and covered by the Office of Personnel Management government-wide system of records OPM/GOVT–10 (Employee Medical File System Records) or the Department of Labor government-wide system of records DOL/GOVT–1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File).

RECORD SOURCE CATEGORIES:

The records are compiled during the course of a visit to the Health Unit for treatment, participation in a health screening program, in the performance of accident/incident investigations, or if the individual requests an ergonomic assessment or health or medical accommodation. OIG employees also provide the results of physical and other medical examinations required for compliance with Office of Inspector General policies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To the appropriate Federal, State or local agency when necessary to adjudicate a claim (filed by or on behalf of the individual) under the Federal Employees Compensation Act, 5 U.S.C. 8101 *et seq.,* or a retirement, insurance or health benefit program;

(12) To a Federal, State, or local agency to the extent necessary to comply with laws governing reporting of communicable disease;

(13) To health or life insurance carriers contracting with the FDIC to provide life insurance or to provide health benefits plan, such information necessary to verify eligibility for payment of a claim for life or health benefits;

(14) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Health Unit; and

(15) To the person designated on the appropriate form as the individual to contact in the event of a medical emergency of the employee.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained three years after cut-off of inactive files. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested,

the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Grievance Records, FDIC–30–64–0018.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; and FDIC Office of Inspector General, 3501 Fairfax Drive, Arlington, VA 22226. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations are located in the FDIC Regional Office where originated. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) For non-headquarters employees, duplicate copies may be maintained by the Human Resources Branch, Division of Administration, Arlington, VA for the purpose of coordinating grievance and arbitration proceedings.

SYSTEM MANAGER(S):

Deputy Director of Personnel, Human Resources Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226; Deputy Assistant Inspector General for Management, Office of Inspector General, FDIC, 3501 Fairfax Drive, Arlington, VA 22226. The appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act, as amended (5 U.S.C. App.); 5 U.S.C. 1302, 3301, 7121; 5 CFR part 771.

PURPOSE(S) OF THE SYSTEM

The information contained in this system is used to make determinations and document decisions made on filed grievances and settle matters of dissatisfaction or concern of covered individuals. Information from this system may be used for preparing statistical summary or management reports.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC or OIG employees who have submitted grievances in accordance with part 771 of the United States Office of Personnel Management's regulations (5 CFR part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under Part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. Case files contain documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related correspondence and exhibits. This system includes files and records of internal grievance procedures that the FDIC may establish through negotiations with recognized labor organizations. The system used by the Office of Inspector General contains records related to grievances filed by OIG employees.

RECORD SOURCE CATEGORIES:

Information in this system is provided: (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To any source during the course of an investigation only such information as determined to be necessary and pertinent to process a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Potential Bidders List, FDIC–30–64–0019.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429; and Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Dallas, Texas 75201. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Director, Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11 and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821 and 1823).

PURPOSE(S) OF THE SYSTEM:

The system collects, identifies and maintains information about potential purchasers of assets (primarily loans and owned real estate) from the FDIC. The information is utilized by the FDIC in the marketing of assets, to identify qualified potential purchasers and to solicit bids for assets. The information in this system is used to support the FDIC's liquidation/receivership functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have purchased or submitted written notice of an interest in purchasing loans, owned real estate, securities, or other assets from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, address, telephone number and electronic mail address, if available; information as to the kind or category and general geographic location of loans or owned real estate that the individual may be interested in purchasing; and information relating to whether any bids have been submitted on prior sales.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual about whom the record is maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects

or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To other Federal or State agencies and to contractors to assist in the marketing and sale of loans, real estate, or other assets held by the FDIC.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name. File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Telephone Call Detail Records, FDIC–30–64–0020.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Information Technology, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

SYSTEM MANAGER(S):

Assistant Director, Operations Section, Infrastructure Services Branch, Division of Information Technology, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The records in this system are maintained to identify and make a record of all telephone calls placed to or from FDIC telephones and enable the FDIC to analyze call detail information for verifying call usage; to determine responsibility for placement of specific long distance calls; and for detecting possible abuse of the FDIC-provided long distance telephone network.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers by the FDIC, including current and former FDIC employees and contractor personnel, who make local and long distance telephone calls and individuals who receive telephone calls placed or charged to FDIC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, including telephone number, location, dates and duration of telephone calls relating to use of FDIC telephones to place or receive long distance and local calls, and records indicating assignment of telephone numbers to individuals covered by the system.

RECORD SOURCE CATEGORIES:

Telephone assignment records and call detail listings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a

portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To current and former FDIC employees and other individuals currently or formerly provided telephone services by the FDIC to determine their individual responsibility for telephone calls;

(12) To a telecommunications company providing telecommunications support to permit servicing the account; and

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media are accessible by unique identifier or name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained three years from the date created or until the close of the fiscal year in which the records are audited. Disposal is by shredding or other appropriate disposal methods

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Fitness Center Records, FDIC–30–64–0021.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Fitness Centers, Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226, and 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Health, Safety and Environmental Program Manager, Acquisition and Corporate Services Branch, Division of Administration, FDIC, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The records are collected and maintained to control access to the fitness center; to enable the Fitness Centers' contractor to identify any potential health issues or concerns and the fitness level of an individual; and to identify necessary contacts in the event of a medical emergency while the

individual is participating in a fitness activity.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC employees who apply for membership and participate in the Fitness Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the individual's name, gender, age; fitness assessment results; identification of certain medical conditions; and the name and phone number of the individual's personal physician and emergency contact.

RECORD SOURCE CATEGORIES:

Information is principally obtained from the individual who has applied for membership and Fitness Center personnel. Some information may be provided by the individual's personal physician.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(11) To the individuals listed as emergency contacts or the individual's personal physician, in the event of a medical emergency; and

(12) To a Health Unit or occupational safety and health contractors, including contract nurses, industrial hygienists, and others retained for the purpose of performing any function associated with the operation of the Fitness Centers.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

File folders are indexed and retrieved by name of individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street, NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Freedom of Information Act and Privacy Act Request Records, FDIC–30–64–0022.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATIONS:

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C 552a), 12 CFR parts 309 and 310.

PURPOSE(S) OF THE SYSTEM:

The records are collected and maintained to process requests made under the provisions of the FOIA and Privacy Act and to assist the FDIC in carrying out any other responsibilities relating to the FOIA and Privacy Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit requests and administrative appeals pursuant to the provisions of the Freedom of Information Act (FOIA) or the Privacy Act; individuals whose requests, appeals or other records have been referred to the FDIC by other agencies; attorneys or other persons authorized to represent individuals submitting requests and appeals; individuals who are the subjects of such requests; and FDIC personnel assigned to process such requests or appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain requesters' and their attorneys' or representatives' names, addresses, email addresses, telephone numbers; online identity verification information (username and password); and any other information voluntarily submitted, such as an individual's social security number; tracking numbers; correspondence with the requester or others representing the requester; internal FDIC correspondence and memoranda to or from other agencies having a substantial interest in the determination of the request; responses to the request and appeals; and copies of responsive records. These records may contain personal information retrieved in response to a request. *Note*—FOIA and Privacy Act case records may contain inquiries and requests regarding any of the FDIC's other systems of records subject to the FOIA and Privacy Act, and information about individuals from any of these other systems may become part of this system of records.

RECORD SOURCE CATEGORIES:

Requesters and persons acting on behalf of requesters, FDIC Divisions and Offices, other Federal agencies having a substantial interest in the determination of the request, and employees processing the requests.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal agencies and other public authorities for use in records management inspections;

(7) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(8) To another Federal government agency having a substantial interest in the determination of the request or for the purpose of consulting with that agency as to the propriety of access or correction of the record in order to complete the processing of requests; and

(9) To a third party authorized in writing to receive such information by the individual about whom the information pertains.

(10) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b), to review administrative agency policies, procedures and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by the requester's name or by unique number assigned to the request. Records sometimes are retrieved by reference to the name of the requester's firm, if any, or the subject matter of the request.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

FOIA request records are maintained for six years after final agency determination or after final adjudication by the courts. Privacy Act request records are maintained in accordance with established disposition schedules for individual records, or five years after the date of the disclosure, whichever is later. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

The FDIC has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (j)(2), (k)(1), (k)(2), and (k)(5) and 12 CFR part 310.13. During the processing of a Freedom of Information Act or Privacy Act request, exempt records from these other systems of records may become part of the case record in this system of records. To the extent that exempt records from other FDIC systems of records are entered or become part of this system, the FDIC has claimed the same exemptions, and any such records compiled in this system of records from any other system of records continues to be subject to any exemption(s) applicable for the records as they have in the primary systems of records of which they are a part.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Affordable Housing Program Records, FDIC–30–64–0023.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Supervisory Resolutions and Receiverships Specialist, Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, 13, and 40 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, 1823, 1831q).

PURPOSE(S) OF THE SYSTEM:

The records are collected and maintained to determine and verify eligibility of individuals to participate in the FDIC Affordable Housing Program and to monitor compliance by individuals with purchaser income restrictions. The information in the system supports the FDIC's liquidation of qualifying residential housing units and the FDIC's goal to provide home ownership for low-income and moderate-income families.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Purchasers and prospective purchasers of residential properties offered for sale through the FDIC's Affordable Housing Program. Note: To be considered a prospective purchaser for purposes of this record system, the individual must have: (1) Completed and signed an FDIC ''Certification of Income Eligibility;'' and (2) delivered the form to an authorized representative of the FDIC's Affordable Housing Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the purchaser's or prospective purchaser's income qualification form and substantiating documents (such as personal financial statements, income tax returns, asset or collateral verifications, appraisals, and sources of income); copies of sales contracts, deeds, or other recorded instruments; intra-agency forms, memoranda, or notes related to the property and purchaser's participation in the FDIC's Affordable Housing Program; correspondence; and other documents related to the FDIC's Affordable Housing Program.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual seeking to participate in the FDIC's Affordable Housing Program. Information pertaining to an individual may, in some cases, be supplemented with reports from credit bureaus and/or similar credit reporting services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the

FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(11) To mortgage companies, financial institutions, federal agencies (such as the Federal Housing Administration, the Housing and Urban Development Agency, the Farm Service Agency, and the Veterans Administration), or state and local government housing agencies where information is determined to be relevant to an application or request for a loan, grant, financial benefit, or other type of assistance or entitlement.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media and paper format are accessible by name of purchaser or prospective purchaser and by address of the property purchased.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained seven years after the Memorandum of Understanding covering the records is superseded or terminated. If the agreement involves the expenditure of funds, the records will be maintained seven years after the final payment. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Unclaimed Deposit Account Records, FDIC–30–64–0024.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Resolutions and Receiverships, Field Operations Branch, FDIC, 1601 Bryan Street, Dallas, Texas 75201. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Assistant Director, Field Operations Branch, Division of Resolutions and Receiverships, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 11, and 12 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1821, and 1822).

PURPOSE(S) OF THE SYSTEM:

The information in this system is used to process inquiries and claims of individuals with respect to unclaimed insured deposit accounts of closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989, and to assist in complying with the requirements of the Unclaimed Deposits Amendments Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals identified as deposit account owners of unclaimed insured deposits of a closed insured depository institution for which the FDIC was appointed receiver after January 1, 1989.

CATEGORIES OF RECORDS IN THE SYSTEM:

Deposit account records, including signature cards, last known home address, social security number, name of insured depository institution, relating to unclaimed insured deposits or insured transferred deposits from closed insured depository institutions for which the FDIC was appointed receiver after January 1, 1989.

RECORD SOURCE CATEGORIES:

Information originates from deposit records of closed insured depository

institutions and claimants. Records of unclaimed transferred deposits are provided to the FDIC from assuming depository institutions to which the FDIC transferred deposits upon closing of the depository institution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(11) To the appropriate State agency accepting custody of unclaimed insured deposits.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic media and paper format are indexed and retrieved by depository institution name, depositor name, depositor social security number, or deposit account number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of unclaimed deposits are maintained ten years after the termination date of the receivership or as established by the state or Federal law or court order, if longer. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Beneficial Ownership Filings (Securities Exchange Act), FDIC–30–64–0025.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429. Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Chief, Accounting & Securities Disclosure Section, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 12(i) and 16(a) of the Securities Exchange Act of 1934 (respectively, 15 U.S.C. 78l(i) and 78p(a)).

PURPOSE(S) OF THE SYSTEM:

In accordance with Section 16(a) of the Securities Exchange Act of 1934, as amended by section 403 of the Sarbanes-Oxley Act of 2002, this information is being made available to the public on the FDIC's external internet website in order to facilitate the more efficient transmission, dissemination, analysis, storage and retrieval of insider ownership and transaction information in a manner that will benefit investors, filers and financial institution regulatory agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934, and (2) Any person who is directly or indirectly the beneficial owner of greater than 10% of a class of equity securities issued by an FDIC-insured depository institution that are registered under section 12 of the Securities Exchange Act of 1934; including any trust, trustee, beneficiary or settlor required to report pursuant to Securities and Exchange Commission Rule 16a–8.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reporting persons submit electronically or on paper reports on any of the following three forms: ''Initial Statement of Beneficial Ownership of Securities,'' ''Statement of Changes in Beneficial Ownership of Securities'' and ''Annual Statement of Beneficial Ownership of Securities.'' Reporting persons are required to use these forms to disclose ownership and transactional information relative to their beneficial ownership of securities of FDIC-insured depository institutions with securities registered under the Securities Exchange Act of 1934. Under section 403 of the Sarbanes-Oxley Act of 2002, these forms must be submitted in electronic form and must be made available to the public on a Federal agency's external internet website. The forms require disclosure of the name of the financial institution, relationship of reporting person to the financial institution, reporting person's name and street address, date of form or amendment, and filer's signature and date. A description of the securities' terms and transactional information including transaction date, type of transaction, amount of securities acquired or disposed, price, aggregate amount of securities beneficially owned, and form and nature of beneficial ownership must also be disclosed on the forms.

RECORD SOURCE CATEGORIES:

Information originates from (1) any director or officer of an FDIC-insured depository institution with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934; and (2) any beneficial owner of greater than 10% of an FDIC-insured depository institution with a class of equity securities registered under the Securities Exchange Act of 1934, including any trust, trustee, beneficiary or settlor required to report pursuant to SEC Rule 16a–8.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To appropriate Federal agencies and other public authorities for use in records management inspections;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(11) To the appropriate governmental or self-regulatory organizations when relevant to the organization's regulatory or supervisory responsibilities or if the information is relevant to a known or suspected violation of a law or licensing

standard within that organization's jurisdiction.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronically filed reports are indexed and retrieved by the name of the reporting party. Paper-filed reports are indexed by the name of the depository institution issuing the securities being reported, with sub-indexing by the filer's name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained for fifteen years from the date of filing. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Transit Subsidy Program Records, FDIC–30–64–0026.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429 and the FDIC Regional Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Records for FDIC Headquarters and all Regional Offices are also housed electronically at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SYSTEM MANAGER(S):

Lead, Transportation Unit, Security and Emergency Preparedness Section, Corporate Services Branch, Division of Administration, 3501 Fairfax Dr., Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The records are used to administer the FDIC transit subsidy program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees who apply for and receive transit subsidy program benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed transit subsidy application forms. The applications include, but are not limited to, the applicant's name, home address, title, grade, Division, Office, work hours, room and telephone numbers, commuting schedule, and transit system(s) used.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information taken from official FDIC records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or

suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by the name of the transit subsidy program participant.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained two years after employee separation. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Parking Program Records, FDIC–30–64–0027.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429 and Regional Offices with FDIC parking facilities. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.)

SYSTEM MANAGER(S):

Lead, Transportation Unit, Security and Emergency Preparedness Section, Corporate Services Branch, Division of Administration, 3501 Fairfax Dr., Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The records are used to administer the parking program, to allocate the limited number of parking spaces in the FDIC parking facilities among employees and visitors, to facilitate the formation of car pools with employees who have been issued parking permits, and to provide for the safe use of FDIC facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees and others who have applied for and/or been issued a parking permit for the use of FDIC parking facilities; individuals who car-pool with employees holding such permits; and employees interested in joining a car pool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed parking application forms, car pool information, disability parking applications, special parking authorizations, and visitor parking requests. The information includes, but is not limited to, the applicant's name, home address, title, grade, make, year and license number of vehicle, Division, Office, work hours, room and telephone numbers, and arrival/departure times.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain, information retrieved from official FDIC records, or information from other agency parking records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects

or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by the name of the permit holder, employee identification number, or license tag number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained for four years. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Office of the Chairman Correspondence Records, FDIC–30–64–0028.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Office of Legislative Affairs, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to document and respond to correspondence addressed to the FDIC, Office of the Chairman.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who correspond to, or receive correspondence from, the Office of the Chairman; and individuals who are the subject of correspondence to or from the Office of the Chairman.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence, memoranda, Email, and other communications with the Office of the Chairman that may include, without limitation, name and contact information supplied by the individual as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of

presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint; and

(11) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, date, and subject.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records signed by the Chairman regarding a legislative or public policy issue are maintained for ten years and then offered to the National Archives and Records Administration and retained permanently.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Congressional Correspondence Records, FDIC–30–64–0029.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Office of Legislative Affairs, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to document and respond to constituent and other inquiries forwarded by Members of the U.S. Congress or Congressional staff.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals whose inquiries relating to FDIC activities are forwarded by Members of Congress or Congressional staff to the FDIC for response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from Members of the U.S. Congress or Congressional staff making inquiries or transmitting inquiries, correspondence or documents from constituents that may include, without limitation, name and contact information as well as information concerning subject matter, internal office assignments, processing, and final response or other disposition.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who submit correspondence to the FDIC for response, and FDIC personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(11) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(12) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, date, and subject.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained four years after the expiration of the Member's congressional term of office. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Legislative Information Tracking System Records, FDIC–30–64–0030.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC, Office of Legislative Affairs, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Director, Office of Legislative Affairs, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to document and respond to inquiries regarding the FDIC's views on proposed legislation, facilitate Congressional briefings, and coordinate preparation of FDIC responses to constituent inquiries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of the U.S. Congress and Congressional staff; and individuals who contact, or are contacted by the FDIC Office of Legislative Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains memoranda, email and other communications with the Office of Legislative Affairs that may include without limitation, name and contact information supplied by the individual as well as information related to the inquiry that was developed by FDIC staff.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who contact the FDIC for response, and FDIC personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(10) To an insured depository institution which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(11) To the primary Federal or State financial regulator of an insured depository institution that is the subject of an inquiry or complaint; and

(12) To authorized third-party sources during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, date, and subject.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW,

Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Online Ordering Request Records, FDIC–30–64–0031.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

These electronic records are collected in a web-based system located at a secure site and on secure servers maintained by a contractor for the FDIC, Division of Administration, 550 17th Street NW, Washington, DC 20429.

SYSTEM MANAGER(S):

Assistant Director, Library & Public Information Center, Corporate Services Branch, Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to organize and process orders for publications, products, or other materials offered by the FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make an online order for publications, products, or other materials from the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains names, business or organization affiliations, addresses, phone numbers, fax numbers, email addresses, order history, login information (username, user ID, and password), fulfillment information (shipping and delivery instructions), and other contact information provided by individuals covered by this system.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from individuals who contact the FDIC, FDIC personnel, and contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal agencies and other public authorities for use in records management inspections;

(7) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media at a secure site and on secure servers maintained by a contractor.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, order number, publication title, and date.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until they become inactive, at which time they will be retired or destroyed in accordance with FDIC Records Retention Schedules and the National Archives and Records Administration. Disposal is by shredding or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act

Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Emergency Notification Records, FDIC–30–64–0033.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429 or FDIC Regional Offices (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Associate Director, FDIC Division of Administration, Security and Emergency Preparedness Section 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S) OF THE SYSTEM:

The system provides for multiple communication device notification to registered FDIC personnel during and after local, regional or national emergency events and security incidents, disseminates time sensitive information, provide personnel accountability and status during emergency events, and conduct communication tests. The system also provides for the receipt of real-time message acknowledgements and related management reports.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current FDIC employees, contractors, and other registered users.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes individual contact information including name, personal telephone numbers, personal email addresses, official business phone number, and official business email address.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information taken from official FDIC records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal agencies and other public authorities for use in records management inspections;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project; and

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media at a secure site and on secure servers maintained by a contractor.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by groups and individual name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained until the employee or contractor separates from the FDIC. Disposal is by deleting or other appropriate disposal methods.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov*. Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Office of Inspector General Inquiry Records, FDIC–30–64–0034.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

FDIC Office of Inspector General (OIG), 3501 Fairfax Drive, Arlington, VA 22226.

SYSTEM MANAGER(S):

FDIC Inspector General, 3501 Fairfax Drive, Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); the Inspector General Act of 1978, as amended (5 U.S.C. App.).

PURPOSE(S) OF THE SYSTEM:

This system of records is used to document and respond to correspondence addressed or directed to the FDIC OIG; to track the receipt and disposition of correspondence; and to act as a means of referring allegations of illegality, fraud and abuse to the OIG investigative function.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals—including, but not limited to, members of the public, the media, contractors and subcontractors, Congressional sources, and employees of the FDIC or of other governmental agencies—who communicate with the Office of Inspector General (OIG) through written or electronic correspondence or telephonically including the OIG Hotline. The system also includes individuals who receive correspondence from OIG and those who are the subject of correspondence to or from OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains communications such as correspondence, memoranda, email records, call records, voicemail, faxes, other electronic or digital communications, and additional documentation supplied by the source of the records to include other FDIC, congressional, and other executive branch sources. Information from the communications may be recorded in an electronic tracking system. Records provided by the source may include personally identifiable information including name, addresses, email addresses, telephone numbers, and any other information voluntarily submitted such as Social Security Number, as well as information developed by OIG, such as the date the matter was received by OIG, the date the matter was closed, and the manner of disposition. Records that involve law enforcement matters are transferred to the OIG investigative function, whose applicable system of records is covered by FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

RECORD SOURCE CATEGORIES:

Official records of the FDIC; current and former employees of the FDIC, other government employees, private individuals, vendors, contractors, subcontractors, witnesses and informants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To the appropriate Federal, State, local, foreign or international agency or authority which has responsibility for investigating or prosecuting a violation of or for enforcing or implementing a statute, rule, regulation, or order to assist such agency or authority in fulfilling these responsibilities when the record, either by itself or in combination with other information, indicates a violation or potential violation of law, or contract, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, alternative dispute resolution mediator or administrative tribunal (collectively referred to as the adjudicative bodies) in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings (collectively, the litigative proceedings) when the FDIC or OIG is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary in order for the adjudicatory bodies, or any of them, to perform their official functions in connection with the presentation of evidence relative to the litigative proceedings;

(3) To a congressional office in response to a written inquiry made by the congressional office at the request of the individual to whom the records pertain;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To the FDIC's or another Federal agency's legal representative, including the U.S. Department of Justice or other retained counsel, when the FDIC, OIG or any employee thereof is a party to litigation or administrative proceeding or has a significant interest in the litigation or proceeding to assist those representatives by providing them with

information or evidence for use in connection with such litigation or proceedings;

(7) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(8) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals if needed in the performance of these or other authorized duties;

(9) To appropriate Federal agencies and other public authorities for use in records management inspections;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the OIG, FDIC or Federal Government in order to assist those entities or individuals in carrying out their obligations under the related contract, grant, agreement or project;

(11) To a financial institution (whether or not FDIC-insured, but subject to the FDIC's examination, supervision and/or resolution authority) which is the subject of an inquiry or complaint when necessary to investigate or resolve the inquiry or complaint;

(12) To the primary Federal or State financial regulator of a financial institution (whether or not FDIC-insured, but subject to the FDIC's examination, supervision and/or resolution authority) that is the subject of an inquiry or complaint in order to resolve the inquiry or complaint;

(13) To third-party sources, as authorized by OIG or the FDIC, during the course of the investigation in order to resolve the inquiry or complaint. Information that may be disclosed under this routine use is limited to the name of the inquirer or complainant and the nature of the inquiry or complaint and such additional information necessary to investigate the inquiry or complaint;

(14) To the U.S. Office of Personnel Management, Government Accountability Office, Office of Government Ethics, Merit Systems Protection Board, Office of Special Counsel, Equal Employment Opportunity Commission, Department of Justice, Office of Management and Budget or the Federal Labor Relations Authority of records or portions thereof determined to be relevant and necessary to carrying out their authorized functions, including but not limited to a request made in connection with hiring or retaining an employee, rendering advice requested by OIG, issuing a security clearance, reporting an investigation of an employee, reporting an investigation of prohibited personnel practices, letting a contract or issuing a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter;

(15) To other Federal Offices of Inspector General or other entities for the purpose of conducting quality assessments or peer reviews of the OIG, or its investigative components, or for statistical purposes; and

(16) To a Federal agency responsible for considering suspension or debarment action where such a record is determined to be necessary and relevant.

Note: In addition to the foregoing: (1) A record which is contained in this system and derived from another FDIC system of records may be disclosed as a routine use as specified in the published notice of the system of records from which the record is derived; and (2) records contained in this system that are subsequently transferred to OIG's investigative function may be disclosed as a routine use as specified in FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, date received or closed, and/or subject.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained five years. Disposal is by shredding or other appropriate disposal methods. For records transferred from this system to OIG investigative function, the retention period and manner of destruction will be governed by the applicable investigative-records retention schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic system files are accessible only by authorized personnel on a need-to-know basis. File folders are maintained in lockable metal file cabinets and lockable offices accessible only by authorized personnel. Employees authorized to have access to this system include certain employees of the Inspector General's immediate office, OIG's Office of General Counsel, the audit and/or investigative function.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None. Records transferred from this system to the OIG investigative function are subject to the exemptions claimed under FDIC–30–64–0010, Investigative Files of the Office of Inspector General.

HISTORY:

80 FR 66981 (October 30, 2015).

SYSTEM NAME AND NUMBER:

Identity, Credential and Access Management Records, FDIC–30–64–0035.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street NW, Washington, DC 20429, and FDIC Regional or area Offices. (See *www.fdic.gov/about/contact/directory* or *Appendix A* for the location of FDIC Regional Offices.) Duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

Chief, Security Operations, Security and Emergency Preparedness Section, Corporate Services Branch, Division of Administration, 3501 Fairfax Dr., Arlington, VA 22226.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Executive Order 9397, as amended; and Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the system is to manage the safety and security of FDIC resources, facilities, information technology systems, and other Federal government agency facilities and systems, as well as the occupants of those facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system covers all FDIC employees, contractors, and other individuals who have applied for, been issued, and/or used a Personal Identity Verification (PIV) card for access to FDIC or other federal facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes all information submitted during application for the PIV card and any resulting investigative and adjudicative documentation required to establish and verify the identity and background of each individual issued a PIV card. The system includes, but is not limited to, the applicant's name, social security number, date and place of birth, hair and eye color, height, weight, ethnicity, status as Federal or contractor employee, employee ID number, email, biometric identifiers including fingerprints, digital color photograph, user access rights, and data from source documents used to positively identify the applicant, including passport and Form I–9 documents. *Note:* This system includes only records maintained by the FDIC. Associated records are described and covered by GSA's HSPD–12 USAccess government-wide system of records GSA/GOVT–7.

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, those authorized by the subject individuals to furnish information, and FDIC personnel records. Information regarding entry and egress from FDIC facilities or access to information technology systems is obtained from use of the PIV card.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local and foreign authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;

(2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(5) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(7) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(8) To appropriate Federal agencies and other public authorities for use in records management inspections;

(9) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(10) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC, the Office of Inspector General, or the Federal Government for use in carrying out their obligations under such contract, grant, agreement or project;

(11) To notify another Federal agency when, or verify whether, a PIV card is no longer valid.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in electronic media and in paper format within individual file folders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed and retrieved by name, social security number, other ID number, PIV card serial number, and/or by any other unique individual identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained five years after employee separation from the FDIC. PIV cards are destroyed by

shredding no later than 90 days after deactivation.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password protected and accessible only by authorized personnel. Paper format records maintained in individual file folders are stored in lockable file cabinets and/or in secured vaults or warehouses and are accessible only by authorized personnel.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 66981 (October 30, 2015).

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on July 15, 2019.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–15280 Filed 7–19–19; 8:45 am]

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FEDERAL REGISTER

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Part III

Department of the Treasury

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

12 CFR Parts 3, 217 and 324
Regulatory Capital Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2017–0018]

RIN 1557–AE10

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–1576]

RIN 7100 AE74

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AE59

Regulatory Capital Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996

AGENCY: Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule (final rule) to simplify certain aspects of the capital rule. The final rule is responsive to the agencies' March 2017 report to Congress pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996, in which the agencies committed to meaningfully reduce regulatory burden, especially on community banking organizations. The key elements of the final rule apply solely to banking organizations that are not subject to the advanced approaches capital rule (non-advanced approaches banking organizations). Under the final rule, non-advanced approaches banking organizations will be subject to simpler regulatory capital requirements for mortgage servicing assets, certain deferred tax assets arising from temporary differences, and investments in the capital of unconsolidated financial institutions than those currently applied. The final rule also simplifies, for non-advanced approaches banking organizations, the calculation for the amount of capital issued by a consolidated subsidiary of a banking organization and held by third parties (sometimes referred to as a minority interest) that is includable in regulatory capital. In addition, the final rule makes technical amendments to, and clarifies certain aspects of, the agencies' capital rule for both non-advanced approaches banking organizations and advanced approaches banking organizations (technical amendments). Revisions to the definition of high-volatility commercial real estate exposure in the agencies' capital rule are being addressed in a separate rulemaking.

DATES: This rule is effective October 1, 2019, except for the amendments to 12 CFR 3.21, 3.22, 3.300, 217.21, 217.22, 217.300(b) and (d), 324.21, 324.22, and 324.300, which are effective April 1, 2020. For more information, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

OCC: David Elkes, Risk Expert, Capital and Regulatory Policy (202) 649–6370; or Carl Kaminski, Special Counsel, or Henry Barkhausen, Counsel, or Chris Rafferty Attorney, Chief Counsel's Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Constance M. Horsley, Deputy Associate Director, (202) 452–5239; Juan Climent, Manager, (202) 872–7526; or Andrew Willis, Lead Financial Institutions Policy Analyst, (202) 912–4323, Division of Supervision and Regulation; or Benjamin McDonough, Assistant General Counsel (202) 452–2036; Gillian Burgess, Senior Counsel (202) 736–5564, or Mark Buresh, Counsel (202) 452–5270, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: Benedetto Bosco, Chief, Capital Policy Section, *bbosco@fdic.gov;* Richard Smith, Capital Markets Policy Analyst, *rismith@fdic.gov;* Michael Maloney, Senior Policy Analyst, *mmaloney@fdic.gov; regulatorycapital@fdic.gov;* Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; or Catherine Wood, Counsel, *cawood@fdic.gov;* Michael Phillips, Counsel, *mphillips@fdic.gov;* Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The portions of the final rule related to simpler requirements for mortgage servicing assets, certain deferred tax assets, investments in the capital of unconsolidated financial institutions, and minority interest (incorporated in the amendatory instructions 7, 8, 24, 30, 31, 47.b, 53, 54, and 70) are effective on April 1, 2020. The portions of the final rule related to the technical amendments (incorporated in the amendatory instructions 1–6, 9–23, 25–29, 32–46, 47.a, 48–52, and 55–69) are effective October 1, 2019. Any banking organization subject to the capital rule may elect to adopt the technical amendments that are effective October 1, 2019, prior to that date.

Table of Contents

I. Introduction

On October 27, 2017, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) published a notice of proposed rulemaking (simplifications proposal) [1] with the goal of reducing regulatory compliance burden, particularly on community banking organizations, by simplifying certain aspects of the agencies' risk-based and leverage capital requirements (capital rule).[2]

[1] 82 FR 49984 (October 27, 2017).

[2] The Board and the OCC issued a joint final rule on October 11, 2013 (78 FR 62018) and the FDIC issued a substantially identical interim final rule on September 10, 2013 (78 FR 55340). In April 2014, the FDIC adopted the interim final rule as a final rule with no substantive changes. 79 FR 20754 (April 14, 2014).

The agencies had previously adopted in 2013 rules designed to strengthen the capital rule's requirements and improve risk sensitivity. These rules were intended to address weaknesses that became apparent during the financial crisis of 2007–08. Since 2013, the quality of banking organizations' capital has significantly improved and the quantity of capital has increased.

The capital rule adopted in 2013 provides two methodologies for determining risk-weighted assets: (i) A standardized approach and (ii) a more complex, models-based approach, which includes both the internal ratings-based approach for measuring credit risk exposure and the advanced measurement approach for measuring operational risk exposure (advanced approaches).[3] The standardized approach applies to all banking organizations that are subject to the agencies' risk-based capital rule, whereas the advanced approaches apply only to certain large or internationally active banking organizations (advanced approaches banking organizations).[4]

In connection with the agencies' review of all the banking regulations under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA),[5] the agencies received over 230 comment letters from depository institutions and their holding companies, trade associations, consumer and community groups, and other interested parties.[6] The agencies also received numerous oral and written comments at public outreach meetings.[7] Many of the commenters stated that certain aspects of the capital rule are unduly burdensome and complex. After reviewing the comments, the agencies issued a Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act (the 2017 EGRPRA report) in March 2017,[8] highlighting the agencies' intent to meaningfully reduce regulatory burden, especially on community banking organizations, while maintaining safety and soundness in the banking system and retaining the quality and quantity of regulatory capital.

In particular, the agencies indicated in the 2017 EGRPRA report their intent to issue a rule that would simplify, for non-advanced approaches banking organizations, (i) the current regulatory capital treatment for concentrations of mortgage servicing assets (MSAs), deferred tax assets (DTAs) arising from temporary differences that an institution could not realize through net operating loss carrybacks (temporary difference DTAs), and investments in the capital of unconsolidated financial institutions; and (ii) the calculation for the amount of minority interest includable in regulatory capital.[9] [10] The 2017 EGRPRA report also highlighted the agencies' intent to replace the capital rule's treatment of high volatility commercial real estate (HVCRE) exposures with a simpler treatment for most acquisition, development, or construction exposures.

A. Related Rulemakings

The agencies have issued several other rulemakings over the last two years to simplify certain aspects of the capital rule. For example, the capital rule included transitional arrangements for certain requirements. Under such transitional arrangements in the capital rule, any amount of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions that a banking organization did not deduct from common equity tier 1 capital was risk weighted at 100 percent until January 1, 2018. In 2017, the agencies adopted a rule (transition rule) to allow non-advanced approaches banking organizations to continue to apply the transition treatment in effect in 2017 (including the 100 percent risk weight for MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions) while the agencies considered the simplifications proposal. This final rule supersedes the transition rule and eliminates the transition provisions that are no longer operative.[11]

On May 24, 2018, the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) [12] became law. As described in more detail below, section 214 of EGRRCPA amended the capital treatment for HVCRE exposures. Accordingly, the agencies proposed changes to the regulatory capital treatment of HVCRE exposures to implement section 214 through a separate rulemaking.[13]

Additionally, consistent with section 201 of EGRRCPA,[14] the agencies issued a notice of proposed rulemaking providing an optional simple leverage-based measure of capital adequacy for certain community banking organizations (community bank leverage ratio (CBLR) proposal).[15] Under the CBLR proposal, certain qualifying community banking organizations that maintain a community bank leverage ratio above 9 percent would be considered to have met the well capitalized ratio requirements for purposes of section 38 of the Federal Deposit Insurance Act, as applicable, and the generally applicable capital requirements under the capital rule.[16]

The agencies recently published two notices of proposed rulemakings on frameworks that would more closely match the regulatory capital and liquidity requirements for certain large banking organizations with their risk profiles (tailoring proposals).[17] The tailoring proposals, which are consistent with changes mandated by section 401 of EGRRCPA, would revise the scope of which banking organizations meet the definition of advanced approaches banking organizations, thereby potentially affecting which banking organizations would be able to apply the final rule. Each of these related rulemakings and their interactions are described in further detail in various sections of this Supplementary Information.

[3] 12 CFR part 3, subparts D & E (OCC); 12 CFR part 217, subparts D & E (Board); 12 CFR part 324, subparts D & E (FDIC).

[4] 12 CFR 3.1(c), 12 CFR 3.100(b) (OCC); 12 CFR 217.1(c), 12 CFR 217.100(b) (Board); 12 CFR 324.1(c), 12 CFR 324.100(b) (FDIC). Advanced approaches banking organizations are required to calculate capital ratios under both the standardized and advanced approaches in the capital rule and are subject to whichever ratio is lower between the two approaches.

[5] EGRPRA requires that regulations prescribed by the agencies be reviewed at least once every 10 years. The purpose of this review is to identify, with input from the public, outdated or unnecessary regulations and consider how to reduce regulatory burden on insured depository institutions while, at the same time, ensuring their safety and soundness and the safety and soundness of the financial system. Public Law 104–208, 110 Stat. 3009 (1996).

[6] 79 FR 32172 (June 4, 2014); 80 FR 7980 (February 13, 2015); 80 FR 32046 (June 5, 2015); and 80 FR 79724 (December 23, 2015).

[7] Comments received during the EGRPRA review process and transcripts of outreach meetings can be found at *http://egrpra.ffiec.gov/.*

[8] 82 FR 15900 (March 30, 2017).

[9] Temporary differences arise when financial events or transactions are recognized in one period for financial reporting purposes and in another period, or periods, for tax purposes.

[10] Minority interest is the amount of capital that can count toward regulatory requirements in cases in which a banking organization's consolidated subsidiary has issued capital that is held by third parties.

[11] 82 FR 55309 (Nov. 21, 2017). These changes to the capital rule's transition provisions did not apply to advanced approaches banking organizations.

[12] Public Law 115–174 (May 24, 2018).

[13] 83 FR 48990 (September 28, 2018).

[14] Public law 115–174, section 201; 84 FR 3062 (February 8, 2019).

[15] 84 FR 3062 (February 8, 2019).

[16] *See* 12 CFR 3.10(a) (OCC); 12 CFR 217.10(a) (Board); 12 CFR 324.10(a) (FDIC).

[17] 83 FR 61408 (November 29, 2018); 83 FR 66024 (December 21, 2018). *See also https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190408a.htm.*

B. Current Capital Treatment

1. MSAs, Temporary Difference DTAs, and Investments in the Capital of Unconsolidated Financial Institutions

Under the current capital rule, a banking organization must deduct from common equity tier 1 capital amounts of MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock (collectively, threshold items) that individually exceed 10 percent of the banking organization's common equity tier 1 capital.[18] In addition, a banking organization must also deduct from its common equity tier 1 capital the aggregate amount of threshold items not deducted under the 10 percent threshold deduction but that nonetheless exceeds 15 percent of the banking organization's common equity tier 1 capital minus certain deductions from and adjustments to common equity tier 1 capital (15 percent common equity tier 1 capital deduction threshold). In the absence of the agencies' transition rule described above, any amount of these three items that a banking organization did not deduct from common equity tier 1 capital was risk weighted at 100 percent until December 31, 2017 and at 250 percent thereafter.[19] [20]

In addition to deductions for the threshold items, the capital rule requires deductions from regulatory capital if a banking organization holds (i) non-significant investments in the capital of an unconsolidated financial institution above a certain threshold [21] or (ii) significant investments in the capital of an unconsolidated financial institution that are not in the form of common stock. Specifically, the capital rule requires that a banking organization deduct from its regulatory capital any amount of the organization's non-significant investments in the capital of unconsolidated financial institutions that exceeds 10 percent of the banking organization's common equity tier 1 capital (the 10 percent threshold for non-significant investments) [22] in accordance with the corresponding deduction approach of the capital rule.[23] In addition, significant investments in the capital of unconsolidated financial institutions not in the form of common stock also must be deducted from regulatory capital in their entirety in accordance with the capital rule's corresponding deduction approach.[24]

2. Minority Interest

Because minority interest is generally not available to absorb losses at the banking organization's consolidated level, the capital rule limits the amount of minority interest that a banking organization may include in regulatory capital. For example, tier 1 minority interest is created when a consolidated subsidiary of the banking organization issues tier 1 capital to third parties. The restrictions in the capital rule relating to minority interest are currently based on the amount of capital held by a consolidated subsidiary relative to the amount of capital the subsidiary would need to hold to avoid any restrictions on capital distributions and certain discretionary bonus payments under the capital rule's capital conservation buffer framework. Many community banking organizations have asserted that the capital rule's current calculation of the minority interest limitation is complex and results in burdensome regulatory capital calculations and confusing regulatory capital reporting instructions.

II. Summary of the Simplifications Proposal

A. Proposed Simplifications to the Capital Rule

Consistent with the 2017 EGRPRA report, the agencies issued the simplifications proposal with the aim of simplifying the capital rule and reducing regulatory burden for certain banking organizations. Specifically, for non-advanced approaches banking organizations, the simplifications proposal would have eliminated: (i) The 10 percent common equity tier 1 capital deduction threshold, which applies individually to holdings of MSAs, temporary difference DTAs, and significant investments in the capital of unconsolidated financial institutions in the form of common stock; (ii) the 15 percent common equity tier 1 capital deduction threshold, which applies to the aggregate amount of such items; (iii) the 10 percent threshold for non-significant investments, which applies to holdings of regulatory capital of unconsolidated financial institutions; and (iv) the deduction treatment for significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.[25] Under the simplifications proposal, for non-advanced approaches banking organizations, the capital rule would have no longer applied distinct treatments to significant and to non-significant investments in the capital of unconsolidated financial institutions. Rather, the regulatory capital treatment for an investment in the capital of unconsolidated financial institutions would be based on the type of instrument underlying the investment.

Instead of the current capital rule's complex treatments for MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions, the simplifications proposal would have required non-advanced approaches banking organizations to deduct from common equity tier 1 capital any amount of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions that individually exceed 25 percent of common equity tier 1 capital of the banking organization (the 25 percent common equity tier 1 capital deduction threshold). The simplifications proposal would have required a banking organization to apply a 250 percent risk weight to MSAs or temporary difference DTAs [26] not deducted from capital.[27] For investments in the capital of

[18] A significant investment in the capital of an unconsolidated financial institution is defined as an investment in the capital of an unconsolidated financial institution where the banking organization owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution. 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

[19] In addition, the calculation of the aggregate 15 percent common equity tier 1 capital deduction threshold for these items was to become stricter as any amount above 15 percent of common equity tier 1, less the amount of those items already deducted as a result of the 10 percent common equity tier 1 capital deduction threshold, would be deducted from a banking organization's common equity tier 1 capital. 12 CFR 3.22(d) (OCC); 12 CFR 217.22(d) (Board); 12 CFR 324.22(d) (FDIC).

[20] *See* 82 FR 55309 (Nov. 21, 2017).

[21] A non-significant investment in the capital of an unconsolidated financial institution is defined as an investment in the capital of an unconsolidated financial institution where the institution owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution (non-significant investment in the capital of an unconsolidated financial institution). 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

[22] 12 CFR 3.22(c)(4) (OCC); 12 CFR 217.22(c)(4) (Board); 12 CFR 324.22(c)(4) (FDIC).

[23] 12 CFR 3.22(c)(2) (OCC); 12 CFR 217.22(c)(2) (Board); 12 CFR 324.22(c)(2) (FDIC).

[24] 12 CFR 3.22(c)(5) (OCC); 12 CFR 217.22(c)(5) (Board); 12 CFR 324.22(c)(5) (FDIC).

[25] 12 CFR 3.22(c) and (d) (OCC); 12 CFR 217.22(c) and (d) (Board); 12 CFR 324.22(c) and (d) (FDIC).

[26] The agencies note that they are not proposing to change the current treatment of DTAs arising from timing differences that could be realized through net operating loss carrybacks. Such DTAs are not subject to deduction and are assigned a 100 percent risk weight.

[27] As noted, on November 21, 2017, the agencies finalized a rule applicable to non-advanced approaches banking organizations to maintain the transition provisions in the capital rule in effect during 2017 for several regulatory capital deductions and for minority interest while the agencies considered the simplifications proposal. 82 FR 55309. *See* 12 CFR 3.300(b)(4)–(5) and (d) (OCC); 12 CFR 217.300(b)(4)–(5) and (d) (Board); 12 CFR 324.300(b)(4)–(5) and (d) (FDIC).

unconsolidated financial institutions, the simplifications proposal would have required a banking organization to risk weight each exposure not deducted according to the risk weight applicable to the exposure category of the investment.

Second, the simplifications proposal would have introduced a significantly simpler methodology for non-advanced approaches banking organizations to calculate minority interest limitations.[28] The existing capital rule's limitations for common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest are based on the capital requirements and capital ratios of each of the banking organization's consolidated subsidiaries that have issued capital instruments held by third parties. The proposal would have simplified the minority interest limitations for non-advanced approaches banking organizations by basing such limitations on the parent banking organization's capital levels rather than on the amount of capital its subsidiaries would need to meet the minimum capital requirements on their own. Specifically, under the proposal, a non-advanced approaches banking organization would have been allowed to include common equity tier 1, tier 1, and total capital minority interest up to 10 percent of the banking organization's common equity tier 1, tier 1, and total capital (before the inclusion of any minority interest), respectively.

Third, the simplifications proposal would have replaced the existing HVCRE exposure category as applied in the standardized approach with a newly defined exposure category titled high volatility acquisition, development, or construction (HVADC) exposure. The simplifications proposal introduced the HVADC exposure in an effort to simplify and clarify the capital requirements for acquisition, development, and construction exposures. Given its broader proposed scope of application, the simplifications proposal would have introduced a reduced risk weight for HVADC exposures relative to the current risk weight for HVCRE exposures under the capital rule's standardized approach. Subsequent to the proposal, on May 24, 2018, section 214 of EGRRCPA became law, which provides a statutory definition of a high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan.[29] On September 18, 2018, the agencies published a proposed rule to conform the capital rule with the statutory definition of HVCRE ADC, which superseded the aspect of the simplifications proposal that would have replaced the HVCRE exposure definition with HVADC exposure definition.[30] The agencies are issuing another proposal in connection with the statutorily mandated revisions to the capital rule's definition of HVCRE exposure in a separate rulemaking.

Under the simplifications proposal, advanced approaches banking organizations would not have been permitted to apply the simplified treatment for MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions and minority interest. These banking organizations would continue to apply the more risk sensitive treatments included in the capital rule.

The simplifications proposal also would have made certain technical changes to the capital rule, including some changes to the advanced approaches, to clarify certain provisions, update cross-references, and correct typographical errors.

B. Summary of Comments

Collectively, the agencies received nearly 100 comment letters on the simplifications proposal from banking organizations, trade associations, public interest groups, and individuals. This summary excludes any comments pertaining to the proposed revisions to the definition of HVCRE exposure, as such matters are being addressed in a different rulemaking.

As described in further detail in subsequent sections of this **SUPPLEMENTARY INFORMATION**, commenters generally supported the simplifications proposal. Several commenters, however, requested that the agencies apply the proposed simplifications to a broader set of banking organizations. A number of commenters believed the proposed simplifications were insufficient with respect to the threshold deductions for MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions. Some commenters favored increasing or removing the 25 percent common equity tier 1 capital deduction threshold while other commenters disagreed with the proposed 250 percent risk weight for these exposures. While commenters expressed general support for the simplifications proposal's simpler regulatory capital limitations for minority interest, a few commenters asserted this revision could result in unintended consequences. The agencies also received comments related to potential additional technical amendments and simplifications to the capital rule, which are also described below.

III. Final Rule

A. MSAs, Temporary Difference DTAs, and Investments in the Capital of Unconsolidated Financial Institutions

The simplification proposal would have set the 25 percent common equity tier 1 capital deduction threshold for MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions to prevent, in a simple manner, unsafe and unsound concentration levels of these exposure categories in regulatory capital. The agencies believe that the 25 percent common equity tier 1 capital deduction threshold would have appropriately balanced risk-sensitivity and complexity for non-advanced approaches banking organizations.

The agencies received various comments that generally supported the proposed revisions to the treatment of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions. Several commenters requested that the scope of these proposed simplifications be applied universally to all banking organizations, including advanced approaches banking organizations. Many commenters favored the increased 25 percent deduction threshold, while other commenters requested higher deduction limits (*e.g.,* 50 percent or 100 percent of tier 1 capital). Some commenters requested the full removal of the deduction threshold while others suggested that such treatment be required only for banking organizations meeting certain size and/or capital levels.

Numerous commenters requested that a 100 percent risk weight be applied to non-deducted MSAs, arguing that this lower risk weight is consistent with historical practice and evolving risk-management policies. These commenters stated that the proposed 250 percent risk weight would place banking organizations at a competitive disadvantage, potentially driving their MSA business line out of the banking sector and leading to increased MSA concentrations among mortgage servicers that are not subject to the same prudential requirements as banking organizations. Several commenters were particularly concerned that the proposed 250 percent risk weight would reduce aggregate demand for MSAs, create a less liquid market for MSAs and

[28] 12 CFR 3.21 (OCC); 12 CFR 217.21 (Board); 12 CFR 324.21 (FDIC).

[29] 12 U.S.C. 1831bb.

[30] 83 FR 48990 (Sept. 28, 2018).

result in fewer mortgages being sold in the secondary market and higher rates for mortgage borrowers. Many of the commenters requested that more liberal deduction thresholds and risk weights be applied to banking organizations with consolidated assets below a certain amount (*e.g.,* $50 billion). Some commenters argued that instead of applying a 250 percent risk weight for MSAs, the agencies should apply a 250 percent risk weight for MSAs associated with holdings of subprime mortgages. A few commenters questioned the agencies' analysis in support of the proposal, arguing that it overstated the risks posed by MSAs and that corrections to the agencies' analysis would lead to the potential conclusion that any deduction threshold for MSAs is unnecessary.

Some of the comments regarding the proposal on temporary difference DTAs and investments in the capital of unconsolidated financial institutions overlapped with comments on the proposed revisions to MSAs. For instance, while there was general support for the proposed deduction threshold for those items, some commenters favored higher thresholds and a reduced risk weight (*e.g.,* a 100 percent risk weight instead of the proposed 250 risk weight). Regarding temporary difference DTAs, several commenters cited other factors such as the U.S. generally accepted accounting principles (GAAP) current expected credit loss framework (CECL) [31] and changes to the tax code as support for a more favorable capital treatment for such exposures. These commenters stated that a higher capital threshold and lower risk weight should be applied to temporary difference DTAs because these external factors affect the size and volatility of DTAs. Regarding the proposed revisions for investments in the capital of unconsolidated financial institutions, several commenters specified that, for smaller banking organizations, the threshold deduction should be 50 percent of common equity tier 1 capital rather than the proposed 25 percent limit, and that the agencies should retain the existing 100 percent risk weight for certain non-deducted investments in the capital of unconsolidated financial institutions. One commenter suggested that further increases may be appropriate if certain long-term debt instruments issued by global systemically important bank holding companies (GSIBs) are within the scope of investments in the capital of unconsolidated financial institutions.

As discussed below, the agencies have considered the concerns raised by commenters and believe that the proposed treatment of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions provides an appropriate balance of burden relief while maintaining safety and soundness in the banking industry. As such, the agencies are finalizing these proposed simplifications, without modification. The agencies expect that these changes will reduce regulatory compliance burden, but will not have a significant impact on the capital ratios for most non-advanced approaches firms. Some non-advanced approaches banking organizations with substantial holdings of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions may experience a capital benefit.

a. MSAs and Temporary Difference DTAs

The agencies have long limited the inclusion of intangible and higher-risk assets, such as MSAs and DTAs, in regulatory capital due to the relatively high level of uncertainty regarding the ability of banking organizations to both value and realize value from these assets, especially under adverse financial conditions. The agencies believe that it is therefore important to limit the inclusion of MSAs and temporary difference DTAs in regulatory capital. In addition, the agencies believe that the uncertainty regarding the ability of banking organizations to realize value from MSAs and temporary difference DTAs warrants an elevated risk weight for the amount of these assets not deducted from regulatory capital.

In June 2016, the agencies, together with the National Association of Credit Unions, submitted a Report to the Congress entitled The Effect of Capital Rules on Mortgage Servicing Assets (MSA report).[32] One of the key conclusions of the MSA report is that MSA valuations are inherently subjective and subject to uncertainty, as they rely on assessments of future economic variables. This reliance can lead to variance in MSA valuations across banking organizations. Moreover, adverse financial conditions may cause liquidity strains for banking organizations seeking to sell or transfer their MSAs.

The concerns that led to the conclusion in the MSA report that MSAs are inherently subject to valuation risk remain valid. MSAs do not trade in active, open markets with readily available and observable prices. In addition, MSA portfolios typically do not share homogenous risk characteristics. As noted in the MSA report, the factors that make MSAs challenging to value, including predicting changes in market interest rates and default rates, also make it challenging to successfully hedge MSAs. The MSA report also noted that the profitability of banking organizations can be affected by holdings of MSAs because of the business risk related to litigation and compliance costs associated with mortgage servicing.

The final rule's revised treatment for MSAs should continue to protect banking organizations from the uncertainty arising from the liquidity risk, valuation risk, and business risks described above. Moreover, during periods of financial stress, MSAs may be subject to sudden and large fluctuations in value and to limited marketability that calls into question the ability to quickly divest of MSAs at their full estimated value during periods of financial stress.

The regulatory capital framework in effect prior to 2013 permitted limited recognition of qualifying intangible assets, including MSAs, in regulatory capital. In addition, that framework required banking organizations to value each intangible asset included in tier 1 capital at least quarterly at the lesser of 90 percent of the fair value of each intangible asset, or 100 percent of the remaining unamortized book value. The fair value limitation for MSAs was consistent with section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which states that the amount of readily marketable purchased mortgage servicing assets (PMSAs) that an insured depository institution may include in regulatory capital cannot be more than 90 percent of the PMSAs' fair value.[33]

The capital rule requires deduction of all intangible assets except MSAs, which are deducted when the amount exceeds certain thresholds, as described above. However, since 2013, the capital rule removed the 90 percent fair value limitation on MSAs. Section 475 of FDICIA provides the agencies with the authority to remove the 90 percent limitation on PMSAs, subject to a joint determination by the agencies that its removal would not have an adverse effect on the deposit insurance fund or the safety and soundness of insured

[31] *See* Joint statement on New Accounting Standard on Financial Instruments—Credit Loss, *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20160617b1.pdf.*

[32] *Report to the Congress on the Effect of Capital Rules on Mortgage Servicing Assets* (June 2016).

[33] 12 U.S.C. 1828 note.

depository institutions. The agencies determined that the treatment of MSAs (including PMSAs) under the capital rule was consistent with a determination that the 90 percent limitation could be removed because the treatment under the capital rule (that is, applying a 250 percent risk weight to any non-deducted MSAs) was more conservative than the FDICIA fair value limitation and a 100 percent risk weight, which was the risk weight applied to MSAs under the regulatory capital framework prior to 2013.[34]

The treatment of MSAs under the final rule is consistent with a determination that the 90 percent fair value limitation is not necessary given the 25 percent common equity tier 1 capital deduction threshold for MSAs in addition to the requirement that any non-deducted MSA exposures (including PMSAs) be risk weighted at 250 percent. The agencies believe that risk-weighting non-deducted MSAs at less than 250 percent, *e.g.,* 100 percent, would require the agencies to reevaluate the need for a fair value limitation to mitigate the additional risk, which would introduce additional complexity.

Temporary difference DTAs are assets from which banking organizations may not be able to realize value, especially under adverse financial conditions. A banking organization's ability to realize its temporary difference DTAs is dependent on future taxable income; thus, the revised deduction threshold, together with a 250 percent risk weight for non-deducted temporary difference DTAs, will continue to protect banking organization capital against the possibility that the banking organization would need to establish or increase valuation allowances for DTAs during periods of financial stress. Relative to the treatment in the current rule, the 25 percent common equity tier 1 capital deduction threshold in the final rule may also serve to mitigate the adverse effects of potential increases in temporary difference DTAs stemming from CECL or from changes to the tax code.

b. Investments in the Capital of Unconsolidated Financial Institutions

As noted, the agencies proposed removing, for non-advanced approaches banking organizations, the distinct treatment for the capital rule's different categories of investments in the capital of unconsolidated financial institutions in the capital rule (*i.e.,* non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are in the form of common stock, and significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock). Commenters generally supported the proposed removal of this distinction, and the agencies are finalizing the revision as proposed. In order to avoid adding complexity and regulatory burden, the final rule does not dictate which specific investments a non-advanced approaches banking organization must deduct and which it must risk weight in cases where the banking organization exceeds the 25 percent common equity tier 1 capital deduction threshold for investments in the capital of unconsolidated financial institutions. Consistent with the proposal, the final rule will provide banking organization with flexibility when deciding which investments in the capital of unconsolidated financial institutions to risk weight and which to deduct. The agencies would be able to address any potential safety and soundness concerns that may arise from this flexible treatment through the supervisory process.

The final rule's treatment of investments in the capital of unconsolidated financial institutions should reduce complexity while maintaining appropriate incentives to reduce interconnectedness among financial companies. Under the final rule, and consistent with the proposal, non-advanced approaches banking organizations are required to risk weight any investments in the capital of unconsolidated financial institutions that are not deducted according to the relevant treatment for the exposure category of the investment.

One commenter asked that the agencies clarify whether a non-advanced approaches banking organization will be able to include significant equity investments in the capital of unconsolidated financial institutions in the 100 percent risk weight category similar to non-significant equity exposures under section 52(b)(3)(iii).

Under the final rule, non-advanced approaches banking organizations will not be required to differentiate among categories of investments in the capital of unconsolidated financial institutions. The risk weight for such equity exposures generally will be 100 percent, provided the exposures qualify for this preferential risk weight.[35] For non-advanced approaches banking organizations, the final rule eliminates the exclusion of significant investments in the capital of unconsolidated financial institutions in the form of common stock from being eligible for a 100 percent risk weight.[36] The application of the 100 percent risk weight (i) requires a banking organization to follow an enumerated process for calculating adjusted carrying value and (ii) mandates the equity exposures that must be included in determining whether the threshold has been reached. Equity exposures that do not qualify for a preferential risk weight will generally receive risk weights of either 300 percent or 400 percent, depending on whether the equity exposures are publicly traded.

This revised approach is intended to balance simplicity and risk-sensitivity for non-advanced approaches banking organizations by applying a single definition of investments in the capital of unconsolidated financial institutions, and simplifying the capital requirements for investments in the capital of unconsolidated financial institutions.

One commenter asked that the agencies clarify the definition of financial institution, and within that definition, explain what is meant by financial instruments, asset management activities, and investment or financial advisory activities. This issue is beyond the scope of the final rule; however, the agencies will consider if clarifications to the capital rule's definition of financial institution are necessary.

B. Minority Interest

Under the simplifications proposal, the agencies would have simplified, for non-advanced approaches banking organizations, the calculations limiting

[34] As noted in the MSA Report, the limitation of MSAs to 90 percent of their fair value under the previous regulatory capital framework could result in an effective risk weight of up to 215 percent for MSAs to the extent that a banking institution either (1) used the fair value measurement method to determine the carrying amount of the MSAs or (2) used the amortization method and took an impairment on the MSAs to bring the carrying amount down to fair value.

[35] 12 CFR 3.52 and .53 (OCC); 12 CFR 217.52 and .53 (Board); 12 CFR 324.52 and .53 (FDIC). Note that for purposes of calculating the 10 percent non-significant equity bucket, the capital rule excludes equity exposures that are assigned a risk weight of zero percent and 20 percent, and community development equity exposures and the effective portion of hedge pairs, both of which are assigned a 100 percent risk weight. In addition, the 10 percent non-significant bucket excludes equity exposures to an investment firm that would not meet the definition of traditional securitization were it not for the application of criterion 8 of the definition of traditional securitization, and has greater than immaterial leverage.

[36] Equity exposures that exceed, in the aggregate, 10 percent of a non-advanced approaches banking organization's total capital would then be assigned a risk weight based upon the approaches available in sections 52 and 53 of the capital rule. 12 CFR 3.52 and .53 (OCC); 12 CFR 217.52 and .53 (Board); 12 CFR 324.52 and .53 (FDIC).

the inclusion of minority interest in regulatory capital. Specifically, the proposal would have allowed non-advanced approaches banking organizations to include: (i) Common equity tier 1 minority interest comprising up to 10 percent of the parent banking organization's common equity tier 1 capital; (ii) tier 1 minority interest comprising up to 10 percent of the parent banking organization's tier 1 capital; and (iii) total capital minority interest comprising up to 10 percent of the parent banking organization's total capital. In each case, the parent banking organization's regulatory capital for purposes of these limitations would be measured before the inclusion of any minority interest and after the deductions from and adjustments to the regulatory capital of the parent banking organization described in sections 22(a) and (b) of the capital rule.[37]

Many commenters expressed general support for the proposed revisions to simplify the regulatory capital limitations for minority interest. A few commenters, however, asserted that the proposal could result in unintended consequences. For example, one commenter stated that determining the amount of includable minority interest solely based on the capital level of the banking organization parent without reference to its subsidiary's regulatory capital levels and risk-weighted assets could amplify the effects of a decrease in capital levels, particularly in a stressed environment. While the agencies are concerned with capital at each level of the banking organization structure, in developing a more simplified calculation, emphasis was placed on the parent and its ability to support the entire organization. At present, few institutions have minority interest holdings that are significant enough to be adversely affected by such a scenario. However, the agencies will continue monitor banks' positions through their respective supervisory processes and will address any concerns at individual banking organizations on a case-by-case basis, as appropriate. Another commenter favored an alternative method for calculating includable minority interest that would vary depending on each measure of regulatory capital (*e.g.,* 80 percent of banking organization parent's common equity tier 1 capital, 85 percent of its tier 1 capital, and 115 percent of its total capital), arguing that a banking organization's total capital ratio at the consolidated level is likely to decline more rapidly than its other capital ratios when in stress. The agencies do not see any particular advantage to this alternative method and maintain that capital levels of the parent are of paramount importance, particularly in a stressed environment.

One commenter asserted that the proposal may create an undue incentive to issue tier 2 capital instruments at the holding company level rather than at the subsidiary bank level, thereby potentially increasing funding costs. Again, in a stressed environment the parent's soundness and its capital strength is of paramount importance and by action of the final rule, the agencies limit the amount of includable capital instruments that have been issued to minority investors from subsidiaries.

As with other areas of the simplifications proposal, some commenters objected to the scope of the proposal related to minority interest and requested that all banking organizations, including advanced approaches banking organizations, be allowed to apply the proposed revisions when calculating capital ratios under the capital rule's generally applicable capital requirements. One commenter requested that when a non-advanced approaches banking organization becomes an advanced approaches banking organization, the banking organization should be given three years to transition to the more complex approach for minority interest. Another commenter favored the complete removal of all minority interest limitations for all non-advanced approaches banking organizations.

After considering all the comments on this issue, the agencies continue to have the view that removing the current complex calculation for the amount of includable minority interest will reduce regulatory burden without reducing the safety and soundness of non-advanced approaches banking organizations. In addition, the regulatory capital of a banking organization should not reflect unlimited amounts of minority interest because equity and other investments made by a third party in a consolidated subsidiary of a banking organization merely supports the separate risks inherent in the subsidiary, and therefore that capital cannot be expected to be available to fully support risks in the consolidated organization. In other words, losses within the consolidated banking organization, outside of the subsidiary, will not be absorbed by minority interest as it is not freely available to absorb losses throughout the consolidated banking organization. Therefore, the minority interest limitation will help to ensure that a consolidated banking organization's regulatory capital ratios are more reflective of the loss absorbency of the organization's capital base. The agencies believe that the minority interest limitations in the final rule are simpler to calculate than those in the capital rule but are still appropriately restrictive for non-advanced approaches banking organizations. These revisions to the treatment of minority interest are expected to not have a significant impact on the capital ratios for most non-advanced approaches banking organizations.

The agencies remain focused on ensuring that the capital requirements applied to banking organizations are appropriately tailored to an organization's size, complexity, and risk profile. As described above, the final rule will continue to apply the more risk-sensitive minority interest calculation to advanced approaches banking organizations because the agencies believe the largest and most internationally active banking organizations should be required to comply with regulations that are commensurate with their size, complexity, and risk profile. Given the potential complexity in the capital structures of the largest and most systemically important institutions, the agencies believe that maintaining the more risk-sensitive approach for advanced approaches banking organizations better ensures these organizations do not overstate capital ratios at the consolidated level as a result of capital held at subsidiaries that might not be fully available to the parent, thereby protecting the safety and soundness of the banking sector. For these reasons, consistent with the proposal, the agencies are finalizing the proposed revisions to the regulatory capital limitations for minority interest without revision.

C. Capital Treatment for Advanced Approaches Banking Organizations

Under the proposal, the regulatory treatment for advanced approaches banking organizations would have continued to apply the capital rule's current treatment for MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interest. The proposal stated that the more complex capital deduction treatments in the capital rule are appropriate for advanced approaches banking organizations, because their size, complexity, and international exposure warrant a risk-sensitive treatment that more aggressively reduces potential interconnectedness among such firms.

[37] 12 CFR 3.22(a) and (b) (OCC); 12 CFR 217.22(a) and (b) (Board); 12 CFR 324.22 (a) and (b) (FDIC).

Some commenters objected to the scope of the simplifications proposal and requested that all banking organizations, including advanced approaches banking organizations, be allowed to apply the proposed revisions when calculating capital ratios under the capital rule's generally applicable capital requirements.

Subsequent to issuing the simplifications proposal, the agencies published a tailoring proposal applicable to domestic banking organizations with total consolidated assets of $100 billion.[38] The agencies subsequently issued a separate tailoring proposal to determine the application of regulatory capital requirements to certain U.S. intermediate holding companies of foreign banking organizations and their depository institution subsidiaries and the application of standardized liquidity requirements with respect to certain U.S. intermediate holding companies of foreign banking organizations, and certain subsidiary depository institutions of such U.S. intermediate holding companies.[39] Both tailoring proposals were designed to more closely match the capital and liquidity rules for large banking organizations with their risk profiles.

Currently, banking organizations with total consolidated assets of $250 billion or more, or at least $10 billion in foreign exposure, generally are considered ''advanced approaches banking organizations.'' [40] If the agencies were to adopt the tailoring proposals as proposed, the consequent change in the scope of application of certain requirements could result in some banking organizations being able to apply this final rule's changes for threshold deductions and minority interest when calculating their regulatory capital ratios.

The Basel Committee on Banking Supervision (BCBS) recently completed revisions to its capital standards, revising the methodologies for credit risk, operational risk, and market risk.[41] The agencies are considering how to most appropriately implement these standards in the United States, including potentially replacing the advanced approaches with the risk-based capital requirements based on the Basel standardized approaches for credit and operational risk. Any such changes to applicable risk-based capital requirements would be subject to notice and comment through a future rulemaking.

The agencies are not amending the capital rule to allow advanced approaches banking organizations to use this final rule when calculating their risk-based capital ratios for the generally applicable capital requirements. As the agencies consider implementing aspects of the Basel reforms, they will further consider the calculation of regulatory capital for advanced approaches banking organizations.

D. Technical Amendments to the Capital Rule

The simplifications proposal would have made certain technical corrections and clarifications to the capital rule. The agencies identified typographical and technical errors in several provisions of the capital rule that warrant clarification or updating. Most of the proposed corrections or technical changes were self-explanatory. In addition, there were several incorrect or imprecise cross-references that the agencies proposed to change in an effort to better clarify the capital rule's requirements, as well as other changes to references necessary to implement the simplifications described elsewhere in this **SUPPLEMENTARY INFORMATION**.

The agencies received only a handful of comments related to the simplifications proposal's technical amendments. There were more comments about additional potential revisions to the capital rule spanning a range of topics for the agencies' consideration. For instance, some commenters requested that the agencies implement the BCBS's standards related to counterparty credit risk, securities financing transactions, and securities firms. There were additional suggested revisions related to the capital rule's operational requirements for credit risk mitigation, client clearing transactions, commitments to securitization vehicles, the asset threshold for advanced approaches and market risk capital rules, as well as accounting considerations.

Some of the commenters' suggestions have been addressed in rulemakings that were issued subsequent to this proposal, including comments related to the HVCRE, CBLR, and tailoring proposals. The agencies are considering other comments that requested additional changes outside the scope of this rulemaking and will determine whether and how to address them in subsequent rulemakings.

The final rule adopts the technical changes as proposed, but differs from the proposal in minor ways to conform with changes to the capital rule related to the implementation and transition of the current expected credit losses methodology for allowances, which were implemented subsequent to the simplifications proposal.[42]

In section 1 of the OCC's capital rule, the final rule clarifies that the minimum capital requirements and overall capital adequacy standards set forth in 12 CFR part 3 do not apply to Federal branches and agencies of foreign banks that are regulated by the OCC. The OCC regulates Federal branches and agencies of foreign banks.[43]

In section 2, the final rule corrects an error in the definition of *investment in the capital of an unconsolidated financial institution* by changing the word ''and'' to ''or.'' This revision clarifies that an instrument meeting the definition can be either recognized as capital for regulatory purposes by a primary supervisor of an unconsolidated financial institution or can be part of the equity of an unconsolidated unregulated financial institution, in accordance with GAAP.

The final rule adds ''the European Stability Mechanism'' and ''the European Financial Stability Facility'' to the capital rule with respect to (i) the definition of *eligible guarantor* in section 2, (ii) the list of entities eligible for a zero percent risk weight in section 32(b), (iii) the list of equity exposures eligible for a zero percent risk weight in section 52(b)(1), (iv) the list of entities eligible for assignment of a rating grade associated with a probability of default of less than 0.03 percent in section 131(d)(2), and (v) certain supranational entities and multilateral development bank debt positions eligible for assignment of a zero percent specific risk weighting factor in section 210(b)(2)(ii). The final rule also excludes such entities from the definition of (i) *corporate exposure* in section 2, (ii) *private sector credit exposure* in section 11, and (iii) *corporate debt position* in section 202. The agencies are making this change to reflect the roles and functions of the European Stability Mechanism and the European Financial Stability Facility, which were in early stages of operation when the current capital rule was issued in 2013 and therefore were not addressed. The final rule updates the list of entities included or excluded, as applicable, for these purposes in the standardized approach and advanced

[38] 83 FR 66024 (December 21, 2018).

[39] *See https://www.federalreserve.gov/newsevents/pressreleases/bcreg20190408a.htm.*

[40] *See* 12 CFR 3.100(b) (OCC); 12 CFR 217.100(b) (Board); 12 CFR 324.100(b) (FDIC).

[41] Available at: *https://www.bis.org/bcbs/publ/d424.pdf.*

[42] 83 FR 22312 (July 13, 2018). Consistent with the proposal, the final rule includes various minor corrections and updates in addition to the items specified in this discussion.

[43] 12 U.S.C. 3101–3111.

approaches of the capital rule and the market risk capital rule.

The agencies are making technical amendments to section 11(a) of the capital rule, on the capital conservation buffer, to clarify the calculation of a banking organization's maximum payout amount for a specific calendar quarter. First, the final rule clarifies that the eligible retained income during a specific current calendar quarter is the banking organization's net income, calculated in accordance with the instructions for the Call Report or the FR Y–9C, as appropriate, for the four calendar quarters preceding the current calendar quarter.[44] Second, the final rule clarifies that the key inputs for the calculation of a banking organization's capital conservation buffer during the current calendar quarter are the banking organization's regulatory capital ratios as of the last day of the previous calendar quarter.[45]

In section 20(d)(5) of the Board's and OCC's capital rule, the final rule provides that the reference to AOCI opt-out election is section 22(b)(2) instead of section 20(b)(2).

In section 20(c) of the capital rule, the OCC's and FDIC's regulations mistakenly provide that cash dividend payments on additional tier 1 capital instruments may not be subject to a ''limit'' imposed by the contractual terms governing the instrument. This requirement was intended to apply only to common equity tier 1 capital instruments, and not to additional tier 1 capital instruments. The final rule harmonizes the language of the agencies' capital rule in section 20(c) by removing this requirement for additional tier 1 instruments.

Through proposed section 20(f) of the Board's capital rule, the simplifications proposal would have introduced a standalone requirement, outside the existing qualification criteria for capital, that a Board-regulated institution obtain the prior approval of the Board before redeeming a common equity tier 1 capital instrument, additional tier 1 capital instrument, or tier 2 capital instrument. The Board has received feedback regarding requiring prior approval for redemptions and repurchases of capital instruments. In particular, this feedback noted that there was a high burden associated with obtaining prior approval for all redemptions and repurchases of common stock instruments, especially with respect to standard common stock buyback programs, and that the supervisory function of requiring prior approval seemed limited where a firm was not subject to other limitations on capital actions, such as the capital conservation buffer.

In response to the feedback, the Board is modifying proposed section 20(f). For common equity tier 1 capital instruments, a Board-regulated institution will be required to obtain the prior approval of the Board before redeeming or repurchasing common equity tier 1 capital instruments only to the extent otherwise required by law or regulation. Thus, prior approval for common equity tier 1 capital redemptions or repurchases will be required under section 217.20 of the capital rule only to the extent that a Board-regulated institution is subject to a separate legal requirement to obtain prior approval for the redemption or repurchase, such as section 217.11 of the capital rule, sections 225.4 or 225.8 of the Board's Regulation Y, or section 11 of the Federal Reserve Act.[46] Depository institution holding companies are not subject to the same legal requirements as state member banks and, therefore, generally would be able to redeem or repurchase common equity tier 1 capital instruments without the prior approval of the Board, unless there is an independent approval requirement, such as under the capital plan rule (12 CFR 225.8) as noted above. With respect to redemptions or repurchases of additional tier 1 capital instruments and tier 2 capital instruments, the prior approval requirements in the final rule are the same as in the proposal.

In section 22(g) of the capital rule, the final rule removes specific references to certain assets to exclude them from risk weighting if they are required to be deducted from regulatory capital. The effect of this change is to exclude from standardized total risk-weighted assets and, as applicable, advanced approaches total risk-weighted assets, any items deducted from capital, not only the items specifically enumerated.

In section 22(h) of the capital rule, the final rule replaces inaccurate terminology with the properly defined terms ''investment in the capital of an unconsolidated financial institution'' and ''investment in the [AGENCY]-regulated institution's own capital instrument,'' as provided in section 2.

The final rule revises, for purposes of clarity, the capital rule's sections 32(d)(2)(iii) and (iv), and creates a new section 32(d)(2)(v). The revised section 32(d)(2)(iii) requires banking organizations to ''assign a 20 percent risk weight to an exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less to a foreign bank whose home country has a CRC of 0, 1, 2, or 3, or is an OECD member with no CRC.'' This requirement is currently embedded in section 32(d)(2)(iii) of the capital rule, together with rule text related to the risk weighting of exposures to a foreign bank whose home country is not a member of the OECD and does not have a CRC. This latter provision is a stand-alone requirement in the revised section 32(d)(2)(iv) under the final rule.

In sections 34(c)(1) and 34(c)(2)(i) of the capital rule, the final rule provides that the counterparty credit risk capital requirement references subpart D of the capital rule in its entirety rather than just section 32 of subpart D.

In sections 35(b)(3)(ii), 35(b)(4)(ii), 35(c)(3)(ii), 35(c)(4)(ii), 36(c), 37(b)(2)(i), 38(e)(2), 42(j)(2)(ii)(A), 133(b)(3)(ii), and 133(c)(3)(ii) of the capital rule, the final rule provides that the risk weight substitution references subpart D of the capital rule in its entirety rather than just section 32 of subpart D.

In section 61 of the capital rule, the final rule clarifies the requirement that a non-advanced approaches banking organization with $50 billion or more in total consolidated assets must complete the disclosure requirements described in sections 62 and 63, unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of section 62, or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

Table 8 of section 63 of the capital rule describes information related to securitization exposures that banking organizations are required to disclose. The capital rule revised the risk-based capital treatment of these items, including the regulatory capital treatment of after-tax gain-on-sale resulting from a securitization and credit-enhancing interest-only strips that do not constitute after-tax gain-on-sale. Because Table 8 does not properly reflect these revisions, the final rule updates line (i)(2) under quantitative disclosures to appropriately reflect these revisions.

In section 210(b)(2)(vii) of the Board's capital rule, the final rule adds references to U.S. intermediate holding companies to clarify for these firms how

[44] 12 CFR 3.11(a)(2)(i) (OCC); 12 CFR 217.11(a)(2)(i) (Board); 12 CFR 324.11(a)(2)(i) (FDIC).

[45] 12 CFR 3.11(a)(3)(i) (OCC); 12 CFR 217.11(a)(3)(i) (Board); 12 CFR 324.11(a)(3)(i) (FDIC).

[46] 12 CFR 217.11; 12 CFR 225.4; 12 CFR 225.8; 12 U.S.C. 329.

to calculate capital requirements related to securitization positions under the Board's market risk capital rule depending on whether they are using the advanced approaches to calculate risk-weighted assets.

In section 300 of the capital rule, the final rule removes several transition provisions in order to rescind the transition rule simultaneously with the simplifications of the threshold deductions and the treatment of minority interest. In connection with these revisions, the final rule also would remove several paragraphs that are no longer operative because the transition period provided ended at the beginning of 2018. These revisions would take effect on April 1, 2020, concurrently with the effective date of the simplifications of the threshold deductions and the treatment of minority interest.

In section 300(c)(2) of the Board's capital rule, the final rule clarifies that the mergers and acquisitions that can potentially affect the inclusion of certain non-qualifying capital instruments in a Board-regulated banking organization's regulatory capital must have occurred after December 31, 2013.

E. Effective Dates of Amendments

The amendments in this final rule will take effect on either April 1, 2020, or October 1, 2019. Specifically, the simplifications of the threshold deductions and the treatment of minority interest discussed in sections III.A and III.B of this Supplementary Information will take effect on April 1, 2020, in order to allow banking organizations sufficient time to update systems and the agencies sufficient time to update reporting forms to reflect the changes to the capital rule made by this final rule. In addition, the amendments to rescind the transitions rule discussed in section III.C of this Supplementary Information also would take effect on April 1, 2020, simultaneously with the simplifications of the threshold deductions and the treatment of minority interest. All of the other technical amendments discussed in section III.C of this Supplementary Information will take effect on October 1, 2019. The agencies believe that the technical amendments will require minimal, if any, updates to systems and no updates to reporting forms and thus should take effect as soon as possible. Any banking organization subject to the capital rule may elect to adopt the amendments that are effective October 1, 2019, before that date.

IV. Abbreviations

ADC Acquisition, Development, or Construction
BHC Bank Holding Company
CFR Code of Federal Regulations
CRC Country Risk Classification
DTA Deferred Tax Asset
EGRPRA Economic Growth and Regulatory Paperwork Reduction Act of 1996
FAQ Frequently Asked Question
FR Federal Register
FDIC Federal Deposit Insurance Corporation
FDICIA Federal Deposit Insurance Corporation Improvement Act of 1991
GAAP U.S. generally accepted accounting principles
GSIB Global Systemically Important Bank Holding Company
HVADC High Volatility Acquisition, Construction, or Development
HVCRE High Volatility Commercial Real Estate
IHC U.S. Intermediate Holding Company
LTV Loan-to-Value
MDB Multilateral Development Bank
MSA Mortgage Servicing Asset
NPR Notice of Proposed Rulemaking
OCC Office of the Comptroller of the Currency
OECD Organization for Economic Cooperation and Development
OMB Office of Management and Budget
PD Probability of Default
PMSA Purchased Mortgage Servicing Asset
PRA Paperwork Reduction Act
RCDRIA Riegle Community Development and Regulatory Improvement Act of 1994
RFA Regulatory Flexibility Act
RIN Regulation Identifier Number
SBA Small Business Administration
SLHC Savings and Loan Holding Company
SMB State Member Banks
UMRA Unfunded Mandates Reform Act of 1995
U.S.C. United States Code

V. Regulatory Analyses

A. Paperwork Reduction Act

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 agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The revised disclosure requirements are found in section __.63 of the proposed rule. The OMB control number for the OCC is 1557–0318, Board is 7100–0313, and FDIC is 3064–0153.

These information collections will be extended for three years, with revision. The information collection requirements contained in this final rulemaking have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR 1320).

The OCC submitted the information collection requirements at the proposed rule stage. OMB filed a comment requiring that the OCC examine public comment in response to the proposed rule and will include in the supporting statement of the next Information Collection Request (ICR), to be submitted to OMB at the final rule stage, a description of how the agency has responded to any public comments on the ICR, including comments on maximizing the practical utility of the collection and minimizing the burden. No comments were received regarding the information collection. The FDIC will be making a nonmaterial submission to OMB to reflect its updated number of respondents.

The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Comments are invited 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 or the estimate 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 startup costs and costs of operation, maintenance, and purchase of services to provide information.

Proposed Information Collection

Title of Information Collection: Recordkeeping and Disclosure Requirements Associated with Capital Adequacy.

Frequency: Quarterly, annual.

Affected Public: Businesses or other for-profit.

Respondents:

OCC: National banks, state member banks, state nonmember banks, and state and Federal savings associations.

Board: State member banks (SMBs), bank holding companies (BHCs), U.S. intermediate holding companies (IHCs), savings and loan holding companies (SLHCs), and global systemically important bank holding companies (GSIBs).

FDIC: State nonmember banks, state savings associations, and certain subsidiaries of those entities.

Current Actions: Section __.63 of the final rule would break out the disclosures in Table 8 to include (i) after-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital and (ii) credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight. There are no changes in burden associated with the final rulemaking.

PRA Burden Estimates

OCC

OMB control number: 1557–0318.
Estimated number of respondents: 1,365.
Estimated annual burden hours: 66,081.

Board

Agency form number: FR Q.
OMB control number: 7100–0313.
Estimated number of respondents: 1,431.
Estimated annual burden hours: 79,727 hours.

FDIC

OMB control number: 3064–0153.
Estimated number of respondents: 3,483.
Estimated annual burden hours: 127,840 hours.

The final rule will also require changes to the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 1557–0081, 7100–0036, and 3064–0052), Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), and Capital Assessments and Stress Testing (FR Y–14A and Q; OMB No. 7100–0341), which will be addressed in a separate **Federal Register** notice.

B. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* (RFA), requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of $550 million or less and trust companies with total assets of $38.5 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities.

As of June 30, 2017, the OCC supervised 907 small entities.[47]

The rule will apply to all OCC-supervised entities that are not subject to the advanced approaches risk-based capital rules, and thus potentially affects a substantial number of small entities. Further, the OCC has determined that 131 such entities report either threshold deduction amounts or minority interest and thus engage in affected activities to an extent that they would be impacted directly by the final rule. For the purposes of this analysis, the OCC believes a substantial number of small entities is five percent of OCC-supervised small entities, or 45 as of June 30, 2017. Thus, a substantial number of small entities will be directly impacted by the final rule.

Although a substantial number of small entities will be impacted by the final rule, the OCC does not find that this impact is economically significant. To determine whether a final rule will have a significant effect, the OCC considers whether projected cost increases associated with the rule are greater than or equal to either 5 percent of a small bank's total annual salaries and benefits or 2.5 percent of an OCC-supervised small entity's total non-interest expense. Based on supervisory experience, the OCC estimates that small banks, on average, will make a one-time investment of one business week, or 40 hours, to update policies and procedures, and another one-time investment of 40 hours to make the accounting ledger changes for currently held threshold deduction amounts and minority interests. Therefore, the OCC estimates that small banks that do not report any items subject to threshold deductions or minority interest will incur an estimated one-time compliance cost of $4,560 per institution (40 hours × $114 per hour), while those that report items subject to threshold deductions or minority interest will incur an estimated one-time compliance cost of $9,120 per institution (80 hours × $114 per hour). The OCC finds that the value of the change in capital exceeded both of these thresholds for 1 of the 907 OCC-supervised small entities. For this single small institution, the decrease in required regulatory capital is $93.3 thousand.

Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency to consider whether the rules it finalizes will have a significant economic impact on a substantial number of small entities. The RFA generally requires that an agency prepare and make available an initial regulatory flexibility analysis (IRFA) in connection with a notice of proposed rulemaking and that an agency prepare a final regulatory flexibility analysis (FRFA) in connection with promulgating a final rule. A FRFA issued by the Board must contain (1) a statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the simplifications proposal as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposal, and a detailed statement of any change made to the proposal in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.[48]

As discussed in the Supplementary Information section, the final rule revises the treatment of certain assets under the capital rule and would also make various corrections and clarifications to the capital rule to address issues that have been identified since the rule was issued. Under regulations issued by the Small Business Administration, a small entity includes a bank, bank holding company,

[47] The OCC calculated the number of small entities using the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining whether to classify a national bank or Federal savings association as a small entity.

[48] 5 U.S.C. 604(a).

or savings and loan holding company with assets of $550 million or less and trust companies with total assets of $38.5 million or less (small banking organization).[49] On average during 2018, there were approximately 3,191 small bank holding companies, 204 small savings and loan holding companies, and 549 small state member banks.

The Board solicited public comment on this rule in a notice of proposed rulemaking and has considered the potential impact of this rule on small entities in accordance with section 604 of the RFA.[50] Based on the Board's analysis, and for the reasons stated below, the Board believes the final rule will not have a significant economic impact on a substantial number of small entities.

1. Statement of the need for, and objectives of, the final rule.

As discussed, the Board is issuing this final rule to simplify aspects of the capital rule for non-advanced approaches banking organizations and to clarify and correct certain technical items in the capital rule.

2. Significant issues raised by the public comments in response to the IRFA and comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the simplifications proposal and summary of any changes made in the final rule as a result of such comments.

Commenters did not raise any issues in response to the IRFA. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments in response to the proposal.

3. Description and estimate of the number of small entities to which the final rule will apply.

Aspects of the final rule apply to all state member banks, as well as all bank holding companies and savings and loan holding companies that are subject to the Board's regulatory capital rule. Certain portions of the proposal would not apply to state member banks, bank holding companies, and savings and loan holding companies that are subject to the advanced approaches. In general, the Board's capital rule only apply to bank holding companies and savings and loan holding companies that are not subject to the Board's Small Bank Holding Company and Savings and Loan Holding Company Policy Statement, which applies to bank holding companies and savings and loan holding companies with less than $3 billion in total assets that also meet certain additional criteria.[51] Thus, most bank holding companies and savings and loan holding companies that would be subject to the final rule exceed the $550 million asset threshold at which a banking organization would qualify as a small banking organization.

4. Significant alternatives to the final rule.

The Board does not believe that this final rule will have a significant economic impact on a substantial number small entities. As a result, the Board has not adopted any alternatives to the final rule pursuant to 5 U.S.C. 604(a)(6).

5. Description of the projected reporting, recordkeeping and other compliance requirements of the rule.

Because the final rule makes only minor changes to the recordkeeping and reporting requirements that affected small banking organizations are currently subject to by slightly expanding the disclosure requirements for securitizations under section 217.63 of the rule, there would be minimal changes to the information that small banking organizations must track and report. This is described in greater detail in the Paperwork Reduction Act portion of this Supplementary Information.

For non-advanced approaches banking organizations, the final rule revises the capital deductions for MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions by raising the threshold at which such items must be deducted and simplifying the number and interaction of required deductions. The Board expects that the final rule would result in slightly lower capital requirements compared to the capital rule for a few small banking organizations that currently deduct MSAs, temporary difference DTAs, and/or investments in the capital of unconsolidated financial institutions. Specifically, the Board estimates that 19 small state member banks and zero small holding companies will have reduced capital requirements because of the change in the treatment to MSAs, resulting in an aggregate reduction in capital requirements of approximately $24.7 million. Further, the Board estimates that 14 small state member banks and zero small holding companies will have reduced capital requirements because of the change in treatment to temporary difference DTAs, resulting in an aggregate reduction in capital requirements of approximately $6.5 million. The Board does not have sufficient data to estimate the impact on capital as a result of the change to the treatment of investments in the capital of unconsolidated financial institutions. Because few banking organizations are currently subject to these deductions, the number of affected small banking organizations and the estimated impact on capital requirements appears to be minimal.

Also for non-advanced approaches banking organizations, the final rule simplifies the requirements related to the inclusion of minority interest of subsidiaries in capital. The Board expects that the final rule generally will result in more minority interest being includable in capital than is permitted under the current rule. The Board does not have sufficient data to estimate the impact on capital as a result of this change. However, only a few small banking organizations currently include minority interest in capital and minority interest represents a significant portion of capital for very few banking organizations. As a result, the impact of this portion of the final rule is not expected to be significant.

The remaining revisions to the capital rule consist of technical corrections and clarifications that have been identified since the rule was issued. None of these revisions constitutes a significant change to the capital rule and the impact of these revisions on banking organizations is expected to be immaterial.

Small banking entities are likely to incur some implementation costs in order to comply with the final rule, such as sytems updates to calculate, monitor, and report regulatory capital metrics. The changes necessary to comply with the final rule are limited in nature and thus the cost of these changes are expected to be minimal. In addition, the changes are generally simplifying or clarifying and therefore should help reduce ongoing compliance expenses associated with the capital rule.

6. Steps taken to minimize the significant economic impact on small entities.

The Board does not believe that this final rule will have a significant economic impact on small entities. Further, to the extent that the final rule impacts small entities, the Board expects that the final rule will have a beneficial economic impact on small entities by reducing the burden of the capital rule.

FDIC: The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment

[49] *See* 13 CFR 121.201. Effective July 14, 2014, the Small Business Administration revised the size standards for banking organizations to $550 million in assets from $500 million in assets. 79 FR 33647 (June 12, 2014).

[50] 83 FR 18160 (April 25, 2018).

[51] *See* 12 CFR 217.1(c)(1)(ii) and (iii); 12 CFR part 225, appendix C; 12 CFR 238.9.

a final regulatory flexibility analysis that describes the impact of the final rule on small entities.[52] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million who are independently owned and operated or owned by a holding company with less than $550 million in total assets.[53] For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

The FDIC supervises 3,483 depository institutions,[54] of which, 2,674 are defined as small banking entities by the terms of the RFA.[55] The final rule removes the individual and aggregate deduction thresholds and replaces them with individual, higher deduction thresholds for: (i) MSAs; (ii) temporary differences DTAs; and (iii) investments in the capital of unconsolidated financial institutions. Finally, the final rule amends the methodology that determines the amount of minority interest that is includable in regulatory capital. According to Call Report data as of December 31, 2018, 1,586 FDIC-supervised small banking entities reported some amount of MSAs, net DTAs, deductions related to investments in unconsolidated financial institutions, or minority interests that could be affected by this rule making.

Estimation Methodology

To estimate the effects of the final rule, the FDIC estimated the changes to capital that would result by treating MSAs, temporary difference DTAs, investments in the capital of unconsolidated financial institutions, and minority interests as prescribed by the final rule, compared with how they are treated in the agencies' fully phased-in capital rule, using Call Report data from December 31, 2018.

In cases where an institution reported some minority interest included in a particular capital tier, the FDIC estimated that additional minority interest includable in the respective capital tier under the final rule equaled the smaller of 10 percent of the institution's respective capital tier base amount (before including any minority interest) or its total balance sheet minority interest, minus the amount of minority interest currently included in the respective capital tier. It is difficult to estimate how the final rule might change an institution's likelihood to include minority interest in regulatory capital in the future because it depends upon the future financial characteristics of individual institutions and the future decisions of senior management at those institutions, therefore the FDIC did not estimate it.

In cases where an institution reported taking one or more of the individual threshold deductions for MSAs, temporary difference DTAs, or investments in the capital of unconsolidated financial institutions, the FDIC estimated the effect of the increase in the deduction thresholds from 10 percent to 25 percent in the final rule by grossing up the amount deducted, and comparing it to the institution's estimated capital under the final rule. Additional regulatory capital under the final rule equaled the amount deducted, grossed up, that was between the 10 percent and 25 percent thresholds. Any amounts of MSAs and temporary difference DTAs not deducted were risk-weighted at 250 percent, while non-deducted amounts of investments in the capital of unconsolidated financial institutions were risk-weighted at 100 percent. It is difficult to estimate how the final rule might change an institution's likelihood to acquire or retain MSAs, temporary difference DTAs, or to make investments in the capital of unconsolidated financial institutions because it depends upon the future financial characteristics of individual institutions and the future decisions of senior management at those institutions, therefore the FDIC did not estimate it.

In cases where an institution did not report taking a threshold deduction for either temporary difference DTAs or MSAs, the FDIC estimated the amount of these assets on the balance sheet using information from the Call Report, as any amounts not deducted under the final rule are risk-weighted at 250 percent. For temporary difference DTAs, the FDIC used the difference between net DTAs reported on schedule RC–F line 2 and net operating loss DTAs reported on RC–R Part I line 8 as a proxy. For MSAs, the FDIC used gross MSAs reported on RC–M line 2a. It is difficult to estimate the amounts of investments in the capital of unconsolidated financial institutions when an institution did not report taking a threshold deduction for such investments, therefore the FDIC did not estimate it.

Threshold Deductions

The final rule changes the regulatory capital treatment of MSAs, temporary difference DTAs, and investments in the capital of unconsolidated financial institutions for FDIC-supervised small banking entities. It does so by removing the individual and aggregate deduction thresholds for these assets and by adopting a single 25 percent common equity tier 1 capital deduction threshold for each type of asset. According to the December 31, 2018 Call Report data, 1,582 FDIC-supervised small banking entities reported holding some MSAs, net DTAs, or reported taking a threshold deduction due to investments in the capital of unconsolidated financial institutions. Only 31 small institutions reported taking one or more of the individual threshold deductions, or taking the aggregate threshold deduction, due to their holdings of these assets.[56] The FDIC estimates that this aspect of the final rule will provide a net benefit of $45.6 million in the form of an increase in tier 1 capital to those institutions that currently have to calculate a deduction, representing approximately 0.08 percent of tier 1 capital reported by FDIC-supervised small banking entities. The FDIC expects that the final rule will yield future benefits to affected FDIC-supervised small banking entities by reducing the likelihood of regulatory capital deductions due to holding these asset types. In particular, the final rule relaxes a capital constraint on FDIC-supervised small banking entities that specialize in mortgage servicing. The increase in the threshold deduction for MSAs makes it less likely that a small banking entity would exit or reduce its activity in the mortgage servicing market.

Minority Interest

The final rule simplifies the capital rule's limitation on the inclusion of minority interest in regulatory capital. It does so by allowing FDIC-supervised small banking entities to include minority interest up to 10 percent of the parent banking organization's common

[52] 5 U.S.C. 601 *et seq.*

[53] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201 (as amended, effective December 2, 2014). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' *See* 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[54] FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

[55] FDIC Call Report, December 31, 2018.

[56] Ibid.

equity tier 1, tier 1, or total capital, not including the minority interest. The FDIC estimates that 6 FDIC-supervised small banking entities will be affected by the inclusion of minority interest in regulatory capital calculations.[57] The FDIC estimates that these small banking entities will experience a decline in tier 1 capital of $184,000 due to the inclusion of minority interest, representing less than 0.01 percent of tier 1 capital reported by FDIC-supervised small banking entities.

Compliance Costs

Finally, FDIC-supervised small banking entities are likely to incur some implementation costs in order to comply with the final rule. These costs would encompass changes to their systems designed to calculate, manage, and report risk-weighted assets and regulatory capital. Given the limited nature of the changes necessary to comply with the final rule, the implementation costs are expected to be minimal. Additionally, the FDIC believes that the simplifying changes in this final rule will help reduce some of the compliance costs associated with capital regulations in the long-term by making the regulations easier to apply.

The final rule does not impact the recordkeeping and reporting requirements that affect FDIC-supervised small banking entities and there is no change to the information that FDIC-supervised small banking entities must track and report. The FDIC anticipates updating the relevant reporting forms at a later date to the extent necessary to align with the capital rule.

Conclusion

The threshold-deduction provisions of the final rule will increase the amount of eligible regulatory capital for a limited number of FDIC-supervised small banking entities currently subject to deductions or limitations on these items, as described above. The minority-interest provisions of the final rule will slightly decrease the amount of eligible regulatory capital for a small number of FDIC-supervised small banking entities.

The agencies received nearly 100 comment letters on the proposed capital simplifications. Comments on the proposed revisions to the definition of HVCRE exposure are addressed in a different rulemaking. Commenters suggested a variety of alternatives to the proposed capital simplifications. The agencies have provided a discussion of the comments received and the agencies' consideration of those comments in Section III of this rulemaking.

The FDIC received two comments on the analysis it presented in the proposal's RFA Analysis Section. Although both commenters were concerned with the proposed revisions to the definition of HVCRE exposure, the FDIC is addressing them to clarify the scope of analysis done pursuant to the RFA. Both commenters pointed out that the analysis presented did not consider the effects of the proposal on the entire banking industry, with one commenter also stating that the sample size used in the analysis was relatively small. The scope of analysis done by the FDIC pursuant to the RFA is limited to those institutions which meet the definition of ''small entities'' as set forth by the Small Business Administration.

The FDIC does not believe that the final rule duplicates, overlaps, or conflicts with any other Federal rules.

In light of the foregoing discussion, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [58] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the final rule in a simple and straightforward manner, did not receive any comments on the use of plain language.

D. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The OCC has determined that this rule will not result in expenditures by State, local, and Tribal governments, or the private sector, of $100 million or more in any one year.[59] Accordingly, the OCC has not prepared a written statement to accompany this rule.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[60] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[61]

In accordance with these provisions of RCDRIA, the agencies considered any administrative burdens, as well as benefits, that the final rule would place on depository institutions and their customers in determining the effective date and administrative compliance requirements of the final rule. In conjunction with the requirements of RCDRIA, the final rule is effective on October 1, 2019, except that amendatory instructions 7, 8, 24, 30, 31, 47.b, 53, 54, and 70 are effective April 1, 2020. Any banking organization subject to the

[57] Ibid.

[58] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

[59] The final rule applies to all OCC-supervised non-advanced approaches institutions, and as of June 30, 2017, 225 OCC-supervised banks reported threshold deduction amounts or minority interest. To estimate administrative costs associated with the final rule, the OCC estimates the number of employees each activity is likely to require and the number of hours necessary to assess, implement, and perfect the required activity. Based on supervisory experience, the OCC estimates it will take an OCC-supervised institution, on average, a one-time investment of one business week, or 40 hours, to update policies and procedures, and another one-time investment of 40 hours to make the accounting ledger changes for currently held threshold deduction amounts and minority interests. Assuming a compensation cost of $114 per hour, the OCC estimates that the rule would impose administrative costs associated with compliance activities of approximately $6.8 million for OCC supervised non-advanced approaches institutions in the first year. [(40 hours × $114 per hour × 1,237 banks) + (40 hours × $114 per hour × 225 banks with threshold deduction items or minority interest) = $6,666,720)]. The OCC expects these additional administrative costs to occur in the first year and to be near zero after the first year.

The OCC further estimates that final rule will lead to an aggregate increase in reported regulatory capital of $1.8 billion for national banks and Federal savings associations compared to the amount they would report if they were required to continue to apply the current capital requirements.

[60] 12 U.S.C. 4802(a).

[61] Id.

capital rule may elect to adopt the amendments that are effective October 1, 2019, prior to that date.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Risk.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital, Federal Reserve System, Holding companies.

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Savings associations, State non-member banks.

Office of the Comptroller of the Currency

For the reasons set out in the joint preamble, 12 CFR part 3 is amended as follows.

PART 3—CAPITAL ADEQUACY STANDARDS

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

Authority: 12 U.S.C. 93a, 161, 1462, 1462a, 1463, 1464, 1818, 1828(n), 1828 note, 1831n note, 1835, 3907, 3909, and 5412(b)(2)(B).

Subpart A—General Provisions

■ 2. Effective October 1, 2019, § 3.1 is amended by revising paragraph (a) to read as follows:

§ 3.1 Purpose, applicability, reservation of authority, and timing.

(a) *Purpose.* This part establishes minimum capital requirements and overall capital adequacy standards for national banks and Federal savings associations. This part does not apply to Federal branches and agencies of foreign banks. This part includes methodologies for calculating minimum capital requirements, public disclosure requirements related to the capital requirements, and transition provisions for the application of this part.

* * * * *

■ 3. Effective October 1, 2019, § 3.2 is amended by:

■ a. Revising the definitions of ''corporate exposure'', ''eligible guarantor'', ''International Lending Supervision Act'', and ''Investment in the capital of an unconsolidated financial institution'';

■ b. Adding in alphabetical order a definition for ''Nonsignificant investment in the capital of an unconsolidated financial institution'';

and

■ c. Revising the definition of ''Significant investment in the capital of an unconsolidated financial institution''.

The revisions and addition read as follows:

§ 3.2 Definitions.

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multi-lateral development bank (MDB), a depository institution, a foreign bank, a credit union, or a public sector entity (PSE);

(2) An exposure to a GSE;

(3) A residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure; or

(11) An unsettled transaction.

(12) A policy loan; or

(13) A separate account.

* * * * *

Eligible guarantor means:

(1) A sovereign, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, a Federal Home Loan Bank, Federal Agricultural Mortgage Corporation (Farmer Mac), the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank (MDB), a depository institution, a bank holding company, a savings and loan holding company, a credit union, a foreign bank, or a qualifying central counterparty; or

(2) An entity (other than a special purpose entity):

(i) That at the time the guarantee is issued or anytime thereafter, has issued and outstanding an unsecured debt security without credit enhancement that is investment grade;

(ii) Whose creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees; and

(iii) That is not an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).

* * * * *

International Lending Supervision Act means the International Lending Supervision Act of 1983 (12 U.S.C. 3901 *et seq.*).

* * * * *

Investment in the capital of an unconsolidated financial institution means a net long position calculated in accordance with § 3.22(h) in an instrument that is recognized as capital for regulatory purposes by the primary supervisor of an unconsolidated regulated financial institution or is an instrument that is part of the GAAP equity of an unconsolidated unregulated financial institution, including direct, indirect, and synthetic exposures to capital instruments, excluding underwriting positions held by the national bank or Federal savings association for five or fewer business days.

* * * * *

Non-significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches national bank or Federal savings association in the capital of an unconsolidated financial institution where the advanced approaches national bank or Federal savings association owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches national bank or Federal savings association in the capital of an unconsolidated financial institution where the advanced approaches national bank or Federal savings association owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

■ 4. Effective October 1, 2019, § 3.10 is amended by revising paragraph (c)(4)(ii)(H) to read as follows:

§ 3.10 Minimum capital requirements.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(H) The credit equivalent amount of all off-balance sheet exposures of the national bank or Federal savings association, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion

factor under § 3.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

* * * * *

■ 5. Effective October 1, 2019, § 3.11 is amended by revising paragraphs (a)(2)(i) and (iv), (a)(3)(i), and Table 1 to § 3.11 to read as follows:

§ 3.11 Capital conservation buffer and countercyclical capital buffer amount.

* * * * *

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of a national bank or Federal savings association is the national bank's or Federal savings association's net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income.

* * * * *

(iv) *Private sector credit exposure.* Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the European Stability Mechanism, the European Financial Stability Facility, the International Monetary Fund, a MDB, a PSE, or a GSE.

(3) *Calculation of capital conservation buffer.* (i) A national bank's or Federal savings association's capital conservation buffer is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The national bank or Federal savings association's common equity tier 1 capital ratio minus the national bank or Federal savings association 's minimum common equity tier 1 capital ratio requirement under § 3.10;

(B) The national bank or Federal savings association's tier 1 capital ratio minus the national bank or Federal savings association's minimum tier 1 capital ratio requirement under § 3.10; and

(C) The national bank or Federal savings association's total capital ratio minus the national bank or Federal savings association's minimum total capital ratio requirement under § 3.10; or

* * * * *

TABLE 1 TO § 3.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio
Greater than 2.5 percent plus 100 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount.	No payout ratio limitation applies.
Less than or equal to 2.5 percent plus 100 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount, *and* greater than 1.875 percent plus 75 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount.	60 percent.
Less than or equal to 1.875 percent plus 75 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount, *and* greater than 1.25 percent plus 50 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount.	40 percent.
Less than or equal to 1.25 percent plus 50 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount, *and* greater than 0.625 percent plus 25 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount.	20 percent.
Less than or equal to 0.625 percent plus 25 percent of the national bank's or Federal savings association's applicable countercyclical capital buffer amount.	0 percent.

* * * * *

■ 6. Effective October 1, 2019, Section 3.20 is amended by revising paragraphs (b)(4), (c)(1)(viii), (c)(2), and (d)(2), and (5) to read as follows:

§ 3.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(b) * * *

(4) Any common equity tier 1 minority interest, subject to the limitations in § 3.21.

* * * * *

(c) * * *

(1) * * *

(viii) Any cash dividend payments on the instrument are paid out of the national bank's or Federal savings association's net income or retained earnings.

* * * * *

(2) Tier 1 minority interest, subject to the limitations in § 3.21, that is not included in the national bank's or Federal savings association's common equity tier 1 capital.

* * * * *

(d) * * *

(2) Total capital minority interest, subject to the limitations set forth in § 3.21, that is not included in the national bank's or Federal savings association's tier 1 capital.

* * * * *

(5) For a national bank or Federal savings association that makes an AOCI opt-out election (as defined in paragraph (b)(2) of § 3.22), 45 percent of pretax net unrealized gains on available-for-sale preferred stock classified as an equity security under GAAP and available-for-sale equity exposures.

* * * * *

■ 7. Effective April 1, 2020, Section 3.21 is revised to read as follows:

§ 3.21 Minority interest.

(a)(1) *Applicability.* For purposes of § 3.20, a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association is subject to the minority interest limitations in this paragraph (a) if a consolidated subsidiary of the national bank or Federal savings association has issued regulatory capital that is not owned by the national bank or Federal savings association.

(2) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the national bank or Federal savings association.* The amount of common equity tier 1 minority interest that a national bank or Federal savings association may include in common equity tier 1 capital must be no greater than 10 percent of the sum of all common equity tier 1 capital elements of the national bank or Federal savings association (not including the common equity tier 1 minority interest itself), less any common equity tier 1 capital regulatory adjustments and deductions in accordance with § 3.22(a) and (b).

(3) *Tier 1 minority interest includable in the tier 1 capital of the national bank or Federal savings association.* The amount of tier 1 minority interest that a national bank or Federal savings association may include in tier 1 capital

must be no greater than 10 percent of the sum of all tier 1 capital elements of the national bank or Federal savings association (not including the tier 1 minority interest itself), less any tier 1 capital regulatory adjustments and deductions in accordance with § 3.22(a) and (b).

(4) *Total capital minority interest includable in the total capital of the national bank or Federal savings association.* The amount of total capital minority interest that a national bank or Federal savings association may include in total capital must be no greater than 10 percent of the sum of all total capital elements of the national bank or Federal savings association (not including the total capital minority interest itself), less any total capital regulatory adjustments and deductions in accordance with § 3.22(a) and (b).

(b)(1) *Applicability.* For purposes of § 3.20, an advanced approaches national bank or Federal savings association is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the advanced approaches national bank or Federal savings association has issued regulatory capital that is not owned by the national bank or Federal savings association; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the advanced approaches national bank or Federal savings association, the advanced approaches national bank or Federal savings association must assume that the capital adequacy standards of the advanced approaches national bank or Federal savings association apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the national bank or Federal savings association.* For each consolidated subsidiary of an advanced approaches national bank or Federal savings association, the amount of common equity tier 1 minority interest the advanced approaches national bank or Federal savings association may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the advanced approaches national bank or Federal savings association, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor; or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches national bank or Federal savings association that relate to the subsidiary multiplied by

(*2*) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the advanced approaches national bank or Federal savings association.* For each consolidated subsidiary of the advanced approaches national bank or Federal savings association, the amount of tier 1 minority interest the advanced approaches national bank or Federal savings association may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the advanced approaches national bank or Federal savings association multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches national bank or Federal savings association that relate to the subsidiary multiplied by

(*2*) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the national bank or Federal savings association.* For each consolidated subsidiary of the advanced approaches national bank or Federal savings association, the amount of total capital minority interest the advanced approaches national bank or Federal savings association may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the advanced approaches national bank or Federal savings association multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches national bank or Federal savings association that relate to the subsidiary multiplied by

(*2*) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 3.11 or equivalent standards established by the subsidiary's home country supervisor.

■ 8. Effective April 1, 2020, § 3.22 is amended by revising paragraphs (a)(1), (c), (d), (g), and (h) to read as follows:

§ 3.22 Regulatory capital adjustments and deductions.

(a) * * *

(1)(i) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section; and

(ii) For an advanced approaches national bank or Federal savings association, goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the advanced approaches national bank or Federal savings association), in accordance with paragraph (d) of this section;

* * * * *

(c) *Deductions from regulatory capital related to investments in capital*

instruments [23]—(1) *Investment in the national bank's or Federal savings association's own capital instruments.* A national bank or Federal savings association must deduct an investment in the national bank's or Federal savings association's own capital instruments as follows:

(i) A national bank or Federal savings association must deduct an investment in the national bank's or Federal savings association's own common stock instruments from its common equity tier 1 capital elements to the extent such instruments are not excluded from regulatory capital under § 3.20(b)(1);

(ii) A national bank or Federal savings association must deduct an investment in the national bank's or Federal savings association's own additional tier 1 capital instruments from its additional tier 1 capital elements; and

(iii) A national bank or Federal savings association must deduct an investment in the national bank's or Federal savings association's own tier 2 capital instruments from its tier 2 capital elements.

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association (as described in paragraph (c)(4) of this section), non-significant investments in the capital of unconsolidated financial institutions for an advanced approaches national bank or Federal savings association (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for an advanced approaches national bank or Federal savings association (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, a national bank or Federal savings association must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the national bank or Federal savings association itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the national bank or Federal savings association does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

(i) If an investment is in the form of an instrument issued by a financial institution that is not a regulated financial institution, the national bank or Federal savings association must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock or represents the most subordinated claim in liquidation of the financial institution; and

(B) An additional tier 1 capital instrument if it is subordinated to all creditors of the financial institution and is senior in liquidation only to common shareholders.

(ii) If an investment is in the form of an instrument issued by a regulated financial institution and the instrument does not meet the criteria for common equity tier 1, additional tier 1 or tier 2 capital instruments under § 3.20, the national bank or Federal savings association must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock included in GAAP equity or represents the most subordinated claim in liquidation of the financial institution;

(B) An additional tier 1 capital instrument if it is included in GAAP equity, subordinated to all creditors of the financial institution, and senior in a receivership, insolvency, liquidation, or similar proceeding only to common shareholders; and

(C) A tier 2 capital instrument if it is not included in GAAP equity but considered regulatory capital by the primary supervisor of the financial institution.

(iii) If an investment is in the form of a non-qualifying capital instrument (as defined in § 3.300(c)), the national bank or Federal savings association must treat the instrument as:

(A) An additional tier 1 capital instrument if such instrument was included in the issuer's tier 1 capital prior to May 19, 2010; or

(B) A tier 2 capital instrument if such instrument was included in the issuer's tier 2 capital (but not includable in tier 1 capital) prior to May 19, 2010.

(3) *Reciprocal cross holdings in the capital of financial institutions.* A national bank or Federal savings association must deduct investments in the capital of other financial institutions it holds reciprocally, where such reciprocal cross holdings result from a formal or informal arrangement to swap, exchange, or otherwise intend to hold each other's capital instruments, by applying the corresponding deduction approach.

(4) *Investments in the capital of unconsolidated financial institutions.* A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association must deduct its investments in the capital of unconsolidated financial institutions (as defined in § 3.2) that exceed 25 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section by applying the corresponding deduction approach.[24] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, a national bank or Federal savings association that underwrites a failed underwriting, with the prior written approval of the OCC, for the period of time stipulated by the OCC, is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[25]

(5) *Non-significant investments in the capital of unconsolidated financial institutions.* (i) An advanced approaches national bank or Federal savings association must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 3.2) that, in the aggregate, exceed 10 percent of the sum of the advanced approaches national bank's or Federal savings association's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the

[23] The national bank or Federal savings association must calculate amounts deducted under paragraphs (c) through (f) of this section after it calculates the amount of ALLL or AACL, as applicable, includable in tier 2 capital under § 3.20(d)(3).

[24] With the prior written approval of the OCC, for the period of time stipulated by the OCC, a national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the OCC.

[25] Any investments in the capital of unconsolidated financial institutions that do not exceed the 25 percent threshold for investments in the capital of unconsolidated financial institutions under this section must be assigned the appropriate risk weight under subparts D or F of this part, as applicable.

corresponding deduction approach.[26] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, an advanced approaches national bank or Federal savings association that underwrites a failed underwriting, with the prior written approval of the OCC, for the period of time stipulated by the OCC, is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[27]

(ii) The amount to be deducted under this section from a specific capital component is equal to:

(A) The advanced approaches national bank's or Federal savings association's non-significant investments in the capital of unconsolidated financial institutions exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the advanced approaches national bank's or Federal savings association's non-significant investments in the capital of unconsolidated financial institutions in the form of such capital component to the advanced approaches national bank's or Federal savings association's total non-significant investments in unconsolidated financial institutions.

(6) *Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.* An advanced approaches national bank or Federal savings association must deduct its significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock by applying the corresponding deduction approach.[28] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the OCC, for the period of time stipulated by the OCC, an advanced approaches national bank or Federal savings association that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) if such investment is related to such failed underwriting.

(d) *MSAs and certain DTAs subject to common equity tier 1 capital deduction thresholds.* (1) A national bank or Federal savings association that is not an advanced approaches national bank or Federal savings association must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(1) that, individually, exceeds 25 percent of the sum of the national bank's or Federal savings association's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).[29]

(ii) The national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. A national bank or Federal savings association is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 3.22(e)) arising from timing differences that the national bank or Federal savings association could realize through net operating loss carrybacks. The national bank or Federal savings association must risk weight these assets at 100 percent. For a national bank or Federal savings association that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the national bank or Federal savings association could reasonably expect to have refunded by its parent holding company.

(iii) The national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(iv) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, a national bank or Federal savings association may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. A national bank or Federal savings association that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. A national bank or Federal savings association may change its exclusion preference only after obtaining the prior approval of the OCC.

(2) An advanced approaches national bank or Federal savings association must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) An advanced approaches national bank or Federal savings association must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the advanced approaches national bank's or Federal savings association's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the advanced approaches national bank or Federal savings association could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An advanced approaches national bank or Federal savings association is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 3.22(e)) arising from timing differences that the advanced approaches national bank or Federal savings association could realize

[26] With the prior written approval of the OCC, for the period of time stipulated by the OCC, an advanced approaches national bank or Federal savings association is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the OCC.

[27] Any non-significant investments in the capital of unconsolidated financial institutions that do not exceed the 10 percent threshold for non-significant investments under this section must be assigned the appropriate risk weight under subparts D, E, or F of this part, as applicable.

[28] With prior written approval of the OCC, for the period of time stipulated by the OCC, an advanced approaches national bank or Federal savings association is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress which is not in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the OCC.

[29] The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the national bank or Federal savings association and assigned a 250 percent risk weight.

through net operating loss carrybacks. The advanced approaches national bank or Federal savings association must risk weight these assets at 100 percent. For a national bank or Federal savings association that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the national bank or Federal savings association could reasonably expect to have refunded by its parent holding company.

(B) MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(C) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.[30] Significant investments in the capital of unconsolidated financial institutions in the form of common stock subject to the 10 percent common equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the advanced approaches national bank or Federal savings association pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the OCC, for the period of time stipulated by the OCC, an advanced approaches national bank or Federal savings association that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) An advanced approaches national bank or Federal savings association must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the advanced approaches national bank's or Federal savings association's common equity tier 1 capital elements, minus adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.[31]

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, an advanced approaches national bank or Federal savings association may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An advanced approaches national bank or Federal savings association that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An advanced approaches national bank or Federal savings association may change its exclusion preference only after obtaining the prior approval of the OCC.

* * * * *

(g) *Treatment of assets that are deducted.* A national bank or Federal savings association must exclude from standardized total risk-weighted assets and, as applicable, advanced approaches total risk-weighted assets any item that is required to be deducted from regulatory capital.

(h) *Net long position.* (1) For purposes of calculating an investment in the national bank's or Federal savings association's own capital instrument and an investment in the capital of an unconsolidated financial institution under this section, the net long position is the gross long position in the underlying instrument determined in accordance with paragraph (h)(2) of this section, as adjusted to recognize a short position in the same instrument calculated in accordance with paragraph (h)(3) of this section.

(2) *Gross long position.* The gross long position is determined as follows:

(i) For an equity exposure that is held directly, the adjusted carrying value as that term is defined in § 3.51(b);

(ii) For an exposure that is held directly and is not an equity exposure or a securitization exposure, the exposure amount as that term is defined in § 3.2;

(iii) For an indirect exposure, the national bank's or Federal savings association's carrying value of the investment in the investment fund, provided that, alternatively:

(A) A national bank or Federal savings association may, with the prior approval of the Board, use a conservative estimate of the amount of its investment in the national bank's or Federal savings association's own capital instruments or its investment in the capital of an unconsolidated financial institution held through a position in an index; or

(B) A national bank or Federal savings association may calculate the gross long position for investments in the national bank's or Federal savings association's own capital instruments or investments in the capital of an unconsolidated financial institution by multiplying the national bank's or Federal savings association's carrying value of its investment in the investment fund by either:

(*1*) The highest stated investment limit (in percent) for investments in the national bank's or Federal savings association's own capital instruments or investments in the capital of unconsolidated financial institutions as stated in the prospectus, partnership agreement, or similar contract defining permissible investments of the investment fund; or

(*2*) The investment fund's actual holdings of investments in the national bank's or Federal savings association's own capital instruments or investments in the capital of unconsolidated financial institutions.

(iv) For a synthetic exposure, the amount of the national bank's or Federal savings association's loss on the exposure if the reference capital instrument were to have a value of zero.

(3) *Adjustments to reflect a short position.* In order to adjust the gross long position to recognize a short position in the same instrument, the following criteria must be met:

(i) The maturity of the short position must match the maturity of the long position, or the short position has a residual maturity of at least one year (maturity requirement); or

(ii) For a position that is a trading asset or trading liability (whether on- or off-balance sheet) as reported on the national bank's or Federal savings association's Call Report, if the national bank or Federal savings association has a contractual right or obligation to sell the long position at a specific point in time and the counterparty to the contract has an obligation to purchase the long position if the national bank or

[30] With the prior written approval of the OCC, for the period of time stipulated by the OCC, an advanced approaches national bank or Federal savings association is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the OCC.

[31] The amount of the items in paragraph (d)(2) of this section that is not deducted from common equity tier 1 capital pursuant to this section must be included in the risk-weighted assets of the advanced approaches national bank or Federal savings association and assigned a 250 percent risk weight.

Federal savings association exercises its right to sell, this point in time may be treated as the maturity of the long position such that the maturity of the long position and short position are deemed to match for purposes of the maturity requirement, even if the maturity of the short position is less than one year; and

(iii) For an investment in the national bank's or Federal savings association's own capital instrument under paragraph (c)(1) of this section or an investment in the capital of an unconsolidated financial institution under paragraphs (c) and (d) of this section:

(A) A national bank or Federal savings association may only net a short position against a long position in an investment in the national bank's or Federal savings association's own capital instrument under paragraph (c) of this section if the short position involves no counterparty credit risk.

(B) A gross long position in an investment in the national bank's or Federal savings association's own capital instrument or an investment in the capital of an unconsolidated financial institution resulting from a position in an index may be netted against a short position in the same index. Long and short positions in the same index without maturity dates are considered to have matching maturities.

(C) A short position in an index that is hedging a long cash or synthetic position in an investment in the national bank's or Federal savings association's own capital instrument or an investment in the capital of an unconsolidated financial institution can be decomposed to provide recognition of the hedge. More specifically, the portion of the index that is composed of the same underlying instrument that is being hedged may be used to offset the long position if both the long position being hedged and the short position in the index are reported as a trading asset or trading liability (whether on- or off-balance sheet) on the national bank's or Federal savings association's Call Report, and the hedge is deemed effective by the national bank's or Federal savings association's internal control processes, which have not been found to be inadequate by the OCC.

■ 9. Effective October 1, 2019, § 3.32 is amended by revising paragraphs (b), (d)(2), (d)(3)(ii), (j), (k), and (l) to read as follows:

§ 3.32 General risk weights.

* * * * *

(b) *Certain supranational entities and multilateral development banks (MDBs).* A national bank or Federal savings association must assign a zero percent risk weight to an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, or an MDB.

* * * * *

(d) * * *

(2) *Exposures to foreign banks.* (i) Except as otherwise provided under paragraphs (d)(2)(iii), (d)(2)(v), and (d)(3) of this section, a national bank or Federal savings association must assign a risk weight to an exposure to a foreign bank, in accordance with Table 2 to § 3.32, based on the CRC that corresponds to the foreign bank's home country or the OECD membership status of the foreign bank's home country if there is no CRC applicable to the foreign bank's home country.

TABLE 2 TO § 3.32—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with No CRC	20
Non-OECD Member with No CRC	100
Sovereign Default	150

(ii) A national bank or Federal savings association must assign a 20 percent risk weight to an exposure to a foreign bank whose home country is a member of the OECD and does not have a CRC.

(iii) A national bank or Federal savings association must assign a 20 percent risk-weight to an exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less to a foreign bank whose home country has a CRC of 0, 1, 2, or 3, or is an OECD member with no CRC.

(iv) A national bank or Federal savings association must assign a 100 percent risk weight to an exposure to a foreign bank whose home country is not a member of the OECD and does not have a CRC, with the exception of self-liquidating, trade-related contingent items that arise from the movement of goods, and that have a maturity of three months or less, which may be assigned a 20 percent risk weight.

(v) A national bank or Federal savings association must assign a 150 percent risk weight to an exposure to a foreign bank immediately upon determining that an event of sovereign default has occurred in the bank's home country, or if an event of sovereign default has occurred in the foreign bank's home country during the previous five years.

(3) * * *

(ii) A significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to § 3.22(d)(2)(i)(c);

* * * * *

(j) *High-volatility commercial real estate (HVCRE) exposures.* A national bank or Federal savings association must assign a 150 percent risk weight to an HVCRE exposure.

(k) *Past due exposures.* Except for an exposure to a sovereign entity or a residential mortgage exposure or a policy loan, if an exposure is 90 days or more past due or on nonaccrual:

(1) A national bank or Federal savings association must assign a 150 percent risk weight to the portion of the exposure that is not guaranteed or that is unsecured;

(2) A national bank or Federal savings association may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § 3.36 if the guarantee or credit derivative meets the requirements of that section; and

(3) A national bank or Federal savings association may assign a risk weight to the collateralized portion of a past due exposure based on the risk weight that applies under § 3.37 if the collateral meets the requirements of that section.

(l) *Other assets.* (1) A national bank or Federal savings association must assign a zero percent risk weight to cash owned and held in all offices of the national bank or Federal savings association or in transit; to gold bullion held in the national bank's or Federal savings association's own vaults or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade and associated default fund contributions.

(2) A national bank or Federal savings association must assign a 20 percent risk weight to cash items in the process of collection.

(3) A national bank or Federal savings association must assign a 100 percent risk weight to DTAs arising from temporary differences that the national bank or Federal savings association

could realize through net operating loss carrybacks.

(4) A national bank or Federal savings association must assign a 250 percent risk weight to the portion of each of the following items to the extent it is not deducted from common equity tier 1 capital pursuant to § 3.22(d):

(i) MSAs; and

(ii) DTAs arising from temporary differences that the national bank or Federal savings association could not realize through net operating loss carrybacks.

(5) A national bank or Federal savings association must assign a 100 percent risk weight to all assets not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § 3.22.

(6) Notwithstanding the requirements of this section, a national bank or Federal savings association may assign an asset that is not included in one of the categories provided in this section to the risk weight category applicable under the capital rules applicable to bank holding companies and savings and loan holding companies at 12 CFR part 217, provided that all of the following conditions apply:

(i) The national bank or Federal savings association is not authorized to hold the asset under applicable law other than debt previously contracted or similar authority; and

(ii) The risks associated with the asset are substantially similar to the risks of assets that are otherwise assigned to a risk weight category of less than 100 percent under this subpart.

* * * * *

■ 10. Effective October 1, 2019, § 3.34 is amended by revising paragraph (c) to read as follows:

§ 3.34 OTC derivative contracts.

* * * * *

(c) *Counterparty credit risk for OTC credit derivatives*—(1) *Protection purchasers.* A national bank or Federal savings association that purchases an OTC credit derivative that is recognized under § 3.36 as a credit risk mitigant for an exposure that is not a covered position under subpart F is not required to compute a separate counterparty credit risk capital requirement under this subpart D provided that the national bank or Federal savings association does so consistently for all such credit derivatives. The national bank or Federal savings association must either include all or exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) *Protection providers.* (i) A national bank or Federal savings association that is the protection provider under an OTC credit derivative must treat the OTC credit derivative as an exposure to the underlying reference asset. The national bank or Federal savings association is not required to compute a counterparty credit risk capital requirement for the OTC credit derivative under this subpart D, provided that this treatment is applied consistently for all such OTC credit derivatives. The national bank or Federal savings association must either include all or exclude all such OTC credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure.

(ii) The provisions of this paragraph (c)(2) apply to all relevant counterparties for risk-based capital purposes unless the national bank or Federal savings association is treating the OTC credit derivative as a covered position under subpart F, in which case the national bank or Federal savings association must compute a supplemental counterparty credit risk capital requirement under this section.

* * * * *

■ 11. Effective October 1, 2019, § 3.35 is amended by revising paragraphs (b)(3)(ii), (b)(4)(ii), (c)(3)(ii), and (c)(4)(ii) to read as follows:

§ 3.35 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client national bank or Federal savings association must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member client national bank or Federal savings association must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or custodian in connection with a cleared transaction in accordance with the requirements under this subpart D.

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member national bank or Federal savings association must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member national bank or Federal savings association must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or a custodian in connection with a cleared transaction in accordance with requirements under this subpart D.

* * * * *

■ 12. Effective October 1, 2019, § 3.36 is amended by revising paragraph (c) to read as follows:

§ 3.36 Guarantees and credit derivatives: Substitution treatment.

* * * * *

(c) *Substitution approach*—(1) *Full coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is greater than or equal to the exposure amount of the hedged exposure, a national bank or Federal savings association may recognize the guarantee or credit derivative in determining the risk-weighted asset amount for the hedged exposure by substituting the risk weight applicable to the guarantor or credit derivative protection provider under this subpart D for the risk weight assigned to the exposure.

(2) *Partial coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is less than the exposure amount of the hedged exposure, the national bank or Federal savings association must treat the hedged exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the guarantee or credit derivative.

(i) The national bank or Federal savings association may calculate the risk-weighted asset amount for the protected exposure under this subpart D, where the applicable risk weight is the risk weight applicable to the guarantor or credit derivative protection provider.

(ii) The national bank or Federal savings association must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the hedged exposure.

(iii) The treatment provided in this section is applicable when the credit risk of an exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the guarantee or credit derivative under paragraphs (d), (e), or (f) of this section.

* * * * *

■ 13. Effective October 1, 2019, § 3.37 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 3.37 Collateralized transactions.

* * * * *

(b) * * *

(2) * * *

(i) A national bank or Federal savings association may apply a risk weight to the portion of an exposure that is secured by the fair value of financial collateral (that meets the requirements of paragraph (b)(1) of this section) based on the risk weight assigned to the collateral under this subpart D. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the national bank or Federal savings association has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the collateralized portion of the exposure may not be less than 20 percent.

* * * * *

■ 14. Effective October 1, 2019, § 3.38 is amended by revising paragraph (e)(2) to read as follows:

§ 3.38 Unsettled transactions.

* * * * *

(e) * * *

(2) From the business day after the national bank or Federal savings association has made its delivery until five business days after the counterparty delivery is due, the national bank or Federal savings association must calculate the risk-weighted asset amount for the transaction by treating the current fair value of the deliverables owed to the national bank or Federal savings association as an exposure to the counterparty and using the applicable counterparty risk weight under this subpart D.

* * * * *

■ 15. Effective October 1, 2019, § 3.42 is amended by revising paragraph (j)(2)(ii)(A) to read as follows:

§ 3.42 Risk-weighted assets for securitization exposures.

* * * * *

(j) * * *

(2) * * *

(ii) * * *

(A) If the national bank or Federal savings association purchases credit protection from a counterparty that is not a securitization SPE, the national bank or Federal savings association must determine the risk weight for the exposure according to this subpart D.

* * * * *

■ 16. Effective October 1, 2019, § 3.52 is amended by revising paragraphs (b)(1) and (4) to read as follows:

§ 3.52 Simple risk-weight approach (SRWA).

* * * * *

(b) * * *

(1) *Zero percent risk weight equity exposures.* An equity exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, an MDB, and any other entity whose credit exposures receive a zero percent risk weight under § 3.32 may be assigned a zero percent risk weight.

* * * * *

(4) *250 percent risk weight equity exposures.* Significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital pursuant to § 3.22(d)(2) are assigned a 250 percent risk weight.

* * * * *

■ 17. Effective October 1, 2019, § 3.61 is revised to read as follows:

§ 3.61 Purpose and scope.

Sections 3.61 through 3.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for a national bank or Federal savings association with total consolidated assets of $50 billion or more as reported on the national bank's or Federal savings association's most recent year-end Call Report that is not an advanced approaches national bank or Federal savings association making public disclosures pursuant to § 3.172. An advanced approaches national bank or Federal savings association that has not received approval from the OCC to exit parallel run pursuant to § 3.121(d) is subject to the disclosure requirements described in §§ 3.62 and 3.63. A national bank or Federal savings association with total consolidated assets of $50 billion or more as reported on the national bank's or Federal savings association's most recent year-end Call Report that is not an advanced approaches national bank or Federal savings association making public disclosures subject to § 3.172 must comply with § 3.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 3.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total consolidated assets are determined based on the average of the national bank's or Federal savings association's total consolidated assets in the four most recent quarters as reported on the Call Report or the average of the national bank or Federal savings association's total consolidated assets in the most recent consecutive quarters as reported quarterly on the national bank's or Federal savings association's Call Report if the national bank or Federal savings association has not filed such a report for each of the most recent four quarters.

■ 18. Effective October 1, 2019, § 3.63 is amended by revising Tables 3 and 8 to § 3.63 to read as follows:

§ 3.63 Disclosures by national bank or Federal savings associations described in § 3.61.

* * * * *

TABLE 3 TO § 3.63—CAPITAL ADEQUACY

Qualitative disclosures	(a) A summary discussion of the national bank's or Federal savings association's approach to assessing the adequacy of its capital to support current and future activities.
Quantitative disclosures	(b) Risk-weighted assets for: (1) Exposures to sovereign entities; (2) Exposures to certain supranational entities and MDBs; (3) Exposures to depository institutions, foreign banks, and credit unions; (4) Exposures to PSEs; (5) Corporate exposures; (6) Residential mortgage exposures; (7) Statutory multifamily mortgages and pre-sold construction loans; (8) HVCRE exposures;

TABLE 3 TO § 3.63—CAPITAL ADEQUACY—Continued

	(9) Past due loans; (10) Other assets; (11) Cleared transactions; (12) Default fund contributions; (13) Unsettled transactions; (14) Securitization exposures; and (15) Equity exposures. (c) Standardized market risk-weighted assets as calculated under subpart F of this part. (d) Common equity tier 1, tier 1 and total risk-based capital ratios: (1) For the top consolidated group; and (2) For each depository institution subsidiary. (e) Total standardized risk-weighted assets.

* * * * *

TABLE 8 TO § 3.63—SECURITIZATION

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The national bank's or Federal savings association 's objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the national bank or Federal savings association to other entities and including the type of risks assumed and retained with resecuritization activity; [1] (2) The nature of the risks (*e.g.,* liquidity risk) inherent in the securitized assets; (3) The roles played by the national bank or Federal savings association in the securitization process [2] and an indication of the extent of the national bank's or Federal savings association 's involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures including how those processes differ for resecuritization exposures; (5) The national bank's or Federal savings association's policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the national bank or Federal savings association follows for its securitization exposures including the type of securitization exposure to which each approach applies. (b) A list of: (1) The type of securitization SPEs that the national bank or Federal savings association, as sponsor, uses to securitize third-party exposures. The national bank or Federal savings association must indicate whether it has exposure to these SPEs, either on- or off-balance sheet; and (2) Affiliated entities: (i) That the national bank or Federal savings association manages or advises; and (ii) That invest either in the securitization exposures that the national bank or Federal savings association has securitized or in securitization SPEs that the national bank or Federal savings association sponsors.[3] (c) Summary of the national bank's or Federal savings association's accounting policies for securitization activities, including: (1) Whether the transactions are treated as sales or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests; (4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart D of this part; and (7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the national bank or Federal savings association to provide financial support for securitized assets. (d) An explanation of significant changes to any quantitative information since the last reporting period.
Quantitative Disclosures	(e) The total outstanding exposures securitized by the national bank or Federal savings association in securitizations that meet the operational criteria provided in § 3.41 (categorized into traditional and synthetic securitizations), by exposure type, separately for securitizations of third-party exposures for which the bank acts only as sponsor.[4] (f) For exposures securitized by the national bank or Federal savings association in securitizations that meet the operational criteria in § 3.41: (1) Amount of securitized assets that are impaired/past due categorized by exposure type; [5] and (2) Losses recognized by the national bank or Federal savings association during the current period categorized by exposure type.[6] (g) The total amount of outstanding exposures intended to be securitized categorized by exposure type. (h) Aggregate amount of: (1) On-balance sheet securitization exposures retained or purchased categorized by exposure type; and (2) Off-balance sheet securitization exposures categorized by exposure type. (i)(1) Aggregate amount of securitization exposures retained or purchased and the associated capital requirements for these exposures, categorized between securitization and resecuritization exposures, further categorized into a meaningful number of risk weight bands and by risk-based capital approach (*e.g.,* SSFA); and

TABLE 8 TO § 3.63—SECURITIZATION—Continued

	(2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any: (i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and (ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight. (j) Summary of current year's securitization activity, including the amount of exposures securitized (by exposure type), and recognized gain or loss on sale by exposure type. (k) Aggregate amount of resecuritization exposures retained or purchased categorized according to: (1) Exposures to which credit risk mitigation is applied and those not applied; and (2) Exposures to guarantors categorized according to guarantor creditworthiness categories or guarantor name.

[1] The national bank or Federal savings association should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the national bank or Federal savings association is active.

[2] For example, these roles may include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider.

[3] Such affiliated entities may include, for example, money market funds, to be listed individually, and personal and private trusts, to be noted collectively.

[4] ''Exposures securitized'' include underlying exposures originated by the national bank or Federal savings association, whether generated by them or purchased, and recognized in the balance sheet, from third parties, and third-party exposures included in sponsored transactions. Securitization transactions (including underlying exposures originally on the national bank's or Federal savings association's balance sheet and underlying exposures acquired by the national bank or Federal savings association from third-party entities) in which the originating bank does not retain any securitization exposure should be shown separately but need only be reported for the year of inception. National banks and Federal savings associations are required to disclose exposures regardless of whether there is a capital charge under this part.

[5] Include credit-related other than temporary impairment (OTTI).

[6] For example, charge-offs/allowances (if the assets remain on the national bank's or Federal savings association's balance sheet) or credit-related OTTI of interest-only strips and other retained residual interests, as well as recognition of liabilities for probable future financial support required of the national bank or Federal savings association with respect to securitized assets.

* * * * *

■ 19. Effective October 1, 2019, § 3.131 is amended by revising paragraph (d)(2) to read as follows:

§ 3.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

* * * * *

(d) * * *

(2) *Floor on PD assignment.* The PD for each wholesale obligor or retail segment may not be less than 0.03 percent, except for exposures to or directly and unconditionally guaranteed by a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Commission, the European Central Bank, the European Stability Mechanism, the European Financial Stability Facility, or a multilateral development bank, to which the national bank or Federal savings association assigns a rating grade associated with a PD of less than 0.03 percent.

* * * * *

■ 20. Effective October 1, 2019, § 3.133 is amended by revising paragraphs (b)(3)(ii) and (c)(3)(ii) to read as follows:

§ 3.133 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client national bank or Federal savings association must apply the risk weight applicable to the CCP under subpart D of this part.

* * * * *

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member national bank or Federal savings association must apply the risk weight applicable to the CCP according to subpart D of this part.

* * * * *

■ 21. Effective October 1, 2019, § 3.152 is amended by revising paragraphs (b)(5) and (6) to read as follows:

§ 3.152 Simple risk weight approach (SRWA).

* * * * *

(b) * * *

(5) *300 percent risk weight equity exposures.* A publicly traded equity exposure (other than an equity exposure described in paragraph (b)(7) of this section and including the ineffective portion of a hedge pair) is assigned a 300 percent risk weight.

(6) *400 percent risk weight equity exposures.* An equity exposure (other than an equity exposure described in paragraph (b)(7) of this section) that is not publicly traded is assigned a 400 percent risk weight.

* * * * *

■ 22. Effective October 1, 2019, § 3.202 is amended by revising the definition of ''Corporate debt position'' in paragraph (b) to read as follows:

§ 3.202 Definitions.

* * * * *

(b) * * *

Corporate debt position means a debt position that is an exposure to a company that is not a sovereign entity, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank, a depository institution, a foreign bank, a credit union, a public sector entity, a GSE, or a securitization.

* * * * *

■ 23. Effective October 1, 2019, § 3.210 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 3.210 Standardized measurement method for specific risk.

* * * * *

(b) * * *

(2) * * *

(ii) *Certain supranational entity and multilateral development bank debt positions.* A national bank or Federal savings association may assign a 0.0 percent specific risk-weighting factor to a debt position that is an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, or an MDB.

* * * * *

§ 3.300 [Amended]

■ 24. Effective April 1, 2020, § 3.300 is amended by removing paragraphs (b) and (d).

Board of Governors of the Federal Reserve System

For the reasons set out in the joint preamble, the Board of Governors of the Federal Reserve System amends 12 CFR part 217 as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q)

■ 25. The authority citation for part 217 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1462a, 1467a, 1818, 1828, 1831n, 1831o, 1831p–l, 1831w, 1835, 1844(b), 1851, 3904, 3906–3909, 4808, 5365, 5368, 5371.

Subpart A—General Provisions

■ 26. Effective October 1, 2019, § 217.2 is amended by revsing the definitions of ''corporate exposure'' and ''eligible guarantor'', ''International Lending Supervision Act'', ''investment in the capital of an unconsolidated financial institution'', ''non-significant investment in the capital of an unconsolidated financial institution'', and ''significant investment in the capital of an unconsolidated financial institution'' to read as follows:

§ 217.2 Definitions.

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multi-lateral development bank (MDB), a depository institution, a foreign bank, a credit union, or a public sector entity (PSE);

(2) An exposure to a GSE;

(3) A residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure; or

(11) An unsettled transaction.

(12) A policy loan; or

(13) A separate account.

* * * * *

Eligible guarantor means:

(1) A sovereign, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, a Federal Home Loan Bank, Federal Agricultural Mortgage Corporation (Farmer Mac), the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank (MDB), a depository institution, a bank holding company, a savings and loan holding company, a credit union, a foreign bank, or a qualifying central counterparty; or

(2) An entity (other than a special purpose entity):

(i) That at the time the guarantee is issued or anytime thereafter, has issued and outstanding an unsecured debt security without credit enhancement that is investment grade;

(ii) Whose creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees; and

(iii) That is not an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).

* * * * *

International Lending Supervision Act means the International Lending Supervision Act of 1983 (12 U.S.C. 3901 *et seq.*).

* * * * *

Investment in the capital of an unconsolidated financial institution means a net long position calculated in accordance with § 217.22(h) in an instrument that is recognized as capital for regulatory purposes by the primary supervisor of an unconsolidated regulated financial institution or is an instrument that is part of the GAAP equity of an unconsolidated unregulated financial institution, including direct, indirect, and synthetic exposures to capital instruments, excluding underwriting positions held by the Board-regulated institution for five or fewer business days.

* * * * *

Non-significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches Board-regulated institution in the capital of an unconsolidated financial institution where the advanced approaches Board-regulated institution owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches Board-regulated institution in the capital of an unconsolidated financial institution where the advanced approaches Board-regulated institution owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

■ 27. Effective October 1, 2019, § 217.10 is amended by revising paragraph (c)(4)(ii)(H) to read as follows:

§ 217.10 Minimum capital requirements.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(H) The credit equivalent amount of all off-balance sheet exposures of the Board-regulated institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion factor under § 217.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

* * * * *

■ 28. Effective October 1, 2019, § 217.11 is amended by revising paragraphs (a)(2)(i) and (iv) and (a)(3)(i) and Table 1 to § 217.11 to read as follows:

§ 217.11 Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge.

* * * * *

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of a Board-regulated institution is the Board-regulated institution's net income, calculated in accordance with the instructions to the Call Report or the FR Y–9C, as applicable, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income.

* * * * *

(iv) *Private sector credit exposure.* Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the European Stability Mechanism, the European Financial Stability Facility, the International Monetary Fund, a MDB, a PSE, or a GSE.

* * * * *

(3) * * *

(i) A Board-regulated institution's capital conservation buffer is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The Board-regulated institution's common equity tier 1 capital ratio minus the Board-regulated institution's minimum common equity tier 1 capital ratio requirement under § 217.10;

(B) The Board-regulated institution's tier 1 capital ratio minus the Board-regulated institution's minimum tier 1 capital ratio requirement under § 217.10; and

(C) The Board-regulated institution's total capital ratio minus the Board-regulated institution's minimum total capital ratio requirement under § 217.10; or

* * * * *

TABLE 1 TO § 217.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio
Greater than 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 100 percent of the Board-regulated institution's applicable GSIB surcharge.	No payout ratio limitation applies.
Less than or equal to 2.5 percent plus 100 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 100 percent of the Board-regulated institution's applicable GSIB surcharge, *and* greater than 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 75 percent of the Board-regulated institution's applicable GSIB surcharge.	60 percent.
Less than or equal to 1.875 percent plus 75 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 75 percent of the Board-regulated institution's applicable GSIB surcharge, *and* greater than 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 50 percent of the Board-regulated institution's applicable GSIB surcharge.	40 percent.
Less than or equal to 1.25 percent plus 50 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 50 percent of the Board-regulated institution's applicable GSIB surcharge, *and* greater than 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 25 percent of the Board-regulated institution's applicable GSIB surcharge.	20 percent.
Less than or equal to 0.625 percent plus 25 percent of the Board-regulated institution's applicable countercyclical capital buffer amount and 25 percent of the Board-regulated institution's applicable GSIB surcharge.	0 percent.

* * * * *

■ 29. Effective October 1, 2019, § 217.20 is amended by revising paragraphs (b)(1)(iii), (b)(4), (c)(2), and (d)(2) and (5) and adding paragraph (f) to read as follows:

§ 217.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(b) * * *

(1) * * *

(iii) The instrument has no maturity date, can only be redeemed via discretionary repurchases with the prior approval of the Board to the extent otherwise required by law or regulation, and does not contain any term or feature that creates an incentive to redeem;

* * * * *

(4) Any common equity tier 1 minority interest, subject to the limitations in § 217.21.

* * * * *

(c) * * *

(2) Tier 1 minority interest, subject to the limitations in § 217.21, that is not included in the Board-regulated institution's common equity tier 1 capital.

* * * * *

(d) * * *

(2) Total capital minority interest, subject to the limitations set forth in § 217.21, that is not included in the Board-regulated institution's tier 1 capital.

* * * * *

(5) For a Board-regulated institution that makes an AOCI opt-out election (as defined in paragraph (b)(2) of § 217.22), 45 percent of pretax net unrealized gains on available-for-sale preferred stock classified as an equity security under GAAP and available-for-sale equity exposures.

* * * * *

(f) A Board-regulated institution may not repurchase or redeem any common equity tier 1 capital, additional tier 1, or tier 2 capital instrument without the prior approval of the Board to the extent such prior approval is required by paragraph (b), (c), or (d) of this section, as applicable.

■ 30. Effective April 1, 2020, § 217.21 is revised to reads as follows:

§ 217.21 Minority interest.

(a)(1) *Applicability.* For purposes of § 217.20, a Board-regulated institution that is not an advanced approaches Board-regulated institution is subject to the minority interest limitations in this paragraph (a) if a consolidated subsidiary of the Board-regulated institution has issued regulatory capital that is not owned by the Board-regulated institution.

(2) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the Board-regulated institution.* The amount of common equity tier 1 minority interest that a Board-regulated institution may include in common equity tier 1 capital must be no greater than 10 percent of the sum of all common equity tier 1 capital elements of the Board-regulated institution (not including the common equity tier 1 minority interest itself), less any common equity tier 1 capital regulatory adjustments and deductions in accordance with § 217.22 (a) and (b).

(3) *Tier 1 minority interest includable in the tier 1 capital of the Board-regulated institution.* The amount of tier 1 minority interest that a Board-regulated institution may include in tier 1 capital must be no greater than 10 percent of the sum of all tier 1 capital elements of the Board-regulated institution (not including the tier 1 minority interest itself), less any tier 1 capital regulatory adjustments and deductions in accordance with § 217.22(a) and (b).

(4) *Total capital minority interest includable in the total capital of the Board-regulated institution.* The amount of total capital minority interest that a Board-regulated institution may include in total capital must be no greater than 10 percent of the sum of all total capital elements of the Board-regulated institution (not including the total capital minority interest itself), less any total capital regulatory adjustments and deductions in accordance with § 217.22(a) and (b).

(b)(1) *Applicability.* For purposes of § 217.20, an advanced approaches Board-regulated institution is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the advanced approaches Board-regulated institution has issued regulatory capital that is not owned by the Board-regulated institution; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the advanced approaches Board-regulated institution, the advanced approaches Board-regulated institution must assume that the capital adequacy standards of the advanced approaches Board-regulated institution apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the Board-regulated institution.* For each consolidated subsidiary of an advanced approaches Board-regulated institution, the amount of common equity tier 1 minority interest the advanced approaches Board-regulated institution may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the advanced approaches Board-regulated institution, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor; or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches Board-regulated institution that relate to the subsidiary multiplied by

(*2*) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the advanced approaches Board-regulated institution.* For each consolidated subsidiary of the advanced approaches Board-regulated institution, the amount of tier 1 minority interest the advanced approaches Board-regulated institution may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the advanced approaches Board-regulated institution multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches Board-regulated institution that relate to the subsidiary multiplied by

(*2*) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the Board-regulated institution.* For each consolidated subsidiary of the advanced approaches Board-regulated institution, the amount of total capital minority interest the advanced approaches Board-regulated institution may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the advanced approaches Board-regulated institution multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches Board-regulated institution that relate to the subsidiary multiplied by

(*2*) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 217.11 or equivalent standards established by the subsidiary's home country supervisor.

■ 31. Effective April 1, 2020, § 217.22 is amended by revising paragraphs (a)(1)(i), (c), (d), (g), and (h) to read as follows:

§ 217.22 Regulatory capital adjustments and deductions.

(a) * * *

(1) * * *

(i) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section; and

(ii) For an advanced approaches Board-regulated institution, goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the advanced approaches Board-regulated institution), in accordance with paragraph (d) of this section;

* * * * *

(c) *Deductions from regulatory capital related to investments in capital instruments* [23]—(1) *Investment in the Board-regulated institution's own capital instruments.* A Board-regulated institution must deduct an investment in the Board-regulated institution's own capital instruments as follows:

(i) A Board-regulated institution must deduct an investment in the Board-regulated institution's own common stock instruments from its common equity tier 1 capital elements to the extent such instruments are not excluded from regulatory capital under § 217.20(b)(1);

(ii) A Board-regulated institution must deduct an investment in the Board-regulated institution's own additional tier 1 capital instruments from its additional tier 1 capital elements; and

(iii) A Board-regulated institution must deduct an investment in the Board-regulated institution's own tier 2 capital instruments from its tier 2 capital elements.

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for a Board-regulated institution that is not an advanced approaches Board-regulated institution (as described in paragraph (c)(4) of this section), non-

[23] The Board-regulated institution must calculate amounts deducted under paragraphs (c) through (f) of this section after it calculates the amount of ALLL or AACL, as applicable, includable in tier 2 capital under § 217.20(d)(3).

significant investments in the capital of unconsolidated financial institutions for an advanced approaches Board-regulated institution (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for an advanced approaches Board-regulated institution (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, a Board-regulated institution must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the Board-regulated institution itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the Board-regulated institution does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

(i) If an investment is in the form of an instrument issued by a financial institution that is not a regulated financial institution, the Board-regulated institution must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock or represents the most subordinated claim in liquidation of the financial institution; and

(B) An additional tier 1 capital instrument if it is subordinated to all creditors of the financial institution and is senior in liquidation only to common shareholders.

(ii) If an investment is in the form of an instrument issued by a regulated financial institution and the instrument does not meet the criteria for common equity tier 1, additional tier 1 or tier 2 capital instruments under § 217.20, the Board-regulated institution must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock included in GAAP equity or represents the most subordinated claim in liquidation of the financial institution;

(B) An additional tier 1 capital instrument if it is included in GAAP equity, subordinated to all creditors of the financial institution, and senior in a receivership, insolvency, liquidation, or similar proceeding only to common shareholders; and

(C) A tier 2 capital instrument if it is not included in GAAP equity but considered regulatory capital by the primary supervisor of the financial institution.

(iii) If an investment is in the form of a non-qualifying capital instrument (as defined in § 217.300(c)), the Board-regulated institution must treat the instrument as:

(A) An additional tier 1 capital instrument if such instrument was included in the issuer's tier 1 capital prior to May 19, 2010; or

(B) A tier 2 capital instrument if such instrument was included in the issuer's tier 2 capital (but not includable in tier 1 capital) prior to May 19, 2010.

(3) *Reciprocal cross holdings in the capital of financial institutions.* A Board-regulated institution must deduct investments in the capital of other financial institutions it holds reciprocally, where such reciprocal cross holdings result from a formal or informal arrangement to swap, exchange, or otherwise intend to hold each other's capital instruments, by applying the corresponding deduction approach.

(4) *Investments in the capital of unconsolidated financial institutions.* A Board-regulated institution that is not an advanced approaches Board-regulated institution must deduct its investments in the capital of unconsolidated financial institutions (as defined in § 217.2) that exceed 25 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section by applying the corresponding deduction approach.[24] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, a Board-regulated institution that underwrites a failed underwriting, with the prior written approval of the Board, for the period of time stipulated by the Board, is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[25]

(5) *Non-significant investments in the capital of unconsolidated financial institutions.* (i) An advanced approaches Board-regulated institution must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 217.2) that, in the aggregate, exceed 10 percent of the sum of the advanced approaches Board-regulated institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the corresponding deduction approach.[26] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, an advanced approaches Board-regulated institution that underwrites a failed underwriting, with the prior written approval of the Board, for the period of time stipulated by the Board, is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[27]

(ii) The amount to be deducted under this section from a specific capital component is equal to:

(A) The advanced approaches Board-regulated institution's non-significant investments in the capital of unconsolidated financial institutions exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the advanced approaches Board-regulated institution's non-significant investments in the capital of unconsolidated financial institutions in the form of such capital component to the advanced approaches Board-regulated institution's total non-significant investments in unconsolidated financial institutions.

(6) *Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.* An advanced approaches Board-regulated institution must deduct its significant investments

[24] With the prior written approval of the Board, for the period of time stipulated by the Board, a Board-regulated institution that is not an advanced approaches Board-regulated institution is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the Board.

[25] Any investments in the capital of unconsolidated financial institutions that do not exceed the 25 percent threshold for investments in the capital of unconsolidated financial institutions under this section must be assigned the appropriate risk weight under subparts D or F of this part, as applicable.

[26] With the prior written approval of the Board, for the period of time stipulated by the Board, an advanced approaches Board-regulated institution is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the Board.

[27] Any non-significant investments in the capital of unconsolidated financial institutions that do not exceed the 10 percent threshold for non-significant investments under this section must be assigned the appropriate risk weight under subparts D, E, or F of this part, as applicable.

in the capital of unconsolidated financial institutions that are not in the form of common stock by applying the corresponding deduction approach.[28] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the Board, for the period of time stipulated by the Board, an advanced approaches Board-regulated institution that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) if such investment is related to such failed underwriting.

(d) *MSAs and certain DTAs subject to common equity tier 1 capital deduction thresholds.* (1) A Board-regulated institution that is not an advanced approaches Board-regulated institution must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The Board-regulated institution must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(1) that, individually, exceeds 25 percent of the sum of the Board-regulated institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).[29]

(ii) The Board-regulated institution must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. A Board-regulated institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 217.22(e)) arising from timing differences that the Board-regulated institution could realize through net operating loss carrybacks. The Board-regulated institution must risk weight these assets at 100 percent. For a state member bank that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the state member bank could reasonably expect to have refunded by its parent holding company.

(iii) The Board-regulated institution must deduct from common equity tier 1 capital elements the amount of MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(iv) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, a Board-regulated institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. A Board-regulated institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. A Board-regulated institution may change its exclusion preference only after obtaining the prior approval of the Board.

(2) An advanced approaches Board-regulated institution must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) An advanced approaches Board-regulated institution must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the advanced approaches Board-regulated institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the advanced approaches Board-regulated institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An advanced approaches Board-regulated institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 217.22(e)) arising from timing differences that the advanced approaches Board-regulated institution could realize through net operating loss carrybacks. The advanced approaches Board-regulated institution must risk weight these assets at 100 percent. For a state member bank that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the state member bank could reasonably expect to have refunded by its parent holding company.

(B) MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(C) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.[30] Significant investments in the capital of unconsolidated financial institutions in the form of common stock subject to the 10 percent common equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the advanced approaches Board-regulated institution pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the Board, for the period of time stipulated by the Board, an advanced approaches Board-regulated institution that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) An advanced approaches Board-regulated institution must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the advanced approaches Board-regulated institution's common equity tier 1 capital elements, minus adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital

[28] With prior written approval of the Board, for the period of time stipulated by the Board, an advanced approaches Board-regulated institution is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress which is not in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the Board.

[29] The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the Board-regulated institution and assigned a 250 percent risk weight.

[30] With the prior written approval of the Board, for the period of time stipulated by the Board, an advanced approaches Board-regulated institution is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the Board.

deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.[31]

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, an advanced approaches Board-regulated institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An advanced approaches Board-regulated institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An advanced approaches Board-regulated institution may change its exclusion preference only after obtaining the prior approval of the Board.

* * * * *

(g) *Treatment of assets that are deducted.* A Board-regulated institution must exclude from standardized total risk-weighted assets and, as applicable, advanced approaches total risk-weighted assets any item that is required to be deducted from regulatory capital.

(h) *Net long position.* (1) For purposes of calculating an investment in the Board-regulated institution's own capital instrument and an investment in the capital of an unconsolidated financial institution under this section, the net long position is the gross long position in the underlying instrument determined in accordance with paragraph (h)(2) of this section, as adjusted to recognize a short position in the same instrument calculated in accordance with paragraph (h)(3) of this section.

(2) *Gross long position.* The gross long position is determined as follows:

(i) For an equity exposure that is held directly, the adjusted carrying value as that term is defined in § 217.51(b);

(ii) For an exposure that is held directly and is not an equity exposure or a securitization exposure, the exposure amount as that term is defined in § 217.2;

(iii) For an indirect exposure, the Board-regulated institution's carrying value of the investment in the investment fund, provided that, alternatively:

(A) A Board-regulated institution may, with the prior approval of the Board, use a conservative estimate of the amount of its investment in the Board-regulated institution's own capital instruments or its investment in the capital of an unconsolidated financial institution held through a position in an index; or

(B) A Board-regulated institution may calculate the gross long position for investments in the Board-regulated institution's own capital instruments or investments in the capital of an unconsolidated financial institution by multiplying the Board-regulated institution's carrying value of its investment in the investment fund by either:

(*1*) The highest stated investment limit (in percent) for investments in the Board-regulated institution's own capital instruments or investments in the capital of unconsolidated financial institutions as stated in the prospectus, partnership agreement, or similar contract defining permissible investments of the investment fund; or

(*2*) The investment fund's actual holdings of investments in the Board-regulated institution's own capital instruments or investments in the capital of unconsolidated financial institutions.

(iv) For a synthetic exposure, the amount of the Board-regulated institution's loss on the exposure if the reference capital instrument were to have a value of zero.

(3) *Adjustments to reflect a short position.* In order to adjust the gross long position to recognize a short position in the same instrument, the following criteria must be met:

(i) The maturity of the short position must match the maturity of the long position, or the short position has a residual maturity of at least one year (maturity requirement); or

(ii) For a position that is a trading asset or trading liability (whether on- or off-balance sheet) as reported on the Board-regulated institution's Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable, if the Board-regulated institution has a contractual right or obligation to sell the long position at a specific point in time and the counterparty to the contract has an obligation to purchase the long position if the Board-regulated institution exercises its right to sell, this point in time may be treated as the maturity of the long position such that the maturity of the long position and short position are deemed to match for purposes of the maturity requirement, even if the maturity of the short position is less than one year; and

(iii) For an investment in the Board-regulated institution's own capital instrument under paragraph (c)(1) of this section or an investment in the capital of an unconsolidated financial institution under paragraphs (c) and (d) of this section:

(A) A Board-regulated institution may only net a short position against a long position in an investment in the Board-regulated institution's own capital instrument under paragraph (c) of this section if the short position involves no counterparty credit risk.

(B) A gross long position in an investment in the Board-regulated institution's own capital instrument or an investment in the capital of an unconsolidated financial institution resulting from a position in an index may be netted against a short position in the same index. Long and short positions in the same index without maturity dates are considered to have matching maturities.

(C) A short position in an index that is hedging a long cash or synthetic position in an investment in the Board-regulated institution's own capital instrument or an investment in the capital of an unconsolidated financial institution can be decomposed to provide recognition of the hedge. More specifically, the portion of the index that is composed of the same underlying instrument that is being hedged may be used to offset the long position if both the long position being hedged and the short position in the index are reported as a trading asset or trading liability (whether on- or off-balance sheet) on the Board-regulated institution's Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable, and the hedge is deemed effective by the Board-regulated institution's internal control processes, which have not been found to be inadequate by the Board.

■ 32. Effective October 1, 2019, § 217.32 is amended by revising paragraphs (b), (d)(2), (d)(3)(ii), (k), and (l) to read as follows:

§ 217.32 General risk weights.

* * * * *

(b) *Certain supranational entities and multilateral development banks (MDBs).* A Board-regulated institution must assign a zero percent risk weight to an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the

[31] The amount of the items in paragraph (d)(2) of this section that is not deducted from common equity tier 1 capital pursuant to this section must be included in the risk-weighted assets of the advanced approaches Board-regulated institution and assigned a 250 percent risk weight.

European Stability Mechanism, the European Financial Stability Facility, or an MDB.

* * * * *

(d) * * *

(2) *Exposures to foreign banks.* (i) Except as otherwise provided under paragraphs (d)(2)(iii), (d)(2)(v), and (d)(3) of this section, a Board-regulated institution must assign a risk weight to an exposure to a foreign bank, in accordance with Table 2 to § 217.32, based on the CRC that corresponds to the foreign bank's home country or the OECD membership status of the foreign bank's home country if there is no CRC applicable to the foreign bank's home country.

TABLE 2 TO § 217.32—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with No CRC	20
Non-OECD Member with No CRC	100
Sovereign Default	150

(ii) A Board-regulated institution must assign a 20 percent risk weight to an exposure to a foreign bank whose home country is a member of the OECD and does not have a CRC.

(iii) A Board-regulated institution must assign a 20 percent risk-weight to an exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less to a foreign bank whose home country has a CRC of 0, 1, 2, or 3, or is an OECD member with no CRC.

(iv) A Board-regulated institution must assign a 100 percent risk weight to an exposure to a foreign bank whose home country is not a member of the OECD and does not have a CRC, with the exception of self-liquidating, trade-related contingent items that arise from the movement of goods, and that have a maturity of three months or less, which may be assigned a 20 percent risk weight.

(v) A Board-regulated institution must assign a 150 percent risk weight to an exposure to a foreign bank immediately upon determining that an event of sovereign default has occurred in the bank's home country, or if an event of sovereign default has occurred in the foreign bank's home country during the previous five years.

(3) * * *

(ii) A significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to § 217.22(d)(2)(i)(c);

* * * * *

(k) *Past due exposures.* Except for an exposure to a sovereign entity or a residential mortgage exposure or a policy loan, if an exposure is 90 days or more past due or on nonaccrual:

(1) A Board-regulated institution must assign a 150 percent risk weight to the portion of the exposure that is not guaranteed or that is unsecured;

(2) A Board-regulated institution may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § 217.36 if the guarantee or credit derivative meets the requirements of that section; and

(3) A Board-regulated institution may assign a risk weight to the collateralized portion of a past due exposure based on the risk weight that applies under § 217.37 if the collateral meets the requirements of that section.

(l) *Other assets.* (1)(i) A bank holding company or savings and loan holding company must assign a zero percent risk weight to cash owned and held in all offices of subsidiary depository institutions or in transit, and to gold bullion held in a subsidiary depository institution's own vaults, or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities.

(ii) A state member bank must assign a zero percent risk weight to cash owned and held in all offices of the state member bank or in transit; to gold bullion held in the state member bank's own vaults or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade and associated default fund contributions.

(2) A Board-regulated institution must assign a 20 percent risk weight to cash items in the process of collection.

(3) A Board-regulated institution must assign a 100 percent risk weight to DTAs arising from temporary differences that the Board-regulated institution could realize through net operating loss carrybacks.

(4) A Board-regulated institution must assign a 250 percent risk weight to the portion of each of the following items to the extent it is not deducted from common equity tier 1 capital pursuant to § 217.22(d):

(i) MSAs; and

(ii) DTAs arising from temporary differences that the Board-regulated institution could not realize through net operating loss carrybacks.

(5) A Board-regulated institution must assign a 100 percent risk weight to all assets not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § 217.22.

(6) Notwithstanding the requirements of this section, a state member bank may assign an asset that is not included in one of the categories provided in this section to the risk weight category applicable under the capital rules applicable to bank holding companies and savings and loan holding companies under this part, provided that all of the following conditions apply:

(i) The Board-regulated institution is not authorized to hold the asset under applicable law other than debt previously contracted or similar authority; and

(ii) The risks associated with the asset are substantially similar to the risks of assets that are otherwise assigned to a risk weight category of less than 100 percent under this subpart.

* * * * *

■ 33. Effective October 1, 2019, § 217.34 is amended by revising paragraph (c) to read as follows:

§ 217.34 OTC derivative contracts.

* * * * *

(c) *Counterparty credit risk for OTC credit derivatives*—(1) *Protection purchasers.* A Board-regulated institution that purchases an OTC credit derivative that is recognized under § 217.36 as a credit risk mitigant for an exposure that is not a covered position under subpart F is not required to compute a separate counterparty credit risk capital requirement under this subpart D provided that the Board-regulated institution does so consistently for all such credit derivatives. The Board-regulated institution must either include all or exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) *Protection providers.* (i) A Board-regulated institution that is the protection provider under an OTC credit derivative must treat the OTC credit

derivative as an exposure to the underlying reference asset. The Board-regulated institution is not required to compute a counterparty credit risk capital requirement for the OTC credit derivative under this subpart D, provided that this treatment is applied consistently for all such OTC credit derivatives. The Board-regulated institution must either include all or exclude all such OTC credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure.

(ii) The provisions of this paragraph (c)(2) apply to all relevant counterparties for risk-based capital purposes unless the Board-regulated institution is treating the OTC credit derivative as a covered position under subpart F, in which case the Board-regulated institution must compute a supplemental counterparty credit risk capital requirement under this section.

* * * * *

■ 34. Effective October 1, 2019, § 217.35 is amended by revising paragraphs (b)(3)(ii), (b)(4)(ii), (c)(3)(ii), and (c)(4)(ii) to read as follows:

§ 217.35 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client Board-regulated institution must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member client Board-regulated institution must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or custodian in connection with a cleared transaction in accordance with the requirements under this subpart D.

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member Board-regulated institution must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member Board-regulated institution must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or a custodian in connection with a cleared transaction in accordance with requirements under this subpart D.

* * * * *

■ 35. Effective October 1, 2019, § 217.36 is amended by revising paragraph (c) to read as follows:

§ 217.36 Guarantees and credit derivatives: substitution treatment.

* * * * *

(c) *Substitution approach*—(1) *Full coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is greater than or equal to the exposure amount of the hedged exposure, a Board-regulated institution may recognize the guarantee or credit derivative in determining the risk-weighted asset amount for the hedged exposure by substituting the risk weight applicable to the guarantor or credit derivative protection provider under this subpart D for the risk weight assigned to the exposure.

(2) *Partial coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is less than the exposure amount of the hedged exposure, the Board-regulated institution must treat the hedged exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the guarantee or credit derivative.

(i) The Board-regulated institution may calculate the risk-weighted asset amount for the protected exposure under this subpart D, where the applicable risk weight is the risk weight applicable to the guarantor or credit derivative protection provider.

(ii) The Board-regulated institution must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the hedged exposure.

(iii) The treatment provided in this section is applicable when the credit risk of an exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the guarantee or credit derivative under paragraphs (d), (e), or (f) of this section.

* * * * *

■ 36. Effective October 1, 2019, § 217.37 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 217.37 Collateralized transactions.

* * * * *

(b) * * *

(2) * * *

(i) A Board-regulated institution may apply a risk weight to the portion of an exposure that is secured by the fair value of financial collateral (that meets the requirements of paragraph (b)(1) of this section) based on the risk weight assigned to the collateral under this subpart D. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the Board-regulated institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the collateralized portion of the exposure may not be less than 20 percent.

* * * * *

■ 37. Effective October 1, 2019, § 217.38 is amended by revising paragraph (e)(2) to read as follows:

§ 217.38 Unsettled transactions.

* * * * *

(e) * * *

(2) From the business day after the Board-regulated institution has made its delivery until five business days after the counterparty delivery is due, the Board-regulated institution must calculate the risk-weighted asset amount for the transaction by treating the current fair value of the deliverables owed to the Board-regulated institution as an exposure to the counterparty and using the applicable counterparty risk weight under this subpart D.

* * * * *

■ 38. Effective October 1, 2019, § 217.42 is amended by revising paragraph (j)(2)(ii)(A) to read as follows:

§ 217.42 Risk-weighted assets for securitization exposures.

* * * * *

(j) * * *

(2) * * *

(ii) * * *

(A) If the Board-regulated institution purchases credit protection from a counterparty that is not a securitization SPE, the Board-regulated institution must determine the risk weight for the exposure according to this subpart D.

* * * * *

■ 39. Effective October 1, 2019, § 217.52 is amended by revising paragraphs (b)(1) and (4) to read as follows:

§ 217.52 Simple risk-weight approach (SRWA).

* * * * *

(b) * * *

(1) *Zero percent risk weight equity exposures.* An equity exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the

European Stability Mechanism, the European Financial Stability Facility, an MDB, and any other entity whose credit exposures receive a zero percent risk weight under § 217.32 may be assigned a zero percent risk weight.

* * * * *

(4) *250 percent risk weight equity exposures.* Significant investments in the capital of unconsolidated financial institutions in the form of common stock that are not deducted from capital pursuant to § 217.22(d)(2) are assigned a 250 percent risk weight.

* * * * *

■ 40. Effective October 1, 2019, § 217.61 is revised to read as follows:

§ 217.61 Purpose and scope.

Sections 217.61 through 217.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for a Board-regulated institution with total consolidated assets of $50 billion or more as reported on the Board-regulated institution's most recent year-end Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable that is not an advanced approaches Board-regulated institution making public disclosures pursuant to § 217.172. An advanced approaches Board-regulated institution that has not received approval from the Board to exit parallel run pursuant to § 217.121(d) is subject to the disclosure requirements described in §§ 217.62 and 217.63. A Board-regulated institution with total consolidated assets of $50 billion or more as reported on the Board-regulated institution's most recent year-end Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable, that is not an advanced approaches Board-regulated institution making public disclosures subject to § 217.172 must comply with § 217.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 217.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total consolidated assets are determined based on the average of the Board-regulated institution's total consolidated assets in the four most recent quarters as reported on the Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable; or the average of the Board-regulated institution's total consolidated assets in the most recent consecutive quarters as reported quarterly on the Board-regulated institution's Call Report, for a state member bank, or FR Y–9C, for a bank holding company or savings and loan holding company, as applicable if the Board-regulated institution has not filed such a report for each of the most recent four quarters.

■ 41. Effective October 1, 2019, § 217.63 is amended by revising Tables 3 and 8 to § 217.63 to read as follows:

§ 217.63 Disclosures by Board-regulated institutions described in § 217.61.

* * * * *

TABLE 3 TO § 217.63—CAPITAL ADEQUACY

Qualitative disclosures	(a) A summary discussion of the Board-regulated institution's approach to assessing the adequacy of its capital to support current and future activities.
Quantitative disclosures	(b) Risk-weighted assets for: (1) Exposures to sovereign entities; (2) Exposures to certain supranational entities and MDBs; (3) Exposures to depository institutions, foreign banks, and credit unions; (4) Exposures to PSEs; (5) Corporate exposures; (6) Residential mortgage exposures; (7) Statutory multifamily mortgages and pre-sold construction loans; (8) HVCRE exposures; (9) Past due loans; (10) Other assets; (11) Cleared transactions; (12) Default fund contributions; (13) Unsettled transactions; (14) Securitization exposures; and (15) Equity exposures. (c) Standardized market risk-weighted assets as calculated under subpart F of this part. (d) Common equity tier 1, tier 1 and total risk-based capital ratios: (1) For the top consolidated group; and (2) For each depository institution subsidiary. (e) Total standardized risk-weighted assets.

* * * * *

TABLE 8 TO § 217.63—SECURITIZATION

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The Board-regulated institution's objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the Board-regulated institution to other entities and including the type of risks assumed and retained with resecuritization activity; [1] (2) The nature of the risks (e.g., liquidity risk) inherent in the securitized assets; (3) The roles played by the Board-regulated institution in the securitization process [2] and an indication of the extent of the Board-regulated institution's involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures including how those processes differ for resecuritization exposures;

TABLE 8 TO § 217.63—SECURITIZATION—Continued

	(5) The Board-regulated institution's policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the Board-regulated institution follows for its securitization exposures including the type of securitization exposure to which each approach applies.
Quantitative Disclosures	(b) A list of: (1) The type of securitization SPEs that the Board-regulated institution, as sponsor, uses to securitize third-party exposures. The Board-regulated institution must indicate whether it has exposure to these SPEs, either on- or off-balance sheet; and (2) Affiliated entities: (i) That the Board-regulated institution manages or advises; and (ii) That invest either in the securitization exposures that the Board-regulated institution has securitized or in securitization SPEs that the Board-regulated institution sponsors.[3] (c) Summary of the Board-regulated institution's accounting policies for securitization activities, including: (1) Whether the transactions are treated as sales or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests; (4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart D of this part; and (7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the Board-regulated institution to provide financial support for securitized assets. (d) An explanation of significant changes to any quantitative information since the last reporting period. (e) The total outstanding exposures securitized by the Board-regulated institution in securitizations that meet the operational criteria provided in § 217.41 (categorized into traditional and synthetic securitizations), by exposure type, separately for securitizations of third-party exposures for which the bank acts only as sponsor.[4] (f) For exposures securitized by the Board-regulated institution in securitizations that meet the operational criteria in § 217.41: (1) Amount of securitized assets that are impaired/past due categorized by exposure type; [5] and (2) Losses recognized by the Board-regulated institution during the current period categorized by exposure type.[6] (g) The total amount of outstanding exposures intended to be securitized categorized by exposure type. (h) Aggregate amount of: (1) On-balance sheet securitization exposures retained or purchased categorized by exposure type; and (2) Off-balance sheet securitization exposures categorized by exposure type. (i) (1) Aggregate amount of securitization exposures retained or purchased and the associated capital requirements for these exposures, categorized between securitization and resecuritization exposures, further categorized into a meaningful number of risk weight bands and by risk-based capital approach (e.g., SSFA); and (2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any: (i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and (ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight. (j) Summary of current year's securitization activity, including the amount of exposures securitized (by exposure type), and recognized gain or loss on sale by exposure type. (k) Aggregate amount of resecuritization exposures retained or purchased categorized according to: (1) Exposures to which credit risk mitigation is applied and those not applied; and (2) Exposures to guarantors categorized according to guarantor creditworthiness categories or guarantor name.

[1] The Board-regulated institution should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the Board-regulated institution is active.

[2] For example, these roles may include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider.

[3] Such affiliated entities may include, for example, money market funds, to be listed individually, and personal and private trusts, to be noted collectively.

[4] "Exposures securitized" include underlying exposures originated by the bank, whether generated by them or purchased, and recognized in the balance sheet, from third parties, and third-party exposures included in sponsored transactions. Securitization transactions (including underlying exposures originally on the bank's balance sheet and underlying exposures acquired by the bank from third-party entities) in which the originating bank does not retain any securitization exposure should be shown separately but need only be reported for the year of inception. Banks are required to disclose exposures regardless of whether there is a capital charge under this part.

[5] Include credit-related other than temporary impairment (OTTI).

[6] For example, charge-offs/allowances (if the assets remain on the bank's balance sheet) or credit-related OTTI of interest-only strips and other retained residual interests, as well as recognition of liabilities for probable future financial support required of the bank with respect to securitized assets.

* * * * *

■ 42. Effective October 1, 2019, § 217.131 is amended by revising paragraph (d)(2) to read as follows:

§ 217.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

* * * * *

(d) * * *

(2) *Floor on PD assignment.* The PD for each wholesale obligor or retail segment may not be less than 0.03 percent, except for exposures to or directly and unconditionally guaranteed by a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Commission, the European Central Bank, the European Stability

Mechanism, the European Financial Stability Facility, or a multilateral development bank, to which the Board-regulated institution assigns a rating grade associated with a PD of less than 0.03 percent.

* * * * *

■ 43. Effective October 1, 2019, § 217.133 is amended by revising paragraphs (b)(3)(ii) and (c)(3)(ii) to read as follows:

§ 217.133 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client Board-regulated institution must apply the risk weight applicable to the CCP under subpart D of this part.

* * * * *

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member Board-regulated institution must apply the risk weight applicable to the CCP according to subpart D of this part.

* * * * *

■ 44. Effective October 1, 2019, § 217.152 is amended by revising paragraphs (b)(5) and (6) to read as follows:

§ 217.152 Simple risk weight approach (SRWA).

* * * * *

(b) * * *

(5) *300 percent risk weight equity exposures.* A publicly traded equity exposure (other than an equity exposure described in paragraph (b)(7) of this section and including the ineffective portion of a hedge pair) is assigned a 300 percent risk weight.

(6) *400 percent risk weight equity exposures.* An equity exposure (other than an equity exposure described in paragraph (b)(7) of this section) that is not publicly traded is assigned a 400 percent risk weight.

* * * * *

■ 45. Effective October 1, 2019, § 217.202, paragraph (b) is amended by revising the definition of ''Corporate debt position'' to read as follows:

§ 217.202 Definitions.

* * * * *

(b) * * *

Corporate debt position means a debt position that is an exposure to a company that is not a sovereign entity, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank, a depository institution, a foreign bank, a credit union, a public sector entity, a GSE, or a securitization.

* * * * *

■ 46. Effective October 1, 2019, § 217.210 is amended by revising paragraphs (b)(2)(ii) and (b)(2)(vii)(A) to read as follows:

§ 217.210 Standardized measurement method for specific risk.

* * * * *

(b) * * *

(2) * * *

(ii) *Certain supranational entity and multilateral development bank debt positions.* A Board-regulated institution may assign a 0.0 percent specific risk-weighting factor to a debt position that is an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, or an MDB.

* * * * *

(vii) * * *

(A) *General requirements.* (*1*) A Board-regulated institution that is not an advanced approaches Board-regulated institution or is a U.S. intermediate holding company that is required to be established or designated pursuant to 12 CFR 252.153 and that is not calculating risk-weighted assets according to Subpart E must assign a specific risk-weighting factor to a securitization position using either the simplified supervisory formula approach (SSFA) in paragraph (b)(2)(vii)(C) of this section (and § 217.211) or assign a specific risk-weighting factor of 100 percent to the position.

(*2*) A Board-regulated institution that is an advanced approaches Board-regulated institution or is a U.S. intermediate holding company that is required to be established or designated pursuant to 12 CFR 252.153 and that is calculating risk-weighted assets according to Subpart E must calculate a specific risk add-on for a securitization position in accordance with paragraph (b)(2)(vii)(B) of this section if the Board-regulated institution and the securitization position each qualifies to use the SFA in § 217.143. A Board-regulated institution that is an advanced approaches Board-regulated institution or is a U.S. intermediate holding company that is required to be established or designated pursuant to 12 CFR 252.153 and that is calculating risk-weighted assets according to Subpart E with a securitization position that does not qualify for the SFA under paragraph (b)(2)(vii)(B) of this section may assign a specific risk-weighting factor to the securitization position using the SSFA in accordance with paragraph (b)(2)(vii)(C) of this section or assign a specific risk-weighting factor of 100 percent to the position.

(*3*) A Board-regulated institution must treat a short securitization position as if it is a long securitization position solely for calculation purposes when using the SFA in paragraph (b)(2)(vii)(B) of this section or the SSFA in paragraph (b)(2)(vii)(C) of this section.

* * * * *

■ 47. Section 217.300 is amended:

■ a. Effective October 1, 2019, by revising paragraphs (c)(2) and (3); and

■ b. Effective April 1, 2020, by removing paragraphs (b) and (d).

The revsions read as follows:

§ 217.300 Transitions.

(c) * * *

(2) *Mergers and acquisitions.* (i) A depository institution holding company of $15 billion or more that acquires after December 31, 2013 either a depository institution holding company with total consolidated assets of less than $15 billion as of December 31, 2009 (depository institution holding company under $15 billion) or a depository institution holding company that is a 2010 MHC, may include in regulatory capital the non-qualifying capital instruments issued by the acquired organization up to the applicable percentages set forth in Table 8 to § 217.300.

(ii) If a depository institution holding company under $15 billion acquires after December 31, 2013 a depository institution holding company under $15 billion or a 2010 MHC, and the resulting organization has total consolidated assets of $15 billion or more as reported on the resulting organization's FR Y–9C for the period in which the transaction occurred, the resulting organization may include in regulatory capital non-qualifying instruments of the resulting organization up to the applicable percentages set forth in Table 8 to § 217.300.

TABLE 8 TO § 217.300

Transition period (calendar year)	Percentage of non-qualifying capital instruments includable in additional tier 1 or tier 2 capital for a depository institution holding company of $15 billion or more
Calendar year 2014	50
Calendar year 2015	25
Calendar year 2016 and thereafter	0

(3) *Depository institution holding companies under $15 billion and 2010 MHCs.* (i) Non-qualifying capital instruments issued by depository institution holding companies under $15 billion and 2010 MHCs prior to May 19, 2010, may be included in additional tier 1 or tier 2 capital if the instrument was included in tier 1 or tier 2 capital, respectively, as of January 1, 2014.

(ii) Non-qualifying capital instruments includable in tier 1 capital are subject to a limit of 25 percent of tier 1 capital elements, excluding any non-qualifying capital instruments and after applying all regulatory capital deductions and adjustments to tier 1 capital.

(iii) Non-qualifying capital instruments that are not included in tier 1 as a result of the limitation in paragraph (c)(3)(ii) of this section are includable in tier 2 capital.

* * * * *

12 CFR Part 324

FEDERAL DEPOSIT INSURANCE CORPORATION

For the reasons set out in the joint preamble, 12 CFR part 324 is amended as follows.

PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS

■ 48. The authority citation for part 324 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note).

Subpart A—General Provisions

■ 49. Effective October 1, 2019, § 324.2 is amended by revising the definitions of ''corporate exposure,'' ''eligible guarantor,'' ''investment in the capital of an unconsolidated financial institution,'' ''non-significant investment in the capital of an unconsolidated financial institution,'' and ''significant investment in the capital of an unconsolidated financial institution'' to read as follows:

§ 324.2 Definitions.

* * * * *

Corporate exposure means an exposure to a company that is not:

(1) An exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multi-lateral development bank (MDB), a depository institution, a foreign bank, a credit union, or a public sector entity (PSE);

(2) An exposure to a GSE;

(3) A residential mortgage exposure;

(4) A pre-sold construction loan;

(5) A statutory multifamily mortgage;

(6) A high volatility commercial real estate (HVCRE) exposure;

(7) A cleared transaction;

(8) A default fund contribution;

(9) A securitization exposure;

(10) An equity exposure;

(11) An unsettled transaction;

(12) A policy loan; or

(13) A separate account.

* * * * *

Eligible guarantor means:

(1) A sovereign, the Bank for International Settlements, the International Monetary Fund, the European Central Bank, the European Commission, a Federal Home Loan Bank, Federal Agricultural Mortgage Corporation (Farmer Mac), the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank (MDB), a depository institution, a bank holding company, a savings and loan holding company, a credit union, a foreign bank, or a qualifying central counterparty; or

(2) An entity (other than a special purpose entity):

(i) That at the time the guarantee is issued or anytime thereafter, has issued and outstanding an unsecured debt security without credit enhancement that is investment grade;

(ii) Whose creditworthiness is not positively correlated with the credit risk of the exposures for which it has provided guarantees; and

(iii) That is not an insurance company engaged predominately in the business of providing credit protection (such as a monoline bond insurer or re-insurer).

* * * * *

Investment in the capital of an unconsolidated financial institution means a net long position calculated in accordance with § 324.22(h) in an instrument that is recognized as capital for regulatory purposes by the primary supervisor of an unconsolidated regulated financial institution or is an instrument that is part of the GAAP equity of an unconsolidated unregulated financial institution, including direct, indirect, and synthetic exposures to capital instruments, excluding underwriting positions held by the FDIC-supervised institution for five or fewer business days.

* * * * *

Non-significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches FDIC-supervised institution in the capital of an unconsolidated financial institution where the advanced approaches FDIC-supervised institution owns 10 percent or less of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

Significant investment in the capital of an unconsolidated financial institution means an investment by an advanced approaches FDIC-supervised institution in the capital of an unconsolidated financial institution where the advanced approaches FDIC-supervised institution owns more than 10 percent of the issued and outstanding common stock of the unconsolidated financial institution.

* * * * *

■ 50. Effective October 1, 2019, § 324.10 is amended by revising paragraph (c)(4)(ii)(H) to read as follows:

§ 324.10 Minimum capital requirements.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(H) The credit equivalent amount of all off-balance sheet exposures of the FDIC-supervised institution, excluding repo-style transactions, repurchase or reverse repurchase or securities borrowing or lending transactions that qualify for sales treatment under U.S. GAAP, and derivative transactions, determined using the applicable credit conversion factor under § 324.33(b), provided, however, that the minimum credit conversion factor that may be assigned to an off-balance sheet exposure under this paragraph is 10 percent; and

* * * * *

■ 51. Effective October 1, 2019, § 324.11 is amended by revising paragraphs (a)(2)(i) and (iv) and (a)(3)(i) and Table 1 to § 324.11 to read as follows:

§ 324.11 Capital conservation buffer and countercyclical capital buffer amount.

(a) * * *

(2) * * *

(i) *Eligible retained income.* The eligible retained income of an FDIC-supervised institution is the FDIC-supervised institution's net income, calculated in accordance with the instructions to the Call Report, for the four calendar quarters preceding the current calendar quarter, net of any distributions and associated tax effects not already reflected in net income.

* * * * *

(iv) *Private sector credit exposure.* Private sector credit exposure means an exposure to a company or an individual that is not an exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the European Stability Mechanism, the European Financial Stability Facility, the International Monetary Fund, a MDB, a PSE, or a GSE.

(3) *Calculation of capital conservation buffer.* (i) An FDIC-supervised institution's capital conservation buffer is equal to the lowest of the following ratios, calculated as of the last day of the previous calendar quarter:

(A) The FDIC-supervised institution's common equity tier 1 capital ratio minus the FDIC-supervisedsupervised institution's minimum common equity tier 1 capital ratio requirement under § 324.10;

(B) The FDIC-supervisedsupervised institution's tier 1 capital ratio minus the FDIC-supervisedsupervised institution's minimum tier 1 capital ratio requirement under § 324.10; and

(C) The FDIC-supervisedsupervised institution's total capital ratio minus the FDIC-supervisedsupervised institution's minimum total capital ratio requirement under § 324.10; or

* * * * *

TABLE 1 TO § 324.11—CALCULATION OF MAXIMUM PAYOUT AMOUNT

Capital conservation buffer	Maximum payout ratio
Greater than 2.5 percent plus 100 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount.	No payout ratio limitation applies.
Less than or equal to 2.5 percent plus 100 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount, *and* greater than 1.875 percent plus 75 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount.	60 percent.
Less than or equal to 1.875 percent plus 75 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount, *and* greater than 1.25 percent plus 50 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount.	40 percent.
Less than or equal to 1.25 percent plus 50 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount, *and* greater than 0.625 percent plus 25 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount.	20 percent.
Less than or equal to 0.625 percent plus 25 percent of the FDIC-supervised institution's applicable countercyclical capital buffer amount.	0 percent.

* * * * *

■ 52. Effective October 1, 2019, § 324.20 is amended by revising paragraphs (b)(4), (c)(1)(viii), (c)(2), and (d)(2) to read as follows:

§ 324.20 Capital components and eligibility criteria for regulatory capital instruments.

* * * * *

(b) * * *

(4) Any common equity tier 1 minority interest, subject to the limitations in § 324.21.

* * * * *

(c) * * *

(1) * * *

(viii) Any cash dividend payments on the instrument are paid out of the FDIC-supervised institution's net income or retained earnings. An FDIC-supervised institution must obtain prior FDIC approval for any dividend payment involving a reduction or retirement of capital stock in accordance with 12 CFR 303.241.

* * * * *

(2) Tier 1 minority interest, subject to the limitations in § 324.21, that is not included in the FDIC-supervised institution's common equity tier 1 capital.

* * * * *

(d) * * *

(2) Total capital minority interest, subject to the limitations set forth in § 324.21, that is not included in the FDIC-supervised institution's tier 1 capital.

* * * * *

■ 53. Effective April 1, 2020, § 324.21 is revised to read as follows:

§ 324.21 Minority interest.

(a)(1) *Applicability.* For purposes of § 324.20, an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution is subject to the minority interest limitations in this paragraph (a) if a consolidated subsidiary of the FDIC-supervised institution has issued regulatory capital that is not owned by the FDIC-supervised institution.

(2) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the FDIC-supervised institution.* The amount of common equity tier 1 minority interest that an FDIC-supervised institution may include in common equity tier 1 capital must be no greater than 10 percent of the sum of all common equity tier 1 capital elements of the FDIC-supervised institution (not including the common equity tier 1 minority interest itself), less any common equity tier 1 capital regulatory adjustments and deductions in accordance with § 324.22(a) and (b).

(3) *Tier 1 minority interest includable in the tier 1 capital of the FDIC-supervised institution.* The amount of tier 1 minority interest that an FDIC-supervised institution may include in tier 1 capital must be no greater than 10 percent of the sum of all tier 1 capital elements of the FDIC-supervised institution (not including the tier 1 minority interest itself), less any tier 1 capital regulatory adjustments and deductions in accordance with § 324.22(a) and (b).

(4) *Total capital minority interest includable in the total capital of the FDIC-supervised institution.* The amount of total capital minority interest that an FDIC-supervised institution may include in total capital must be no greater than 10 percent of the sum of all total capital elements of the FDIC-supervised institution (not including the total capital minority interest itself), less any total capital regulatory adjustments and deductions in accordance with § 324.22(a) and (b).

(b)(1) *Applicability.* For purposes of § 324.20, an advanced approaches FDIC-supervised institution is subject to the minority interest limitations in this paragraph (b) if:

(i) A consolidated subsidiary of the advanced approaches FDIC-supervised institution has issued regulatory capital that is not owned by the FDIC-supervised institution; and

(ii) For each relevant regulatory capital ratio of the consolidated subsidiary, the ratio exceeds the sum of the subsidiary's minimum regulatory capital requirements plus its capital conservation buffer.

(2) *Difference in capital adequacy standards at the subsidiary level.* For purposes of the minority interest calculations in this section, if the consolidated subsidiary issuing the capital is not subject to capital adequacy standards similar to those of the advanced approaches FDIC-supervised institution, the advanced approaches FDIC-supervised institution must assume that the capital adequacy standards of the advanced approaches FDIC-supervised institution apply to the subsidiary.

(3) *Common equity tier 1 minority interest includable in the common equity tier 1 capital of the FDIC-supervised institution.* For each consolidated subsidiary of an advanced approaches FDIC-supervised institution, the amount of common equity tier 1 minority interest the advanced approaches FDIC-supervised institution may include in common equity tier 1 capital is equal to:

(i) The common equity tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's common equity tier 1 capital that is not owned by the advanced approaches FDIC-supervised institution, multiplied by the difference between the common equity tier 1 capital of the subsidiary and the lower of:

(A) The amount of common equity tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor; or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches FDIC-supervised institution that relate to the subsidiary multiplied by

(*2*) The common equity tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(4) *Tier 1 minority interest includable in the tier 1 capital of the advanced approaches FDIC-supervised institution.* For each consolidated subsidiary of the advanced approaches FDIC-supervised institution, the amount of tier 1 minority interest the advanced approaches FDIC-supervised institution may include in tier 1 capital is equal to:

(i) The tier 1 minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's tier 1 capital that is not owned by the advanced approaches FDIC-supervised institution multiplied by the difference between the tier 1 capital of the subsidiary and the lower of:

(A) The amount of tier 1 capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches FDIC-supervised institution that relate to the subsidiary multiplied by

(*2*) The tier 1 capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

(5) *Total capital minority interest includable in the total capital of the FDIC-supervised institution.* For each consolidated subsidiary of the advanced approaches FDIC-supervised institution, the amount of total capital minority interest the advanced approaches FDIC-supervised institution may include in total capital is equal to:

(i) The total capital minority interest of the subsidiary; minus

(ii) The percentage of the subsidiary's total capital that is not owned by the advanced approaches FDIC-supervised institution multiplied by the difference between the total capital of the subsidiary and the lower of:

(A) The amount of total capital the subsidiary must hold, or would be required to hold pursuant to this paragraph (b), to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor, or

(B)(*1*) The standardized total risk-weighted assets of the advanced approaches FDIC-supervised institution that relate to the subsidiary multiplied by

(*2*) The total capital ratio the subsidiary must maintain to avoid restrictions on distributions and discretionary bonus payments under § 324.11 or equivalent standards established by the subsidiary's home country supervisor.

■ 54. Effective April 1, 2020, § 324.22 is amended by revising paragraphs (a)(1), (c), (d), (g), and (h) to read as follows:

§ 324.22 Regulatory capital adjustments and deductions.

(a) * * *

(1)(i) Goodwill, net of associated deferred tax liabilities (DTLs) in accordance with paragraph (e) of this section; and

(ii) For an advanced approaches FDIC-supervised institution, goodwill that is embedded in the valuation of a significant investment in the capital of an unconsolidated financial institution in the form of common stock (and that is reflected in the consolidated financial statements of the advanced approaches FDIC-supervised institution), in accordance with paragraph (d) of this section;

* * * * *

(c) *Deductions from regulatory capital related to investments in capital instruments* [23]—(1) *Investment in the FDIC-supervised institution's own capital instruments.* An FDIC-supervised institution must deduct an investment in the FDIC-supervised institution's own capital instruments as follows:

(i) An FDIC-supervised institution must deduct an investment in the FDIC-supervised institution's own common stock instruments from its common equity tier 1 capital elements to the extent such instruments are not excluded from regulatory capital under § 324.20(b)(1);

(ii) An FDIC-supervised institution must deduct an investment in the FDIC-supervised institution's own additional tier 1 capital instruments from its additional tier 1 capital elements; and

(iii) An FDIC-supervised institution must deduct an investment in the FDIC-supervised institution's own tier 2 capital instruments from its tier 2 capital elements.

(2) *Corresponding deduction approach.* For purposes of subpart C of this part, the corresponding deduction approach is the methodology used for the deductions from regulatory capital related to reciprocal cross holdings (as described in paragraph (c)(3) of this section), investments in the capital of unconsolidated financial institutions for

[23] The FDIC-supervised institution must calculate amounts deducted under paragraphs (c) through (f) of this section after it calculates the amount of ALLL or AACL, as applicable, includable in tier 2 capital under § 324.20(d)(3).

an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution (as described in paragraph (c)(4) of this section), non-significant investments in the capital of unconsolidated financial institutions for an advanced approaches FDIC-supervised institution (as described in paragraph (c)(5) of this section), and non-common stock significant investments in the capital of unconsolidated financial institutions for an advanced approaches FDIC-supervised institution (as described in paragraph (c)(6) of this section). Under the corresponding deduction approach, an FDIC-supervised institution must make deductions from the component of capital for which the underlying instrument would qualify if it were issued by the FDIC-supervised institution itself, as described in paragraphs (c)(2)(i) through (iii) of this section. If the FDIC-supervised institution does not have a sufficient amount of a specific component of capital to effect the required deduction, the shortfall must be deducted according to paragraph (f) of this section.

(i) If an investment is in the form of an instrument issued by a financial institution that is not a regulated financial institution, the FDIC-supervised institution must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock or represents the most subordinated claim in liquidation of the financial institution; and

(B) An additional tier 1 capital instrument if it is subordinated to all creditors of the financial institution and is senior in liquidation only to common shareholders.

(ii) If an investment is in the form of an instrument issued by a regulated financial institution and the instrument does not meet the criteria for common equity tier 1, additional tier 1 or tier 2 capital instruments under § 324.20, the FDIC-supervised institution must treat the instrument as:

(A) A common equity tier 1 capital instrument if it is common stock included in GAAP equity or represents the most subordinated claim in liquidation of the financial institution;

(B) An additional tier 1 capital instrument if it is included in GAAP equity, subordinated to all creditors of the financial institution, and senior in a receivership, insolvency, liquidation, or similar proceeding only to common shareholders; and

(C) A tier 2 capital instrument if it is not included in GAAP equity but considered regulatory capital by the primary supervisor of the financial institution.

(iii) If an investment is in the form of a non-qualifying capital instrument (as defined in § 324.300(c)), the FDIC-supervised institution must treat the instrument as:

(A) An additional tier 1 capital instrument if such instrument was included in the issuer's tier 1 capital prior to May 19, 2010; or

(B) A tier 2 capital instrument if such instrument was included in the issuer's tier 2 capital (but not includable in tier 1 capital) prior to May 19, 2010.

(3) *Reciprocal cross holdings in the capital of financial institutions.* An FDIC-supervised institution must deduct investments in the capital of other financial institutions it holds reciprocally, where such reciprocal cross holdings result from a formal or informal arrangement to swap, exchange, or otherwise intend to hold each other's capital instruments, by applying the corresponding deduction approach.

(4) *Investments in the capital of unconsolidated financial institutions.* An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution must deduct its investments in the capital of unconsolidated financial institutions (as defined in § 324.2) that exceed 25 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section by applying the corresponding deduction approach.[24] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, an FDIC-supervised institution that underwrites a failed underwriting, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[25]

(5) *Non-significant investments in the capital of unconsolidated financial institutions.* (i) An advanced approaches FDIC-supervised institution must deduct its non-significant investments in the capital of unconsolidated financial institutions (as defined in § 324.2) that, in the aggregate, exceed 10 percent of the sum of the advanced approaches FDIC-supervised institution's common equity tier 1 capital elements minus all deductions from and adjustments to common equity tier 1 capital elements required under paragraphs (a) through (c)(3) of this section (the 10 percent threshold for non-significant investments) by applying the corresponding deduction approach.[26] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, an advanced approaches FDIC-supervised institution that underwrites a failed underwriting, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) to the extent the investment is related to the failed underwriting.[27]

(ii) The amount to be deducted under this section from a specific capital component is equal to:

(A) The advanced approaches FDIC-supervised institution's non-significant investments in the capital of unconsolidated financial institutions exceeding the 10 percent threshold for non-significant investments, multiplied by

(B) The ratio of the advanced approaches FDIC-supervised institution's non-significant investments in the capital of unconsolidated financial institutions in the form of such capital component to the advanced approaches FDIC-supervised institution's total non-significant investments in unconsolidated financial institutions.

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[24] With the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution is not required to deduct an investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the FDIC.

[25] Any investments in the capital of unconsolidated financial institutions that do not exceed the 25 percent threshold for investments in the capital of unconsolidated financial institutions under this section must be assigned the appropriate risk weight under subparts D or F of this part, as applicable.

[26] With the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an advanced approaches FDIC-supervised institution is not required to deduct a non-significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph if the financial institution is in distress and if such investment is made for the purpose of providing financial support to the financial institution, as determined by the FDIC.

[27] Any non-significant investments in the capital of unconsolidated financial institutions that do not exceed the 10 percent threshold for non-significant investments under this section must be assigned the appropriate risk weight under subparts D, E, or F of this part, as applicable.

(6) *Significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock.* An advanced approaches FDIC-supervised institution must deduct its significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock by applying the corresponding deduction approach.[28] The deductions described in this section are net of associated DTLs in accordance with paragraph (e) of this section. In addition, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an advanced approaches FDIC-supervised institution that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution pursuant to this paragraph (c) if such investment is related to such failed underwriting.

(d) *MSAs and certain DTAs subject to common equity tier 1 capital deduction thresholds.*

(1) An FDIC-supervised institution that is not an advanced approaches FDIC-supervised institution must make deductions from regulatory capital as described in this paragraph (d)(1).

(i) The FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(1) that, individually, exceeds 25 percent of the sum of the FDIC-supervised institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c)(3) of this section (the 25 percent common equity tier 1 capital deduction threshold).[29]

(ii) The FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An FDIC-supervised institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 324.22(e)) arising from timing differences that the FDIC-supervised institution could realize through net operating loss carrybacks. The FDIC-supervised institution must risk weight these assets at 100 percent. For an FDIC-supervised institution that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the FDIC-supervised institution could reasonably expect to have refunded by its parent holding company.

(iii) The FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(iv) For purposes of calculating the amount of DTAs subject to deduction pursuant to paragraph (d)(1) of this section, an FDIC-supervised institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An FDIC-supervised institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An FDIC-supervised institution may change its exclusion preference only after obtaining the prior approval of the FDIC.

(2) An advanced approaches FDIC-supervised institution must make deductions from regulatory capital as described in this paragraph (d)(2).

(i) An advanced approaches FDIC-supervised institution must deduct from common equity tier 1 capital elements the amount of each of the items set forth in this paragraph (d)(2) that, individually, exceeds 10 percent of the sum of the advanced approaches FDIC-supervised institution's common equity tier 1 capital elements, less adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section (the 10 percent common equity tier 1 capital deduction threshold).

(A) DTAs arising from temporary differences that the advanced approaches FDIC-supervised institution could not realize through net operating loss carrybacks, net of any related valuation allowances and net of DTLs, in accordance with paragraph (e) of this section. An advanced approaches FDIC-supervised institution is not required to deduct from the sum of its common equity tier 1 capital elements DTAs (net of any related valuation allowances and net of DTLs, in accordance with § 324.22(e)) arising from timing differences that the advanced approaches FDIC-supervised institution could realize through net operating loss carrybacks. The advanced approaches FDIC-supervised institution must risk weight these assets at 100 percent. For an FDIC-supervised institution that is a member of a consolidated group for tax purposes, the amount of DTAs that could be realized through net operating loss carrybacks may not exceed the amount that the FDIC-supervised institution could reasonably expect to have refunded by its parent holding company.

(B) MSAs net of associated DTLs, in accordance with paragraph (e) of this section.

(C) Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs in accordance with paragraph (e) of this section.[30] Significant investments in the capital of unconsolidated financial institutions in the form of common stock subject to the 10 percent common equity tier 1 capital deduction threshold may be reduced by any goodwill embedded in the valuation of such investments deducted by the advanced approaches FDIC-supervised institution pursuant to paragraph (a)(1) of this section. In addition, with the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an advanced approaches FDIC-supervised institution that underwrites a failed underwriting is not required to deduct a significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to this paragraph (d)(2) if such investment is related to such failed underwriting.

(ii) An advanced approaches FDIC-supervised institution must deduct from common equity tier 1 capital elements the items listed in paragraph (d)(2)(i) of this section that are not deducted as a result of the application of the 10 percent common equity tier 1 capital deduction threshold, and that, in aggregate, exceed 17.65 percent of the sum of the advanced approaches FDIC-supervised institution's common equity tier 1 capital elements, minus

[28] With prior written approval of the FDIC, for the period of time stipulated by the FDIC, an advanced approaches FDIC-supervised institution is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress which is not in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the FDIC.

[29] The amount of the items in paragraph (d)(1) of this section that is not deducted from common equity tier 1 capital must be included in the risk-weighted assets of the FDIC-supervised institution and assigned a 250 percent risk weight.

[30] With the prior written approval of the FDIC, for the period of time stipulated by the FDIC, an advanced approaches FDIC-supervised institution is not required to deduct a significant investment in the capital instrument of an unconsolidated financial institution in distress in the form of common stock pursuant to this section if such investment is made for the purpose of providing financial support to the financial institution as determined by the FDIC.

adjustments to and deductions from common equity tier 1 capital required under paragraphs (a) through (c) of this section, minus the items listed in paragraph (d)(2)(i) of this section (the 15 percent common equity tier 1 capital deduction threshold). Any goodwill that has been deducted under paragraph (a)(1) of this section can be excluded from the significant investments in the capital of unconsolidated financial institutions in the form of common stock.[31]

(iii) For purposes of calculating the amount of DTAs subject to the 10 and 15 percent common equity tier 1 capital deduction thresholds, an advanced approaches FDIC-supervised institution may exclude DTAs and DTLs relating to adjustments made to common equity tier 1 capital under paragraph (b) of this section. An advanced approaches FDIC-supervised institution that elects to exclude DTAs relating to adjustments under paragraph (b) of this section also must exclude DTLs and must do so consistently in all future calculations. An advanced approaches FDIC-supervised institution may change its exclusion preference only after obtaining the prior approval of the FDIC.

* * * * *

(g) *Treatment of assets that are deducted.* An FDIC-supervised institution must exclude from standardized total risk-weighted assets and, as applicable, advanced approaches total risk-weighted assets any item that is required to be deducted from regulatory capital.

(h) *Net long position.* (1) For purposes of calculating an investment in the FDIC-supervised institution's own capital instrument and an investment in the capital of an unconsolidated financial institution under this section, the net long position is the gross long position in the underlying instrument determined in accordance with paragraph (h)(2) of this section, as adjusted to recognize a short position in the same instrument calculated in accordance with paragraph (h)(3) of this section.

(2) *Gross long position.* The gross long position is determined as follows:

(i) For an equity exposure that is held directly, the adjusted carrying value as that term is defined in § 324.51(b);

(ii) For an exposure that is held directly and is not an equity exposure or a securitization exposure, the exposure amount as that term is defined in § 324.2;

(iii) For an indirect exposure, the FDIC-supervised institution's carrying value of the investment in the investment fund, provided that, alternatively:

(A) An FDIC-supervised institution may, with the prior approval of the FDIC, use a conservative estimate of the amount of its investment in the FDIC-supervised institution's own capital instruments or its investment in the capital of an unconsolidated financial institution held through a position in an index; or

(B) An FDIC-supervised institution may calculate the gross long position for investments in the FDIC-supervised institution's own capital instruments or investments in the capital of an unconsolidated financial institution by multiplying the FDIC-supervised institution's carrying value of its investment in the investment fund by either:

(*1*) The highest stated investment limit (in percent) for investments in the FDIC-supervised institution's own capital instruments or investments in the capital of unconsolidated financial institutions as stated in the prospectus, partnership agreement, or similar contract defining permissible investments of the investment fund; or

(*2*) The investment fund's actual holdings of investments in the FDIC-supervised institution's own capital instruments or investments in the capital of unconsolidated financial institutions.

(iv) For a synthetic exposure, the amount of the FDIC-supervised institution's loss on the exposure if the reference capital instrument were to have a value of zero.

(3) *Adjustments to reflect a short position.* In order to adjust the gross long position to recognize a short position in the same instrument, the following criteria must be met:

(i) The maturity of the short position must match the maturity of the long position, or the short position has a residual maturity of at least one year (maturity requirement); or

(ii) For a position that is a trading asset or trading liability (whether on- or off-balance sheet) as reported on the FDIC-supervised institution's Call Report if the FDIC-supervised institution has a contractual right or obligation to sell the long position at a specific point in time and the counterparty to the contract has an obligation to purchase the long position if the FDIC-supervised institution exercises its right to sell, this point in time may be treated as the maturity of the long position such that the maturity of the long position and short position are deemed to match for purposes of the maturity requirement, even if the maturity of the short position is less than one year; and

(iii) For an investment in the FDIC-supervised institution's own capital instrument under paragraph (c)(1) of this section or an investment in the capital of an unconsolidated financial institution under paragraphs (c) and (d) of this section:

(A) An FDIC-supervised institution may only net a short position against a long position in an investment in the FDIC-supervised institution's own capital instrument under paragraph (c) of this section if the short position involves no counterparty credit risk.

(B) A gross long position in an investment in the FDIC-supervised institution's own capital instrument or an investment in the capital of an unconsolidated financial institution resulting from a position in an index may be netted against a short position in the same index. Long and short positions in the same index without maturity dates are considered to have matching maturities.

(C) A short position in an index that is hedging a long cash or synthetic position in an investment in the FDIC-supervised institution's own capital instrument or an investment in the capital of an unconsolidated financial institution can be decomposed to provide recognition of the hedge. More specifically, the portion of the index that is composed of the same underlying instrument that is being hedged may be used to offset the long position if both the long position being hedged and the short position in the index are reported as a trading asset or trading liability (whether on- or off-balance sheet) on the FDIC-supervised institution's Call Report and the hedge is deemed effective by the FDIC-supervised institution's internal control processes, which have not been found to be inadequate by the FDIC.

■ 55. Effective October 1, 2019, § 324.32 is amended by revising paragraphs (b), (d)(2), (d)(3)(ii), (k), and (l) to read as follows:

§ 324.32 General risk weights.

* * * * *

(b) *Certain supranational entities and multilateral development banks (MDBs).* An FDIC-supervised institution must assign a zero percent risk weight to an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the

[31] The amount of the items in paragraph (d)(2) of this section that is not deducted from common equity tier 1 capital pursuant to this section must be included in the risk-weighted assets of the advanced approaches FDIC-supervised institution and assigned a 250 percent risk weight.

European Financial Stability Facility, or an MDB.

* * * * *

(d) * * *

(2) *Exposures to foreign banks.* (i) Except as otherwise provided under paragraphs (d)(2)(iii), (d)(2)(v), and (d)(3) of this section, an FDIC-supervised institution must assign a risk weight to an exposure to a foreign bank, in accordance with Table 2 to § 324.32, based on the CRC that corresponds to the foreign bank's home country or the OECD membership status of the foreign bank's home country if there is no CRC applicable to the foreign bank's home country.

TABLE 2 TO § 324.32—RISK WEIGHTS FOR EXPOSURES TO FOREIGN BANKS

	Risk weight (in percent)
CRC:	
0–1	20
2	50
3	100
4–7	150
OECD Member with No CRC	20
Non-OECD Member with No CRC	100
Sovereign Default	150

(ii) An FDIC-supervised institution must assign a 20 percent risk weight to an exposure to a foreign bank whose home country is a member of the OECD and does not have a CRC.

(iii) An FDIC-supervised institution must assign a 20 percent risk-weight to an exposure that is a self-liquidating, trade-related contingent item that arises from the movement of goods and that has a maturity of three months or less to a foreign bank whose home country has a CRC of 0, 1, 2, or 3, or is an OECD member with no CRC.

(iv) An FDIC-supervised institution must assign a 100 percent risk weight to an exposure to a foreign bank whose home country is not a member of the OECD and does not have a CRC, with the exception of self-liquidating, trade-related contingent items that arise from the movement of goods, and that have a maturity of three months or less, which may be assigned a 20 percent risk weight.

(v) An FDIC-supervised institution must assign a 150 percent risk weight to an exposure to a foreign bank immediately upon determining that an event of sovereign default has occurred in the bank's home country, or if an event of sovereign default has occurred in the foreign bank's home country during the previous five years.

(3) * * *

(ii) A significant investment in the capital of an unconsolidated financial institution in the form of common stock pursuant to § 324.22(d)(2)(i)(c);

* * * * *

(k) *Past due exposures.* Except for an exposure to a sovereign entity or a residential mortgage exposure or a policy loan, if an exposure is 90 days or more past due or on nonaccrual:

(1) An FDIC-supervised institution must assign a 150 percent risk weight to the portion of the exposure that is not guaranteed or that is unsecured;

(2) An FDIC-supervised institution may assign a risk weight to the guaranteed portion of a past due exposure based on the risk weight that applies under § 324.36 if the guarantee or credit derivative meets the requirements of that section; and

(3) An FDIC-supervised institution may assign a risk weight to the collateralized portion of a past due exposure based on the risk weight that applies under § 324.37 if the collateral meets the requirements of that section.

(l) *Other assets.* (1) An FDIC-supervised institution must assign a zero percent risk weight to cash owned and held in all offices of the FDIC-supervised institution or in transit; to gold bullion held in the FDIC-supervised institution's own vaults or held in another depository institution's vaults on an allocated basis, to the extent the gold bullion assets are offset by gold bullion liabilities; and to exposures that arise from the settlement of cash transactions (such as equities, fixed income, spot foreign exchange and spot commodities) with a central counterparty where there is no assumption of ongoing counterparty credit risk by the central counterparty after settlement of the trade and associated default fund contributions.

(2) An FDIC-supervised institution must assign a 20 percent risk weight to cash items in the process of collection.

(3) An FDIC-supervised institution must assign a 100 percent risk weight to DTAs arising from temporary differences that the FDIC-supervised institution could realize through net operating loss carrybacks.

(4) An FDIC-supervised institution must assign a 250 percent risk weight to the portion of each of the following items to the extent it is not deducted from common equity tier 1 capital pursuant to § 324.22(d):

(i) MSAs; and

(ii) DTAs arising from temporary differences that the FDIC-supervised institution could not realize through net operating loss carrybacks.

(5) An FDIC-supervised institution must assign a 100 percent risk weight to all assets not specifically assigned a different risk weight under this subpart and that are not deducted from tier 1 or tier 2 capital pursuant to § 324.22.

(6) Notwithstanding the requirements of this section, an FDIC-supervised institution may assign an asset that is not included in one of the categories provided in this section to the risk weight category applicable under the capital rules applicable to bank holding companies and savings and loan holding companies under 12 CFR part 217, provided that all of the following conditions apply:

(i) The FDIC-supervised institution is not authorized to hold the asset under applicable law other than debt previously contracted or similar authority; and

(ii) The risks associated with the asset are substantially similar to the risks of assets that are otherwise assigned to a risk weight category of less than 100 percent under this subpart.

■ 56. Effective October 1, 2019, § 324.34 is amended by revising paragraph (c) to read as follows:

§ 324.34 OTC derivative contracts.

* * * * *

(c) *Counterparty credit risk for OTC credit derivatives*—(1) *Protection purchasers.* An FDIC-supervised institution that purchases an OTC credit derivative that is recognized under § 324.36 as a credit risk mitigant for an exposure that is not a covered position under subpart F is not required to compute a separate counterparty credit risk capital requirement under this subpart D provided that the FDIC-supervised institution does so consistently for all such credit derivatives. The FDIC-supervised institution must either include all or exclude all such credit derivatives that are subject to a qualifying master netting agreement from any measure used to determine counterparty credit risk exposure to all relevant counterparties for risk-based capital purposes.

(2) *Protection providers.* (i) An FDIC-supervised institution that is the protection provider under an OTC credit derivative must treat the OTC credit derivative as an exposure to the underlying reference asset. The FDIC-supervised institution is not required to compute a counterparty credit risk capital requirement for the OTC credit derivative under this subpart D, provided that this treatment is applied consistently for all such OTC credit derivatives. The FDIC-supervised institution must either include all or exclude all such OTC credit derivatives that are subject to a qualifying master netting agreement from any measure

used to determine counterparty credit risk exposure.

(ii) The provisions of this paragraph (c)(2) apply to all relevant counterparties for risk-based capital purposes unless the FDIC-supervised institution is treating the OTC credit derivative as a covered position under subpart F, in which case the FDIC-supervised institution must compute a supplemental counterparty credit risk capital requirement under this section.

* * * * *

■ 57. Effective October 1, 2019, § 324.35 is amended by revising paragraph (b)(3)(ii), (b)(4)(ii), (c)(3)(ii), and (c)(4)(ii) to read as follows:

§ 324.35 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client FDIC-supervised institution must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member client FDIC-supervised institution must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or custodian in connection with a cleared transaction in accordance with the requirements under this subpart D.

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member FDIC-supervised institution must apply the risk weight appropriate for the CCP according to this subpart D.

(4) * * *

(ii) A clearing member FDIC-supervised institution must calculate a risk-weighted asset amount for any collateral provided to a CCP, clearing member, or a custodian in connection with a cleared transaction in accordance with requirements under this subpart D.

* * * * *

■ 58. Effective October 1, 2019, § 324.36 is amended by revising paragraph (c) to read as follows:

§ 324.36 Guarantees and credit derivatives: substitution treatment.

* * * * *

(c) *Substitution approach*—(1) *Full coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is greater than or equal to the exposure amount of the hedged exposure, an FDIC-supervised institution may recognize the guarantee or credit derivative in determining the risk-weighted asset amount for the hedged exposure by substituting the risk weight applicable to the guarantor or credit derivative protection provider under this subpart D for the risk weight assigned to the exposure.

(2) *Partial coverage.* If an eligible guarantee or eligible credit derivative meets the conditions in paragraphs (a) and (b) of this section and the protection amount (P) of the guarantee or credit derivative is less than the exposure amount of the hedged exposure, the FDIC-supervised institution must treat the hedged exposure as two separate exposures (protected and unprotected) in order to recognize the credit risk mitigation benefit of the guarantee or credit derivative.

(i) The FDIC-supervised institution may calculate the risk-weighted asset amount for the protected exposure under this subpart D, where the applicable risk weight is the risk weight applicable to the guarantor or credit derivative protection provider.

(ii) The FDIC-supervised institution must calculate the risk-weighted asset amount for the unprotected exposure under this subpart D, where the applicable risk weight is that of the unprotected portion of the hedged exposure.

(iii) The treatment provided in this section is applicable when the credit risk of an exposure is covered on a partial pro rata basis and may be applicable when an adjustment is made to the effective notional amount of the guarantee or credit derivative under paragraphs (d), (e), or (f) of this section.

* * * * *

■ 59. Effective October 1, 2019, § 324.37 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 324.37 Collateralized transactions.

* * * * *

(b) * * *

(2) *Risk weight substitution.* (i) An FDIC-supervised institution may apply a risk weight to the portion of an exposure that is secured by the fair value of financial collateral (that meets the requirements of paragraph (b)(1) of this section) based on the risk weight assigned to the collateral under this subpart D. For repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions, the collateral is the instruments, gold, and cash the FDIC-supervised institution has borrowed, purchased subject to resale, or taken as collateral from the counterparty under the transaction. Except as provided in paragraph (b)(3) of this section, the risk weight assigned to the collateralized portion of the exposure may not be less than 20 percent.

* * * * *

■ 60. Effective October 1, 2019, § 324.38 is amended by revising paragraph (e)(2) to read as follows:

§ 324.38 Unsettled transactions.

* * * * *

(e) * * *

(2) From the business day after the FDIC-supervised institution has made its delivery until five business days after the counterparty delivery is due, the FDIC-supervised institution must calculate the risk-weighted asset amount for the transaction by treating the current fair value of the deliverables owed to the FDIC-supervised institution as an exposure to the counterparty and using the applicable counterparty risk weight under this subpart D.

* * * * *

■ 61. Effective October 1, 2019, § 324.42 is amended by revising paragraph (j)(2)(ii)(A) to read as follows:

§ 324.42 Risk-weighted assets for securitization exposures.

* * * * *

(j) * * *

(2) * * *

(ii) * * *

(A) If the FDIC-supervised institution purchases credit protection from a counterparty that is not a securitization SPE, the FDIC-supervised institution must determine the risk weight for the exposure according to this subpart D.

* * * * *

■ 62. Effective October 1, 2019, § 324.52 is amended by revising paragraphs (b)(1) and (4) to read as follows:

§ 324.52 Simple risk-weight approach (SRWA).

* * * * *

(b) * * *

(1) *Zero percent risk weight equity exposures.* An equity exposure to a sovereign, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, an MDB, and any other entity whose credit exposures receive a zero percent risk weight under § 324.32 may be assigned a zero percent risk weight.

* * * * *

(4) *250 percent risk weight equity exposures.* Significant investments in the capital of unconsolidated financial institutions in the form of common

stock that are not deducted from capital pursuant to § 324.22(d)(2) are assigned a 250 percent risk weight.

* * * * *

■ 63. Effective October 1, 2019, § 324.61 is revised to read as follows:

§ 324.61 Purpose and scope.

Sections 324.61 through 324.63 of this subpart establish public disclosure requirements related to the capital requirements described in subpart B of this part for an FDIC-supervised institution with total consolidated assets of $50 billion or more as reported on the FDIC-supervised institution's most recent year-end Call Report that is not an advanced approaches FDIC-supervised institution making public disclosures pursuant to § 324.172. An advanced approaches FDIC-supervised institution that has not received approval from the FDIC to exit parallel run pursuant to § 324.121(d) is subject to the disclosure requirements described in §§ 324.62 and 324.63. An FDIC-supervised institution with total consolidated assets of $50 billion or more as reported on the FDIC-supervised institution's most recent year-end Call Report that is not an advanced approaches FDIC-supervised institution making public disclosures subject to § 324.172 must comply with § 324.62 unless it is a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements of § 324.62 or a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction. For purposes of this section, total consolidated assets are determined based on the average of the FDIC-supervised institution's total consolidated assets in the four most recent quarters as reported on the Call Report; or the average of the FDIC-supervised institution's total consolidated assets in the most recent consecutive quarters as reported quarterly on the FDIC-supervised institution's Call Report if the FDIC-supervised institution has not filed such a report for each of the most recent four quarters.

■ 64. Effective October 1, 2019, § 324.63 is amended by revising Tables 3 and 8 to § 324.63 to read as follows:

§ 324.63 Disclosures by FDIC-supervised institutions described in § 324.61.

* * * * *

TABLE 3 TO § 324.63—CAPITAL ADEQUACY

Qualitative disclosures	(a) A summary discussion of the FDIC-supervised institution's approach to assessing the adequacy of its capital to support current and future activities.
Quantitative disclosures	(b) Risk-weighted assets for: (1) Exposures to sovereign entities; (2) Exposures to certain supranational entities and MDBs; (3) Exposures to depository institutions, foreign banks, and credit unions; (4) Exposures to PSEs; (5) Corporate exposures; (6) Residential mortgage exposures; (7) Statutory multifamily mortgages and pre-sold construction loans; (8) HVCRE exposures; (9) Past due loans; (10) Other assets; (11) Cleared transactions; (12) Default fund contributions; (13) Unsettled transactions; (14) Securitization exposures; and (15) Equity exposures. (c) Standardized market risk-weighted assets as calculated under subpart F of this part. (d) Common equity tier 1, tier 1 and total risk-based capital ratios: (1) For the top consolidated group; and (2) For each depository institution subsidiary. (e) Total standardized risk-weighted assets.

* * * * *

TABLE 8 TO § 324.63—SECURITIZATION

Qualitative Disclosures	(a) The general qualitative disclosure requirement with respect to a securitization (including synthetic securitizations), including a discussion of: (1) The FDIC-supervised institution's objectives for securitizing assets, including the extent to which these activities transfer credit risk of the underlying exposures away from the FDIC-supervised institution to other entities and including the type of risks assumed and retained with resecuritization activity; [1] (2) The nature of the risks (*e.g.* liquidity risk) inherent in the securitized assets; (3) The roles played by the FDIC-supervised institution in the securitization process [2] and an indication of the extent of the FDIC-supervised institution's involvement in each of them; (4) The processes in place to monitor changes in the credit and market risk of securitization exposures including how those processes differ for resecuritization exposures; (5) The FDIC-supervised institution's policy for mitigating the credit risk retained through securitization and resecuritization exposures; and (6) The risk-based capital approaches that the FDIC-supervised institution follows for its securitization exposures including the type of securitization exposure to which each approach applies. (b) A list of: (1) The type of securitization SPEs that the FDIC-supervised institution, as sponsor, uses to securitize third-party exposures. The FDIC-supervised institution must indicate whether it has exposure to these SPEs, either on- or off-balance sheet; and

TABLE 8 TO § 324.63—SECURITIZATION—Continued

	(2) Affiliated entities: (i) That the FDIC-supervised institution manages or advises; and (ii) That invest either in the securitization exposures that the FDIC-supervised institution has securitized or in securitization SPEs that the FDIC-supervised institution sponsors.[3]
Quantitative Disclosures	(c) Summary of the FDIC-supervised institution's accounting policies for securitization activities, including: (1) Whether the transactions are treated as sales or financings; (2) Recognition of gain-on-sale; (3) Methods and key assumptions applied in valuing retained or purchased interests; (4) Changes in methods and key assumptions from the previous period for valuing retained interests and impact of the changes; (5) Treatment of synthetic securitizations; (6) How exposures intended to be securitized are valued and whether they are recorded under subpart D of this part; and (7) Policies for recognizing liabilities on the balance sheet for arrangements that could require the FDIC-supervised institution to provide financial support for securitized assets. (d) An explanation of significant changes to any quantitative information since the last reporting period. (e) The total outstanding exposures securitized by the FDIC-supervised institution in securitizations that meet the operational criteria provided in § 324.41 (categorized into traditional and synthetic securitizations), by exposure type, separately for securitizations of third-party exposures for which the bank acts only as sponsor.[4] (f) For exposures securitized by the FDIC-supervised institution in securitizations that meet the operational criteria in § 324.41: (1) Amount of securitized assets that are impaired/past due categorized by exposure type; [5] and (2) Losses recognized by the FDIC-supervised institution during the current period categorized by exposure type.[6] (g) The total amount of outstanding exposures intended to be securitized categorized by exposure type. (h) Aggregate amount of: (1) On-balance sheet securitization exposures retained or purchased categorized by exposure type; and (2) Off-balance sheet securitization exposures categorized by exposure type. (i) (1) Aggregate amount of securitization exposures retained or purchased and the associated capital requirements for these exposures, categorized between securitization and resecuritization exposures, further categorized into a meaningful number of risk weight bands and by risk-based capital approach (*e.g.,* SSFA); and (2) Aggregate amount disclosed separately by type of underlying exposure in the pool of any: (i) After-tax gain-on-sale on a securitization that has been deducted from common equity tier 1 capital; and (ii) Credit-enhancing interest-only strip that is assigned a 1,250 percent risk weight. (j) Summary of current year's securitization activity, including the amount of exposures securitized (by exposure type), and recognized gain or loss on sale by exposure type. (k) Aggregate amount of resecuritization exposures retained or purchased categorized according to: (1) Exposures to which credit risk mitigation is applied and those not applied; and (2) Exposures to guarantors categorized according to guarantor creditworthiness categories or guarantor name.

[1] The FDIC-supervised institution should describe the structure of resecuritizations in which it participates; this description should be provided for the main categories of resecuritization products in which the FDIC-supervised institution is active.

[2] For example, these roles may include originator, investor, servicer, provider of credit enhancement, sponsor, liquidity provider, or swap provider.

[3] Such affiliated entities may include, for example, money market funds, to be listed individually, and personal and private trusts, to be noted collectively.

[4] ''Exposures securitized'' include underlying exposures originated by the FDIC-supervised institution, whether generated by them or purchased, and recognized in the balance sheet, from third parties, and third-party exposures included in sponsored transactions. Securitization transactions (including underlying exposures originally on the FDIC-supervised institution's balance sheet and underlying exposures acquired by the FDIC-supervised institution from third-party entities) in which the originating bank does not retain any securitization exposure should be shown separately but need only be reported for the year of inception. FDIC-supervised institutions are required to disclose exposures regardless of whether there is a capital charge under this part.

[5] Include credit-related other than temporary impairment (OTTI).

[6] For example, charge-offs/allowances (if the assets remain on the FDIC-supervised institution's balance sheet) or credit-related OTTI of interest-only strips and other retained residual interests, as well as recognition of liabilities for probable future financial support required of the FDIC-supervised institution with respect to securitized assets.

* * * * *

■ 65. Effective October 1, 2019, § 324.131 is amended by revising paragraph (d)(2) to read as follows:

§ 324.131 Mechanics for calculating total wholesale and retail risk-weighted assets.

* * * * *

(d) * * *

(2) *Floor on PD assignment.* The PD for each wholesale obligor or retail segment may not be less than 0.03 percent, except for exposures to or directly and unconditionally guaranteed by a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Commission, the European Central Bank, the European Stability Mechanism, the European Financial Stability Facility, or a multilateral development bank, to which the FDIC-supervised institution assigns a rating grade associated with a PD of less than 0.03 percent.

* * * * *

■ 66. Effective October 1, 2019, § 324.133 is amended by revising paragraphs (b)(3)(ii) and (c)(3)(ii) to read as follows:

§ 324.133 Cleared transactions.

* * * * *

(b) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member client FDIC-supervised institution must apply the risk weight

applicable to the CCP under subpart D of this part.

* * * * *

(c) * * *

(3) * * *

(ii) For a cleared transaction with a CCP that is not a QCCP, a clearing member FDIC-supervised institution must apply the risk weight applicable to the CCP according to subpart D of this part.

* * * * *

■ 67. Effective October 1, 2019, § 324.152 is amended by revising paragraphs (b)(5) and (6) to read as follows:

§ 324.152 Simple risk weight approach (SRWA).

* * * * *

(b) * * *

(5) *300 percent risk weight equity exposures.* A publicly traded equity exposure (other than an equity exposure described in paragraph (b)(7) of this section and including the ineffective portion of a hedge pair) is assigned a 300 percent risk weight.

(6) *400 percent risk weight equity exposures.* An equity exposure (other than an equity exposure described in paragraph (b)(7) of this section) that is not publicly traded is assigned a 400 percent risk weight.

* * * * *

■ 68. Effective October 1, 2019, § 324.202 is amended by revising the definition of ''Corporate debt position'' in paragraph (b) to read as follows:

§ 324.202 Definitions.

* * * * *

(b) * * *

Corporate debt position means a debt position that is an exposure to a company that is not a sovereign entity, the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, a multilateral development bank, a depository institution, a foreign bank, a credit union, a public sector entity, a GSE, or a securitization.

* * * * *

■ 69. Effective October 1, 2019, § 324.210 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 324.210 Standardized measurement method for specific risk.

* * * * *

(b) * * *

(2) * * *

(ii) *Certain supranational entity and multilateral development bank debt positions.* An FDIC-supervised institution may assign a 0.0 percent specific risk-weighting factor to a debt position that is an exposure to the Bank for International Settlements, the European Central Bank, the European Commission, the International Monetary Fund, the European Stability Mechanism, the European Financial Stability Facility, or an MDB.

* * * * *

§ 324.300 [Amended]

■ 70. Effective April 1, 2020, § 324.300 is amended by removing paragraphs (b) and (d).

Dated: June 3, 2019.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, July 9, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on May 28, 2019.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–15131 Filed 7–19–19; 8:45 am]

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FEDERAL REGISTER

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Part IV

The President

Proclamation 9909—Death of John Paul Stevens

Federal Register
Vol. 84, No. 140
Monday, July 22, 2019

Presidential Documents

Title 3—

The President

Proclamation 9909 of July 17, 2019

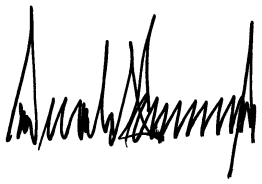
Death of John Paul Stevens

By the President of the United States of America

A Proclamation

As a mark of respect for the memory and longstanding service of John Paul Stevens, retired Associate Justice of the Supreme Court of the United States, I hereby order, by the authority vested in me by the Constitution and the laws of the United States of America, that on the day of his interment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of July, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2019–15679
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