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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1081; Product Identifier 2018–NE–39–AD; Amendment 39–19676; AD 2019–13–03]

RIN 2120–AA64

Airworthiness Directives; Trig Avionics Limited Transponders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Trig Avionics Limited TT31, Avidyne Corporation AXP340, and BendixKing/Honeywell International KT74 Mode S transponders. This AD was prompted by the discovery that the retaining cam that engages in the mounting tray may not withstand g-forces experienced during an emergency landing. This AD requires one-time inspection of the transponder installation and, depending on the findings, removal of the affected transponder for modification. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 27, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 27, 2019.

ADDRESSES: For service information identified in this final rule, contact Trig Avionics Limited, Heriot Watt Research Park, Riccarton, Edinburgh EH14 4AP, United Kingdom; phone: +44 131 449 8810; fax: +44 131 449 8811; email: *support@trig-avionics.com;* internet: *https://trig-avionics.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1081.

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–2018–1081; 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: Min Zhang, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7161; fax: 781–238–7199; email: *min.zhang@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 certain Trig Avionics Limited TT31, Avidyne Corporation AXP340, and BendixKing/Honeywell International KT74 Mode S transponders. The NPRM published in the **Federal Register** on March 22, 2019 (84 FR 10735). The NPRM was prompted by the discovery that the retaining cam that engages in the mounting tray may not withstand g-forces experienced during an emergency landing. The NPRM proposed to require one-time inspection of the transponder installation to determine if it is a conventional aft-facing installation, and depending on the findings, removal of the affected transponder for modification. 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 2018–0247, dated November 13, 2018 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> While testing a new model of transponder, it was detected that the retaining cam was not meeting the approved design criteria for crash safety shock in the aft direction (20g sustained). This was due to an uncontrolled deviation in the manufacturing process of the retaining cam by the part manufacturer. The retaining cam is a small nylon part that engages in the mounting tray when the transponder is installed into the aircraft. Additional tests using affected retaining cam showed that the transponders meet RTCA/DO–106G Section 7.0 operational shocks and crash safety impulse tests, as well as RTCA/DO–160G Section 7.0 crash safety sustained tests for all directions, except the aft direction. As a consequence, units which have been installed with a control panel orientation that is not opposite to the direction of flight may not withstand g-forces experienced during an emergency landing. This condition, if not detected and corrected, could lead to detachment of the transponder, possibly resulting in damage to fuel systems or emergency evacuation equipment, and/or injury to aircraft occupants.
>
> To address this potential unsafe condition, Trig Avionics published the applicable SB to provide instructions to inspect the installation and the transponder, and how to arrange for modification.
>
> For the reason described above, this [EASA] AD requires a one-time inspection of the transponder installation to determine whether this is a conventional installation, as defined in this [EASA] AD, and, depending on findings, removal from service of the affected transponder for modification.

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–2018–1081.

Comments

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

Request To Clarify Compliance

An individual commenter commented that paragraph (g)(1) of the NPRM does not state clearly that no further action is required if the transponder is installed in a conventional rear facing installation.

The FAA agrees. The FAA added a new paragraph (g)(2) to this AD to indicate that no further action is required if the transponder is installed

in a conventional aft-facing avionics rack. Because of this change, paragraph (g)(2) in the NPRM becomes paragraph (g)(3) and paragraph (g)(3) in the NPRM becomes paragraph (g)(4) in this AD.

Support for the AD

An individual commenter supported the AD because it is cost-effective and the manufacturer may cover some of the costs under warranty.

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 change 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

The FAA reviewed Trig Avionics Limited Service Bulletin (SB) SUP/TT31/027, Issue 1.0, dated October 1, 2018; Trig Avionics Limited SB SUP/AXP340/002, Issue 1.0, dated October 1, 2018; and Trig Avionics Limited SB SUP/KT74/005, Issue 1.0, dated October 1, 2018.

Trig Avionics Limited SB SUP/TT31/027, Issue 1.0, dated October 1, 2018, describes procedures for determining the direction of the Trig Avionics Limited TT31 Mode S transponder installation and removal of these affected transponders for replacement or repair. Trig Avionics Limited SB SUP/AXP340/002, Issue 1.0, dated October 1, 2018, describes procedures for determining the direction of the Avidyne Corporation AXP340 Mode S transponder installation and removal of these affected transponders for replacement or repair. Trig Avionics Limited SB SUP/KT74/005, Issue 1.0, dated October 1, 2018, describes procedures for determining the direction of the BendixKing/Honeywell International KT74 Mode S transponder installation and removal of these affected transponders for replacement or repair.

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 2,390 transponders 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 the transponder installation	0.5 work-hours × $85 per hour = $42.50	$0	$42.50	$101,575

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the transponder	1 work-hour × $85 per hour = $85	$2,872	$2,957

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

Authority for This Rulemaking

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

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

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

2019–13–03 Trig Avionics Limited: Amendment 39–19676; Docket No. FAA–2018–1081; Product Identifier 2018–NE–39–AD.

(a) Effective Date

This AD is effective August 27, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to:

(1) Trig Avionics Limited TT31 Mode S transponders, part number (P/N) 00220–00–01 and P/N 00225–00–01, with a serial number (S/N) from 05767 to S/N 09715 inclusive, and Modification (Mod) Level 6 or below, installed.

(2) Avidyne Corporation AXP340 Mode S transponders, P/N 200–00247–0000, also marked with Trig Avionics P/N 01155–00–01, with a S/N from 00801 to S/N 01377 inclusive, and Mod Level 0, installed.

(3) BendixKing/Honeywell International KT74 Mode S transponders, P/N 89000007–002001, also marked with Trig Avionics P/N 01157–00–01, with a S/N from 01143 to S/N 02955 inclusive, and Mod Level 0, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 3452, ATC transponder system.

(e) Unsafe Condition

This AD was prompted by the discovery that the retaining cam that engages in the mounting tray may not withstand g-forces experienced during an emergency landing. The FAA is issuing this AD to prevent the transponder from detaching from the avionics rack. The unsafe condition, if not addressed, could result in damage to the fuel system or emergency evacuation equipment, or injury to aircraft occupants.

(f) Compliance

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

(g) Required Actions

(1) Within 90 days after the effective date of this AD, inspect the transponder installation to determine if the transponder is installed in a conventional aft-facing avionics rack.

(2) If the transponder is installed in a conventional aft-facing avionics rack, no further action is required.

(3) If the transponder is not installed in a conventional aft-facing avionics rack, remove the transponder before further flight.

(4) Use the Accomplishment Instructions, paragraphs 4–8, to determine if the part is eligible for repair and re-installation, for the appropriate transponder, per Trig Avionics Limited Service Bulletin (SB) SUP/TT31/027, Issue 1.0, dated October 1, 2018; Trig Avionics Limited SB SUP/AXP340/002, Issue 1.0, dated October 1, 2018; or Trig Avionics Limited SB SUP/KT74/005, Issue 1.0, dated October 1, 2018.

(h) Installation Prohibition

After the effective date of this AD, do not install an affected transponder on any aircraft, unless the transponder is installed in a conventional aft-facing avionics rack as defined in this AD.

(i) No Reporting Requirement

No reporting requirement contained within the SBs referenced in paragraph (g)(4) of this AD is required by this AD.

(j) Definition

For the purpose of this AD, a conventional aft-facing avionics rack is defined as an installation with the control panel oriented in opposition to the direction of flight (aft facing).

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For more information about this AD, contact Min Zhang, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7161; fax: 781–238–7199; email: *min.zhang@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0247, dated November 13, 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–2018–1081.

(m) Material Incorporated by Reference

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

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

(i) Trig Avionics Limited Service Bulletin (SB) SUP/TT31/027, Issue 1.0, dated October 1, 2018.

(ii) Trig Avionics Limited SB SUP/AXP340/002, Issue 1.0, dated October 1, 2018.

(iii) Trig Avionics Limited SB SUP/KT74/005, Issue 1.0, dated October 1, 2018.

(3) For Trig Avionics Limited service information identified in this AD, contact Trig Avionics Limited, Heriot Watt Research Park, Riccarton, Edinburgh EH14 4AP, United Kingdom; phone: +44 131 449 8810; fax: +44 131 449 8811; email: *support@trig-avionics.com;* internet: *https://trig-avionics.com.*

(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 16, 2019.

Robert J. Ganley,

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

[FR Doc. 2019–15630 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0114; Product Identifier 2018–NM–146–AD; Amendment 39–19680; AD 2019–14–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737 series airplanes. This AD was prompted by a

report that structural fatigue cracks can develop in certain aluminum pressure module check valves prior to the design limit. This AD requires an inspection to determine the part numbers of the four hydraulic systems A and B pressure module check valves and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 27, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 27, 2019.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0114.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0114 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: Douglas Tsuji, Senior Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3548; email: *douglas.tsuji@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 The Boeing Company Model 737 series airplanes. The NPRM published in the **Federal Register** on March 1, 2019 (84 FR 6981). The NPRM was prompted by a report that structural fatigue cracks can develop in certain aluminum pressure module check valves prior to the design limit. The NPRM proposed to require an inspection to determine the part numbers of the four hydraulic systems A and B pressure module check valves and applicable on-condition actions.

The FAA is issuing this AD to address structural fatigue cracks in certain aluminum pressure module check valves, which could cause separation of the check valve head from the check valve body when hydraulic pressure is applied, resulting in injuries to maintenance personnel.

Comments

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

Support for the NPRM

Two commenters supported the NPRM. United Airlines (UAL) agreed with the need for the NPRM. A private citizen also expressed support for the NPRM, but added that cost should not be an issue in relation to airplane safety, the cost of the proposed rule is especially low, and that the FAA has an ethical duty to protect the public by adopting the proposed rule.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE or STC ST01219SE does not affect the accomplishment of the manufacturer's service instructions.

The FAA agrees with the commenter that STC ST00830SE and STC ST01219SE do not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE or STC ST01219SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed this AD in this regard.

Request To Change Applicability of the NPRM

UAL requested that the FAA change the proposed applicability from including all The Boeing Company Model 737–8 and 737–9 airplanes, to use the effectivity specified in Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018, which specifies The Boeing Company Model 737–8 and 737–9 airplanes, line numbers 5602 through 7050. UAL mentioned that Boeing Special Attention Service Bulletin 737–29–1126, dated October 2, 2018, states that ''Airplanes after line number 7050 cannot use Parker check valves as an optional part,'' and that this statement is counter to the applicability stated in the NPRM. UAL stated the understanding of this statement to be that The Boeing Company Model 737–8 and 737–9 airplanes, line number 7051 and later were delivered without part number (P/N) H61C0552M1; that the illustrated parts catalog (IPC) does not authorize installation of that part after delivery; and that omission from the IPC should ensure unapproved parts are not installed on The Boeing Company Model 737–8 and 737–9 airplanes, line number 7051 and later; therefore providing an acceptable level of safety.

The FAA disagrees with the request to change the applicability of this AD. The FAA does not control or approve the Boeing IPC, and P/N H61C0552M1 is considered a rotable part. Therefore, the FAA has determined that these parts could later be installed on airplanes that were initially delivered with acceptable parts, making those airplanes subject to the unsafe condition. The FAA has not changed this AD in this regard.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information.

- Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018.
- Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018.
- Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018.

The service information describes procedures for an inspection to determine the part numbers of the four hydraulic systems A and B pressure module check valves and applicable on-condition actions. On-condition actions include replacement of Parker pressure module check valves, P/N

H61C0552M1, with Crissair pressure module check valves, P/N 1C4196. These documents are distinct since they apply to different airplane models.

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 1,747 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection for Parker pressure module check valves, P/N H61C0552M1.	1 work-hour × $85 per hour = $85	$0	$85	$148,495

The FAA estimates the following costs to do any necessary on-condition actions (per check valve replacement) that would be required. The FAA has no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × $85 per hour = $170	$6,652	$6,822

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):

2019–14–02 The Boeing Company: Amendment 39–19680; Docket No. FAA–2019–0114; Product Identifier 2018–NM–146–AD.

(a) Effective Date

This AD is effective August 27, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737 series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic power.

(e) Unsafe Condition

This AD was prompted by a report indicating that structural fatigue cracks can develop in certain aluminum pressure module check valves prior to the design limit. The FAA is issuing this AD to address structural fatigue cracks in certain aluminum pressure module check valves, which could cause separation of the check valve head from the check valve body when hydraulic pressure is applied, resulting in injuries to maintenance personnel.

(f) Compliance

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

(g) Required Actions

(1) For airplanes identified as Group 1 in Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) Except as specified by paragraph (h)(3) of this AD: For airplanes identified as Groups 2 and 3 in Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018, at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018.

Note 1 to paragraphs (g)(2) through (g)(4): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–29–1123, dated October 2, 2018; Boeing Special Attention Service Bulletin 737–29–1126, dated October 2, 2018; and Boeing Special Attention Service Bulletin 737–29–1127, dated October 8, 2018; as applicable; which are referred to in Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018; Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018; and Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018; respectively.

(3) Except as specified by paragraph (h)(1) of this AD: For Model 737–600, –700, –700C, –800, –900, and –900ER airplanes that have an original airworthiness certificate or export certificate of airworthiness issued on or before the effective date of this AD; at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018.

(4) Except as specified by paragraph (h)(2) of this AD: For Model 737–8 and 737–9 airplanes that have an original airworthiness certificate or export certificate of airworthiness issued on or before the effective date of this AD; at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018.

(h) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD:

(1) Where Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018, uses the phrase ''the original issue date of Requirements Bulletin 737–29–1123 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018, uses the phrase ''the original issue date of Requirements Bulletin 737–29–1126 RB,'' this AD requires using ''the effective date of this AD.''

(3) Where Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018, uses the phrase ''the original issue date of Requirements Bulletin 737–29–1127 RB,'' this AD requires using ''the effective date of this AD.''

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install a Parker pressure module check valve, part number (P/N) H61C0552M1, or hydraulic pressure module assembly, P/N 65–17821–( ) that contains a Parker pressure module check valve, P/N H61C0552M1, on any airplane.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

(1) For more information about this AD, contact Douglas Tsuji, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3548; email: *douglas.tsuji@faa.gov.*

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

(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) Boeing Special Attention Requirements Bulletin 737–29–1123 RB, dated October 2, 2018.

(ii) Boeing Special Attention Requirements Bulletin 737–29–1126 RB, dated October 2, 2018.

(iii) Boeing Special Attention Requirements Bulletin 737–29–1127 RB, dated October 8, 2018.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.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 11, 2019.

Suzanne Masterson,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–15518 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0347; Airspace Docket No. 19–AEA–6]

RIN 2120–AA66

Establishment of Class E Airspace; Cortland, Elmira, Ithaca, and Endicott, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Cortland County Airport-Chase Field, Cortland, NY; Elmira/Corning Regional Airport, Elmira/Corning, NY; Ithaca Tompkins Regional Airport, Ithaca, NY; and Tri-Cities Airport, Endicott, NY to accommodate area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving these airports. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, October 10, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to

the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–6364.

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 proposed 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 establishes Class E airspace extending upward from 700 feet above the surface at Cortland County Airport-Chase Field, Cortland, NY; Elmira/Corning Regional Airport, Elmira/Corning, NY; Ithaca Tompkins Regional Airport, Ithaca, NY; and Tri-Cities Airport, Endicott, NY to support standard instrument approach procedures for IFR operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 25497, June 3, 2019) for Docket No. FAA–2019–0347 to establish Class E airspace extending upward from 700 feet above the surface at Cortland County Airport-Chase Field, Cortland, NY; Elmira/Corning Regional Airport, Elmira/Corning, NY; Ithaca Tompkins Regional Airport, Ithaca, NY; and Tri-Cities Airport, Endicott, NY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received supporting the proposal, as well as displaying concerns on how the airspace may affect the commercial traffic flow to larger airports in the area. The FAA has determined that this airspace will have no negative effect on IFR operations in the area, as Class E airspace only restricts aircraft that are flying using visual flight rules. This Class E airspace protects aircraft departing and landing using IFR procedures.

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 part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 7-mile radius of Cortland County Airport-Chase Field, Cortland, NY; within a 12.5-mile radius of Elmira/Corning Regional Airport, Elmira/Corning, NY; within a 9.5-mile radius of Ithaca Tompkins Regional Airport, Ithaca, NY; and within an 8-mile radius of Tri-Cities Airport, Endicott, NY, providing the controlled airspace required to support the RNAV (GPS) standard instrument approach procedures for IFR operations at these airports.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, 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.

* * * * *

AEA NY E5 Cortland, NY [New]

Cortland County Airport-Chase Field, NY
(Lat. 42°35′34″ N, long. 76°12′54″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Cortland County Airport-Chase Field.

* * * * *

AEA NY E5 Elmira/Corning, NY [New]

Elmira/Corning Regional Airport, NY
(Lat. 42°9′35″ N, long. 76°53′30″ W)

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of Elmira/Corning Regional Airport.

* * * * *

AEA NY E5 Ithaca, NY [New]

Ithaca Tompkins Regional Airport, NY
(Lat. 42°29′29″ N, long. 76°27′31″ W)

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Ithaca Tompkins Regional Airport.

* * * * *

AEA NY E5 Endicott, NY [New]

Tri-Cities Airport, NY
(Lat. 42°4′43″ N, long. 76°5′47″ W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Tri Cities Airport.

Issued in College Park, Georgia, on July 15, 2019.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2019–15525 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0713; Airspace Docket No. 18–AWP–10]

RIN 2120–AA66

Amendment of Multiple Air Traffic Service (ATS) Routes; Western United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies two jet routes (J–65 and J–110) and two domestic VHF Omnidirectional Range (VOR) Federal airways (V–23 and V–230) in the Western United States. The modifications are necessary due to the planned decommissioning of Clovis, CA, VOR portion of the VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected air traffic service (ATS) routes. The Clovis, CA, VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program. Federal airway V–165, published in the Notice of Proposed Rulemaking, requires more coordination and is removed from this rule.

DATES: Effective date 0901 UTC, October 10, 2019. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2018–0713 in the **Federal Register** (83 FR 55308; November 5, 2018), amending 2 jet routes (J–65 and J–110) and 3 Domestic VOR Federal airways (V–23, V–165 and V–230) in the Western United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Availability and Summary of Documents for Incorporation by Reference

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

Differences From the NPRM

This rule has a change from the NPRM. The NPRM proposed to amend route V–165. Due to additional coordination required for flight check satisfaction, V–165 will not be included in this final rule, but will be finalized at a later date.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying jet routes J–65 and J–110 and domestic VOR Federal airways V–23 and V–230. The route changes are outlined below.

J–65: J–65 currently extends between the San Antonio, TX, VORTAC to the Seattle, WA, VORTAC. The FAA is removing the segments between the Shafter, CA, VORTAC and the Sacramento, CA, VORTAC, causing a gap in the route. The route stops at the Shafter, CA, VORTAC and resumes at the Sacramento, CA, VORTAC. The unaffected portion of the existing route will remain as charted.

J–110: J–110 currently extends between the Oakland, VA, VOR/DME to the Coyle, NJ, VORTAC. The airway segment between the Oakland, CA, VOR/DME and the Boulder City, NV, VORTAC is removed. The route now starts at the Boulder City, NV, VORTAC and extends to the Coyle, NJ, VORTAC. The unaffected portion of the existing route will remain as charted.

V–23: V–23 currently extends between the Mission Bay, CA, VORTAC and the Whatcom, WA, VORTAC and then to the Canadian Border (approximately 7 miles northwest of the Whatcom, WA, VORTAC). The FAA removed the sections between the Shafter, CA, VORTAC and the Linden, CA, VOR/DME. The route now stops at the FRAME intersection (INT Shafter

338° and Panoche 096° radials) and resumes at the EBTUW intersection (INT Panoche 035° and Linden 141° radials) causing a gap in the route. The unaffected portion of the existing route will remain as charted.

V–230: V–230 currently extends between the intersection of the Big Sur, CA, VORTAC 325° and the Salinas, CA, VORTAC 281° radials to the Mina, NV, VORTAC. The FAA amended the route between the Panoche, CA, VORTAC and the Friant, CA, VORTAC. The new route proceeds from the Panoche, CA, VORTAC to the BLEAR intersection (Panoche 077° and Friant 239° radials) to the Friant, CA, VORTAC. The unaffected portion of the existing route will remain as charted.

All radials in the route descriptions are unchanged and stated in True degrees.

Jet routes are published in paragraph 2004 and domestic VOR Federal airways are published in paragraph 6010(a), of FAA Order 7400.11C dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The jet routes and domestic VOR Federal airways listed in this document will be subsequently published 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. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying two jet routes (J–65 and J–110) and two domestic VOR Federal airways (V–23 and V–230) qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F—Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

J–65 [Amended]

From San Antonio, TX, INT San Antonio 323° and Abilene, TX, 180° radials; Abilene; Chisum, NM; Truth or Consequences, NM; Phoenix, AZ; INT Phoenix 272° and Blythe CA, 096° radials; Blythe; Palmdale, CA; INT Palmdale 310° and Shafter, CA, 140° radials; to Shafter, CA. From Sacramento, CA; Red Bluff, CA; Klamath Falls, OR; to Seattle, WA.

* * * * *

J–110 [Amended]

From Boulder City, NV; Rattlesnake, NM; Alamosa, CO; Garden City, KS; Butler, MO; St. Louis, MO; Brickyard, IN; Bellaire, OH; to Coyle, NJ.

* * * * *

Paragraph 6010(a) Domestic VOR Federal Airways.

V–23 [Amended]

From Mission Bay, CA; Oceanside, CA; 24 miles, six miles wide, Seal Beach, CA; six miles wide, INT Seal Beach 287° and Los Angeles, 138° radials; Los Angeles; Gorman, CA; Shafter, CA; to INT Shafter 338° and Panoche 096° radials. From INT Panoche 035° and Linden 141° radials; Linden, CA; Sacramento, CA; INT Sacramento 346° and Red Bluff, CA, 158° radials; Red Bluff; 58 miles, 95 MSL, Fort Jones, CA; Rogue Valley, OR; Eugene, OR; Battle Ground, WA; INT Battle Ground 350° and Seattle, WA, 197° radials; 21 miles, 45 MSL, Seattle; Paine, WA; Whatcom, WA; via INT Whatcom 290° radial to the United States/Canadian border.

* * * * *

V–230 [Amended]

From INT Big Sur, CA, 325° and Salinas, CA, 281° radials; Salinas; Panoche, CA; INT Panoche 077° and Friant 239° radials; Friant, CA; to Mina, NV. The portion outside the United States has no upper limit.

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

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2019–15526 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0075]

16 CFR Part 1219

Revisions to Safety Standard for Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In December 2010, the U.S. Consumer Product Safety Commission (Commission or CPSC) published a consumer product safety standard for full-size baby cribs (FS cribs). The standard incorporated by reference the applicable ASTM voluntary standard. ASTM has since published several revisions to the voluntary standard for FS cribs. We are publishing this direct final rule, revising the CPSC's mandatory standard for FS cribs to incorporate by reference the most recent version of the applicable ASTM standard.

DATES: The rule is effective on October 28, 2019, unless we receive significant adverse comment by August 22, 2019. If we receive timely significant adverse comments, we will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective

date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of October 28, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0075, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2010–0075, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Justin Jirgl, Compliance Officer, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; telephone: 301–504–7814; email: *jjirgl@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1)(B) of the Consumer Product Safety Improvement Act (CPSIA), also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires that these standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC's durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the **Federal Register**) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

2. The FS Crib Standard

Section 104(c) of the CPSIA treated cribs (both full-sized and non-full-sized cribs) differently than other products covered by section 104. Section 104(c) of the CPSIA stated that the standards for FS cribs would apply to persons (such as those owning or operating child care facilities and places of public accommodation) in addition to persons usually subject to consumer product safety rules.[1] Pursuant to section 104(b)(1) and section 104(c) of the CPSIA, on December 28, 2010, the Commission published a mandatory consumer product safety standard that incorporated by reference ASTM F1169–10, *Standard Consumer Safety Specification for Full-Size Baby Cribs,* codified under CPSC regulations at 16 CFR part 1219. (75 FR 81766).

On August 12, 2011, in Public Law No. 112–28, Congress amended section 104 and specifically addressed the revision of the crib standards, stating that any revision of the crib standards after their initial promulgation ''shall apply only to a person that manufactures or imports cribs,'' unless the Commission determines that application to any others covered by the initial crib standards is ''necessary to protect against an unreasonable risk to health or safety.'' If the Commission does apply the revised crib standard to additional persons, it must provide at least 12 months for those persons to come into compliance. The Commission is not expanding the applicability of the revised FS crib standard in this rule. Thus, the revised FS crib standard will apply to the same entities and in the same manner as other rules the Commission issues under section 104 of the CPSIA.

B. Revision to the ASTM Standard

The ASTM standard for full-size cribs establishes performance requirements and test procedures to determine the structural integrity of full-size cribs. It also contains design requirements addressing entanglement on crib corner post extensions, and requirements for warning labels and instructional materials. In addition, the standard addresses bassinet, changing table, or similar accessories to a crib that attaches to or rests on a crib in the occupant retention area.

The ASTM FS crib standard was revised in 2011, and the Commission incorporated by reference the revised standard as the mandatory FS crib standard on July 31, 2012 (77 FR 45242). The ASTM standard was revised again in 2013, and the Commission incorporated by reference the revised standard as the mandatory FS crib standard on December 9, 2013 (78 FR 73692). On May 2, 2019, ASTM notified the Commission that it has revised ASTM's FS crib standard; the current ASTM standard is ASTM F1169–19, *Standard Consumer Safety Specification for Full-Size Baby Cribs.* Based on a review of the changes between the current CPSC standard, 16 CFR part 1219 and ASTM F1169–19, the Commission concludes that each change made in ASTM F1169–19 either improves the safety of FS cribs or is neutral in its safety impact.

[1] Under section 104(c) of the CPSIA, the initial crib standards applied to: ''any person that—

(A) Manufactures, distributes in commerce, or contracts to sell cribs;

(B) based on the person's occupation, holds itself out as having knowledge of skill peculiar to cribs, including child care facilities and family child care homes;

(C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or

(D) owns or operates a place of accommodation affecting commerce (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) applied without regard to the phrase 'not owned by the Federal Government').''

Section 8.4 of ASTM 1169 was revised to require all warning labels to be affixed to the product. Previous versions of ASTM F1169 required the highest priority warning messages (*e.g.,* the suffocation warning) to be ''visible in [their] entirety when one short side and one long side of the crib are positioned in a corner formed by two vertical walls'' (Section 8.3.1); however, the provision allowed some additional lower-priority warning messages (*e.g.,* strangulation and fall) to be placed in another location, as long as the ''visible'' warning identified the location of the additional warnings. ASTM 1169–19 revised section 8.4 to make clear that *all* warnings, including lower-priority warnings, must be affixed somewhere on the crib, and not merely referenced in a manual or instructions.

The Commission concludes that this change adds clarity and improves the safety of the standard. The Commission determines that all warnings that are intended to be on a FS crib should be affixed to the product because on-product warnings stay with the product through multiple users, whereas an instruction manual could be discarded, lost, or otherwise not be available to another user of the product.

ASTM F1169–19 also includes several non-substantive changes that do not affect the safety of FS cribs, such as spacing, grammar, and punctuation (*e.g.,* ''in'' to ''in.''; ''manufacturers'' to ''manufacturer's''; and ''as per'' to ''in accordance with''). Under section 1.5, Scope, ASTM added language stating that ASTM developed the standard in accordance with principles recognized by the World Trade Organization. In addition, under section 1.4, the word ''environmental'' was added to the following sentence: ''It is the responsibility of the user of this standard to establish appropriate safety, health, and environmental practices and determine the applicability of regulatory limitations prior to use.'' The Commission concludes that these editorial changes and additions do not impact the safety of FS cribs.

C. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, section B of this preamble summarizes the major provisions of the ASTM F1169–19 standard that the Commission incorporates by reference into 16 CFR part 1219. The standard is reasonably available to interested parties, and interested parties may purchase a copy of the standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *www.astm.org.* A copy of the standard can also be inspected at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923.

D. The Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that, before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a ''major rule.'' Pursuant to the CRA, OIRA designated this rule as not a ''major rule,'' as defined in 5 U.S.C. 804(2). In addition, to comply with the CRA, the Office of the General Counsel will submit the required information to each House of Congress and the Comptroller General.

E. Certification

Section 14(a) of the CPSA requires that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As noted in the preceding discussion, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because FS cribs are children's products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA, the phthalates prohibitions in section 108 of the CPSIA, the tracking label requirement in section 14(a)(5) of the CPSA, and the consumer registration form requirements in section 104(d) of the CPSIA.

F. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSA, the Commission has previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing FS cribs (73 FR 62965 (Oct. 22, 2008)). The NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing FS cribs to 16 CFR part 1219. The NOR is listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies.'' 16 CFR part 1112.

The revision to section 8.4 concerning the on-product warning label clarifies the existing standard and does not require a new test. The requirement that the warning label be attached to the product can be assessed by visual inspection. Accordingly, there is no significant change in the way that third party conformity assessment bodies test these products for compliance with the FS crib standard. Laboratories would begin testing to the new standard when ASTM F1169–19 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard previously would also cover testing to the revised standard. Therefore, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation.

G. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). The Commission concludes that when the Commission updates a reference to an ASTM standard that the Commission has incorporated by reference under

section 104(b) of the CPSIA, notice and comment is not necessary.

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference as a Commission standard for a durable infant or toddler product under section 104(b)(1)(b) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F1169–19 to become CPSC's new standard. The purpose of this direct final rule is merely to update the reference in the Code of Federal Regulations so that it accurately reflects the version of the standard that takes effect by statute. Public comment will not impact the substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment is not necessary. In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). ACUS recommended that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because we do not expect any significant adverse comments.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on October 28, 2019. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change.

Should the Commission receive a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As explained above, the Commission has determined that notice and comment is not necessary for this direct final rule. Thus, the RFA does not apply. We also note the limited nature of this document, which updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

I. Paperwork Reduction Act

The FS crib standard contains information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The revision made no changes to that section of the standard. Thus, the revision will not have any effect on the information collection requirements related to the standard.

J. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement because they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

K. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as ''consumer product safety rules,'' thus, implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 104 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

L. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standard organization revises a standard upon which a consumer product safety standard was based, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. The Commission has not set a different effective date. Thus, in accordance with this provision, this rule takes effect 180 days after we received notification from ASTM of revision to this standard. As discussed in the preceding section, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on October 28, 2019.

List of Subjects in 16 CFR Part 1219

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys.

For the reasons stated above, the Commission amends Title 16 CFR chapter II as follows:

PART 1219—SAFETY STANDARD FOR FULL-SIZE BABY CRIBS

■ 1. The authority citation for part 1219 continues to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (August 14, 2008); Sec. 3, Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

■ 2. Revise § 1219.2 to read as follows:

§ 1219.2 Requirements for full-size baby cribs.

Each full-size baby crib must comply with all applicable provisions of ASTM F1169–19, *Standard Consumer Safety Specification for Full-Size Baby Cribs* approved March 15, 2019. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *www.astm.org.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or 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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2019–15601 Filed 7–22–19; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF STATE

22 CFR Parts 22 and 42

[Public Notice 10109]

RIN 1400–AE11

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates—Visa Services Fee Changes

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule is promulgated to implement the Adoptive Family Relief Act (the Act), which allows for the waiver or refund of fees relating to the renewal or replacement of an immigrant visa for certain already-adopted children where the adopted child was unable to use his or her initially issued immigrant visa as a direct result of extraordinary circumstances. The Department is also amending its regulations regarding immigrant visa application procedures to cover new technologies, application forms, and procedures that have been implemented in recent years.

DATES: This rule is effective on July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Jorge Abudei, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–485–6697, telefax: 202–485–6826; email: *fees@state.gov.*

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

The Adoptive Family Relief Act (Pub. L. 114–70) (the Act) amended Section 221(c) of the Immigration and Nationality Act (INA), 8 U.S.C. 1201(c), to allow for the waiver or refund of certain immigrant visa fees for a lawfully adopted child, or a child coming to the United States to be adopted by a United States citizen (hereinafter referred to as adoptive children), subject to criteria prescribed by the Secretary of State. More than 350 American families have successfully adopted children from the Democratic Republic of the Congo. However, since September 25, 2013, some families have not been able to bring their adoptive children home to the United States because the Democratic Republic of the Congo suspended the issuance of ''exit permits'' for these children. As the permit suspension drags on, however, American families are repeatedly paying visa renewal and related fees, while also continuing to be separated from their adoptive children. The waiver or refund provides ''support and relief to American families seeking to bring their adoptive children from the Democratic Republic of the Congo home to the United States, and would also provide relief to similarly situated adoptive families should barriers arise in other countries in the future.'' *See* 161 Cong. Rec. S2796–01.

The Department is amending current rules regarding immigrant visa fees found in §§ 22.1, 42.71(b) and 42.74 of 22 CFR in order to implement the Act. Thus, the current text of § 42.71(b) will become § 42.71(b)(1) and a new paragraph (b)(2) will set forth the requirements for the waiver or refund of immigrant visa fees for adoptive families who must renew a visa for an adoptive child who, through no fault of the parent(s) or child, is unable to travel to the United States. If an immigrant visa was issued on or after March 27, 2013 and an adoptive child was unable to use that visa as a direct result of extraordinary circumstances beyond the control of the adoptive child or adoptive parent(s), such as denial of an exit permit, the adoptive child, adoptive parent(s), or their representative may request a waiver or refund of the immigrant visa fee relating to a replacement of such visa. All other visa replacement requirements still apply. This rule also adds this exemption to the Schedule of Fees at 22 CFR 22.1 and adds a paragraph at § 42.74(a)(3) on replacement immigrant visas for adoptive children covered by the Act.

In addition to implementing the Act, this rule also updates existing regulations regarding immigrant visa application procedures to more accurately reflect new technologies, application forms, and procedures that have been implemented in recent years. Obsolete language in §§ 42.71, 42.73, and 42.74 regarding discontinued immigrant visa issuance procedures and outdated forms has been deleted. Superfluous language in § 42.71 related to an outdated procedure has been removed. Both §§ 42.73 and 42.74 have been reorganized for readability and § 42.73 has been revised to more closely track the equivalent provision to procure issuance of nonimmigrant visas at § 41.113. In addition, language related to the locations of specific immigrant visa content on the Department's websites has been deleted, as websites and their content are generally subject to frequent reorganization and other changes. More specific guidance is available in Volume 9 of the Foreign Affairs Manual (*see fam.state.gov*) and on *travel.state.gov.*

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule, with an effective date less than 30 days from the date of publication, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The Department is issuing this final rule with an effective date on the date of publication. The APA permits a final rule to become effective fewer than 30 days after the publication if the issuing agency finds good cause. 5 U.S.C. 553(d)(3). The Department finds that good cause exists for an early effective date in this instance because Congress has already mandated that, subject to criteria prescribed by the Secretary of State, the visa fees for certain lawfully adopted children may be waived, or, if paid, may be refunded. This rulemaking implements the Congressional mandate.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553, it is exempt from the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Because this rule is exempt, the Department did not conduct an economic analysis of the impact on small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1532) generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has considered this rule in light of Executive Orders 12866 and 13563 and affirms that this regulation is consistent with the guidance therein. The Office of Management and Budget has designated this rule not significant for purposes of E.O. 12866. The Department does not consider this rule to be an economically significant rulemaking action.

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because it is not significant under E.O. 12866.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Executive Order 12988

The Department has reviewed the regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Paperwork Reduction Act

This rule does not impose any new information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. chapter 35. The Office of Information and Regulatory Affairs previously approved the application for a refund under the Adoptive Family Relief Act (OMB Control No. 1405–0223).

List of Subjects in 22 CFR Parts 22 and 42

Consular services, Fees, Passports and visas.

Accordingly, for the reasons stated in the preamble, 22 CFR parts 22 and 42 are amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

■ 1. The authority citation for part 22 is revised to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632 (1957), 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603 (1966), 3 CFR, 1966–1970 Comp., p. 570.

■ 2. Section 22.1 is amended by adding item 32(e) to read as follows:

§ 22.1 Schedule of fees.

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
* * * * * * *	
Immigrant and Special Visa Services	
* * * * * * *	
32. Immigrant Visa Application Processing Fee (per person).	
* * * * * * *	
(e) Certain applicants for replacement Immigrant Visas as described in 22 CFR 42.74(b)(2)	NO FEE.
* * * * * * *	

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 3. The authority citation for part 42 is revised to read as follows:

Authority: 8 U.S.C. 1104 and 1182; Pub. L. 105–277, 112 Stat. 2681; Pub. L. 108–449, 118 Stat. 3469; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901–14954 (Pub. L. 106–279, 114 Stat. 825); 8 U.S.C. 1101 (Pub. L. 111–287, 124 Stat. 3058); 8 U.S.C. 1154 (Pub. L. 109–162, 119 Stat. 2960); 8 U.S.C. 1201 (Pub. L. 114–70, 129 Stat. 561).

■ 4. Section 42.71 is revised to read as follows:

§ 42.71 Authority to issue visas; visa fees.

(a) *Authority to issue visas.* Consular officers may issue immigrant visas at designated consular offices abroad pursuant to the authority contained in INA 101(a)(16), 221(a), and 224.

(b) *Immigrant visa fees*—(1) *Payment of fees.* The Secretary of State prescribes a fee for the processing of immigrant visa applications. Except as provided in paragraph (b)(2) of this section, an individual registered for immigrant visa processing at a post designated for this purpose by the Deputy Assistant Secretary for Visa Services must pay the fee upon being notified that a visa is expected to become available in the near future, and upon being requested to obtain the supporting documentation needed to apply formally for a visa, in accordance with instructions received with such notification. The fee must be paid before an applicant at a post so designated will receive an appointment to appear and make application before a consular officer. Applicants at a post not yet so designated will pay the fee immediately prior to formal application for a visa. A fee collected for the processing of an immigrant visa application is refundable only if the principal officer of a post or the officer in charge of a consular section determines that the application was not

adjudicated as a result of action by the U.S. Government over which the alien had no control and for which the alien was not responsible, which precluded the applicant from benefitting from the processing, or as provided in paragraph (b)(2).

(2) *Waiver or refund of fees for replacement immigrant visas.* The consular officer shall waive the application processing fee for a replacement immigrant visa or, upon request, refund such a fee where already paid, if the consular officer is satisfied that the alien, the alien's parent(s), or the alien's representative has established that:

(i) The prior immigrant visa was issued on or after March 27, 2013, to an alien who has been lawfully adopted, or who is coming to the United States to be adopted, by a United States citizen;

(ii) The alien was unable to use the original immigrant visa during the period of its validity as a direct result of extraordinary circumstances, including the denial of an exit permit; and

(iii) The inability to use the visa was attributable to factors beyond the control of the adopting parent or parents and of the alien.

■ 5. Section 42.73 is revised to read as follows:

§ 42.73 Procedure in issuing visas.

(a) *Evidence of visa.* An immigrant visa shall be evidenced by a physical visa or by an electronic visa located in the Department's records. The appropriate symbol as prescribed in § 42.11, showing the classification of the alien, shall be entered on the visa.

(b) *Visa format.* A machine-readable visa shall be in the format designated by the Department, and contain, at a minimum, the following data:

(1) Full name of the immigrant;

(2) Visa symbol;

(3) Location of the visa issuing office;

(4) Passport number;

(5) The registration number (A-number) assigned to the immigrant;

(6) Sex;

(7) Date of birth;

(8) Nationality;

(9) Date of issuance;

(10) Date of expiration;

(11) Visa control number;

(12) Any annotations entered to reflect waivers or other information useful to an immigration officer at a port of entry (POE) upon the immigrant's application for admission to the United States;

(13) A digitized photo of the immigrant; and

(14) Machine-readable data that can be processed by an immigration officer at a POE.

(c) *Disposition of supporting documents.* Post shall, wherever possible, return original supporting documents furnished by the alien. Duplicate copies may be retained in the consular system, as required or necessary.

■ 6. Section 42.74 is revised to read as follows:

§ 42.74 Issuance of new, replacement, or duplicate visas.

(a) *New immigrant visa for a special immigrant under INA 101(a)(27)(A) and (B).* The consular officer may issue a new immigrant visa to a qualified alien entitled to status under INA 101(a)(27)(A) or (B), who establishes:

(1)(i) That the original visa has been lost, mutilated or has expired; or

(ii) That the alien will be unable to use it during the period of its validity; provided that:

(A) The alien pays anew the application processing fees prescribed in the Schedule of Fees (22 CFR 22.1); and

(B) The consular officer ascertains whether the original issuing office knows of any reason why a new visa should not be issued.

(2) [Reserved]

(b) *Replacement immigrant visa for an immediate relative or for an alien subject to numerical limitation.* A consular officer may issue a replacement visa under the original number of a qualified alien entitled to status as an immediate relative (INA 201(b)(2)), a family or employment preference immigrant (INA 203(a) or (b)), or a diversity immigrant (INA 203(c)), if—

(1) The alien is unable to use the visa during the period of its validity due to reasons beyond the alien's control;

(2) The visa is issued during the same fiscal year in which the original visa was issued, or in the following year in the case of an immediate relative only, if the original number had been reported as recaptured;

(3) The number has not been returned to the Department as a ''recaptured visa number'' in the case of a preference or diversity immigrant;

(4) The alien pays anew the application processing fees prescribed in the Schedule of Fees; and

(5) The consular officer ascertains whether the original issuing office knows of any reason why a new visa should not be issued.

(c) *Replacement visa for adoptees.* A consular officer may issue a replacement immigrant visa to a qualified alien, if the conditions in paragraphs (a)(1) and (3) of this section are met, and if the consular officer determines—

(1) A prior immigrant visa was issued on or after March 27, 2013, to a child who has been lawfully adopted, or who is coming to the United States to be adopted, by a United States citizen;

(2) The inability to use the visa was attributable to factors beyond the control of the adoptee or the adopting parent(s); and

(3) The application processing fee has been waived pursuant to § 42.71(b)(2) or has been paid anew.

(d) *Duplicate visas issued within the validity period of the original visa.* If the validity of a visa previously issued has not yet terminated and the original visa has been lost or mutilated, a duplicate visa may be issued containing all of the information appearing on the original visa, including the original issuance and expiration dates. The applicant shall execute a new application and provide copies of the supporting documents submitted in support of the original application. The alien must pay anew the application processing fees prescribed in the Schedule of Fees.

Carl C. Risch,

Assistant Secretary of Consular Affairs, U.S. Department of State.

[FR Doc. 2019–14195 Filed 7–22–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR–6167–N–01]

Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs for FY 2020

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of fee.

SUMMARY: This document announces the fee that HUD will collect from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2020.

DATES: *Applicability Date:* October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, U.S.

Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; telephone number 202–402–4563 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202–708–1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015 (division K of Pub. L. 113–235, approved December 16, 2014) (2015 Appropriations Act) provided that ''the Secretary shall collect fees from borrowers . . . to result in a credit subsidy cost of zero for guaranteeing'' Section 108 loans. Identical language was continued or included in the Department's continuing resolutions and appropriations acts authorizing HUD to issue Section 108 loan guarantees during Fiscal Years (FYs) 2016, 2017, 2018, and 2019. The Fiscal Year (FY) 2020 HUD appropriations bill under consideration in the House of Representatives (H.R. 3163) also has identical language regarding the fees and credit subsidy cost for the Section 108 Program.

On November 3, 2015, HUD published a final rule (80 FR 67626) that amended the Section 108 Program regulations at 24 CFR part 570 to establish additional procedures, including procedures for announcing the amount of the fee each fiscal year when HUD is required to offset the credit subsidy costs to the Federal Government to guarantee Section 108 loans. For FYs 2016, 2017, 2018, and 2019, HUD published notifications to set the fees.[1]

II. FY 2020 Fee: 2.00 Percent of the Principal Amount of the Loan

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded for FY 2020 at 2.00 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2020. For this fee announcement, HUD is not changing the underlying assumptions or creating new considerations for borrowers. The calculation of the FY 2020 fee uses a similar calculation model as the FY 2016, FY 2017, FY 2018, and FY 2019 fee notifications, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in 24 CFR 570.712(b), HUD's credit subsidy calculation is based on the amount required to reduce the credit subsidy cost to the Federal Government associated with making a Section 108 loan guarantee to the amount established by applicable appropriation acts. As a result, HUD's credit subsidy cost calculations incorporated assumptions based on: (1) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (2) data on recovery rates on collateral security for comparable municipal debt; (3) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (*e.g.,* third-party borrowers and public entities); and (4) other factors that HUD determined were relevant to this calculation (*e.g.,* assumptions as to loan disbursement and repayment patterns).

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2020 will be 2.00 percent, which will be applied only at the time of loan disbursements. Note that future notifications may provide for a combination of upfront and periodic fees for loan guarantee commitments awarded in future fiscal years but, if so, will provide the public an opportunity to comment if appropriate under 24 CFR 570.712(b)(2).

The expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.[2] This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds as security for HUD's guarantee as provided in 24 CFR 570.705(b). As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source. Despite the program's history of no defaults, Federal credit budgeting principles require that the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate (see 80 FR 67629, November 3, 2015). Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the rate that CDBG funds are used annually for repayment of loan guarantees, HUD's calculation of the credit subsidy cost must acknowledge the possibility of future defaults if those CDBG funds were not available. The fee of 2.00 percent of the principal amount of the loan will offset the expected cost to the Federal Government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds were higher than the default rates on general purpose municipal debt during the period from which the data were taken. These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans.

In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (*e.g.,* retail, commercial, industrial). The 2.00 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on the dollar amount of Section 108 loan guarantee commitments awarded from FY 2013

[1] 80 FR 67634 (November 3, 2015), 81 FR 68297 (October 4, 2016), 82 FR 44518 (September 25, 2017), and 83 FR 50257 (October 5, 2018), respectively.

[2] U.S. Department of Housing and Urban Development, *Study of HUD's Section 108 Loan Guarantee Program,* (prepared by Econometrica, Inc. and The Urban Institute), September 2012, at pages 73–74. This fact has not changed since the issuance of this report.

through FY 2018, HUD expects that 43 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 57 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.00 percent of the principal amount of the guaranteed loan, HUD expects that the amount generated will fully offset the cost to the Federal Government associated with making guarantee commitments awarded in FY 2020. Note that the FY 2020 fee represents a 0.23 percent decrease from the FY 2019 fee of 2.23 percent.

This document establishes a rate that does not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this document is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: July 12, 2019.

David C. Woll, Jr.,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2019–15627 Filed 7–22–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9873]

RIN 1545–BN25

Regulations on the Requirement To Notify the IRS of Intent To Operate as a Section 501(c)(4) Organization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the section 506 requirement, added by the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act), enacted on December 18, 2015, that organizations described in section 501(c)(4) of the Internal Revenue Code (Code) must notify the IRS, no later than 60 days after their establishment, of their intent to operate under section 501(c)(4).

DATES: *Effective Date:* These regulations are effective on July 19, 2019.

Applicability Date: For date of applicability, see § 1.506–1(f).

FOR FURTHER INFORMATION CONTACT: Melinda Williams at (202) 317–6172 or Peter A. Holiat at (202) 317–5800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending 26 CFR parts 1 and 602, to specify the notification requirement of section 501(c)(4) organizations under section 506 of the Code. Section 506, which was added by the PATH Act (Pub. L. 114–113, div. Q), requires an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization.

1. Section 501(c)(4) Organizations

Section 501(a) of the Code generally provides that an organization described in section 501(c) is exempt from federal income tax. Section 501(c)(4) describes certain civic leagues or organizations operated exclusively for the promotion of social welfare and certain local associations of employees. An organization is described in section 501(c)(4) and exempt from tax under section 501(a) if it satisfies the requirements applicable to such status. Subject to certain exceptions, section 6033, in part, requires organizations exempt from taxation under section 501(a) to file annual information returns or notices, as applicable.

Although an organization may apply to the IRS for recognition that the organization qualifies for tax-exempt status under section 501(c)(4), there is no requirement to do so (except as provided in section 6033(j)(2), which requires organizations that lose tax-exempt status for failure to file required annual information returns or notices and want to regain tax-exempt status to apply to obtain reinstatement of such status). Accordingly, a section 501(c)(4) organization that files annual information returns or notices (Form 990, ''Return of Organization Exempt From Income Tax,'' or, if eligible, Form 990–EZ, ''Short Form Return of Organization Exempt From Income Tax,'' or Form 990–N (e-Postcard)), as required under section 6033, need not seek an IRS determination of its qualification for tax-exempt status in order to be described in and operate as a section 501(c)(4) organization.

2. The PATH Act

Section 405(a) of the PATH Act added section 506 to the Code, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization. In addition, section 405(b) and (c) of the PATH Act amended sections 6033(f) and 6652(c), relating to information that section 501(c)(4) organizations may be required to include on their annual information returns and penalties for certain failures by tax-exempt organizations to comply with filing or disclosure requirements, respectively.

Section 506(a) requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Secretary of the Department of the Treasury (Secretary) that it is operating as a section 501(c)(4) organization (the notification). Section 506(b) provides that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. Section 506(c) requires the Secretary to send the organization an acknowledgment of the receipt of its notification within 60 days. Section 506(d) permits the Secretary to extend the 60-day notification period in section 506(a) for reasonable cause. Section 506(e) provides that the Secretary shall impose a reasonable user fee for submission of the notification. Section 506(f) provides that, upon request by an organization, the Secretary may issue a determination with respect to the organization's treatment as a section 501(c)(4) organization and that the organization's request will be treated as an application for exemption from taxation under section 501(a) subject to public inspection under section 6104.[1]

In addition, the PATH Act amended section 6033(f) to require a section 501(c)(4) organization submitting the notification to include with its first annual information return after submitting the notification any additional information prescribed by regulation that supports the organization's treatment as a section 501(c)(4) organization.

The PATH Act also amended section 6652(c) to impose penalties for failure to submit the notification by the date and in the manner prescribed in regulations. In particular, section 6652(c)(4)(A) imposes a penalty on an organization that fails to submit the notification equal to $20 per day for each day such failure continues, up to a maximum of $5,000. Additionally, section 6652(c)(4)(B) imposes a similar penalty on persons who fail to timely submit the notification in response to a written request by the Secretary.

[1] The separate procedure by which an organization may request a determination of tax-exempt status is currently prescribed in Rev. Proc. 2019–5, 2019–1 IRB 230 and will be set forth in successor annual updates of that Revenue Procedure.

Section 405(f)(1) of the PATH Act provides that, in general, the requirement to submit the notification and the related amendments to sections 6033 and 6652 apply to section 501(c)(4) organizations that are established after December 18, 2015, the date of enactment of the PATH Act. Section 405(f)(2) of the PATH Act provides that these provisions also apply to any other section 501(c)(4) organizations that had not, on or before the date of enactment of the PATH Act: (1) Applied for a written determination of recognition as a section 501(c)(4) organization; or (2) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Organizations described in section 405(f)(2) of the PATH Act must submit the notification within 180 days after the date of enactment of the PATH Act.

3. Notice 2016–09

The Treasury Department and the IRS issued Notice 2016–09, 2016–6 IRB 306, to provide interim guidance regarding section 405 of the PATH Act. Specifically, Notice 2016–09 extended the due date for submitting the notification until at least 60 days from the date that implementing regulations are issued in order to provide adequate transition time for organizations to comply with the new requirement to submit the notification. With respect to the separate procedure by which an organization may request a determination from the IRS that it qualifies for tax-exempt status under section 501(c)(4), Notice 2016–09 stated that organizations seeking IRS recognition of section 501(c)(4) status should continue using IRS Form 1024, *Application for Recognition of Exemption Under Section 501(a)*[2] until further guidance was issued. Notice 2016–09 also clarified that the filing of Form 1024 does not relieve an organization of the requirement to submit the notification.

4. Temporary Regulations, Notice of Proposed Rulemaking, and Rev. Proc. 2016–41

On July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45008) temporary regulations under section 506 (TD 9775) that prescribe the manner in which a section 501(c)(4) organization must submit notification under section 506 of its intent to operate under section 501(c)(4). The temporary regulations were effective and applicable on July 8, 2016. Also on July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45088) a notice of proposed rulemaking (REG–101689–16) cross-referencing the temporary regulations and soliciting public comments and requests for a hearing. In conjunction with the issuance of the temporary regulations and the notice of proposed rulemaking, the Department of Treasury and the IRS issued Rev. Proc. 2016–41, 2016–30 IRB 165, which sets forth the procedure for an organization to notify the IRS that it is operating as a section 501(c)(4) organization. Specifically, the preamble to the temporary regulations noted that the revenue procedure provides that the notification must be submitted on Form 8976, ''Notice of Intent to Operate Under Section 501(c)(4)'' (or its successor). Revenue Procedure 2016–41 provides additional information on the procedure for submitting the form and information on requesting relief from a failure to file penalty under section 6652(c)(4), including an example of a situation in which reasonable cause relief would be appropriate.

The temporary regulations, in accordance with section 506(a), generally required a section 501(c)(4) organization to submit the notification to the IRS on Form 8976 no later than 60 days after the date the organization is organized. Because the Form 8976 was not previously available, the temporary regulations provided transitional relief from the notification requirement for organizations that, on or before July 8, 2016, either (1) applied for a written determination of recognition as a section 501(c)(4) organization (using a Form 1024 application); or (2) filed at least one annual return or notice required under section 6033(a)(1) (that is, a Form 990, or if eligible, Form 990–EZ or Form 990–N) (''Form 990 series return or notice''). For organizations that did not qualify for this relief, the temporary regulations also provided a transition rule that extended the due date of the notification to September 6, 2016.

Consistent with section 506(b), the temporary regulations specified that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state or other jurisdiction under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. In addition, the temporary regulations provided that the notification must include such additional information as may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. To ensure that the statutorily required items of information in the notification are correlated accurately within existing IRS systems, Form 8976 requires organizations to provide their annual accounting period.

The temporary regulations also provided that the notification must be accompanied by payment of the user fee authorized by section 506(e), which will be set forth by published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Consistent with section 506(d), the temporary regulations stated that the 60-day period for submitting the notification may be extended for reasonable cause.

Further, the temporary regulations provided that, within 60 days after receipt of the notification, the IRS will send the organization an acknowledgment of such receipt. The temporary regulations specified that this acknowledgment is not a determination with respect to tax-exempt status. Thus, it is not a determination on which an organization may rely or a determination or a failure to make a determination with respect to which the organization may seek declaratory judgment under section 7428. Furthermore, the temporary regulations specified that the process by which an organization may request an IRS determination that it qualifies for section 501(c)(4) exempt status is separate from the procedure for submitting the notification. Section 506(f) provides that an organization subject to the section 506 notification requirement may request a determination to be treated as an organization described in section 501(c)(4). This indicates that the procedure by which an organization may request a determination that it is described in section 501(c)(4) is separate from the procedure for submitting the notification required by section 506. Accordingly, the temporary regulations provided that submission of the notification does not constitute a request for an IRS determination that the organization qualifies for tax-exempt status under section 501(c)(4). Rather, an organization that seeks IRS recognition of tax-exempt status under section 501(c)(4) must separately request a determination in the manner prescribed in Rev. Proc. 2019–5, (2019–1 IRB 230), or its successor.

The temporary regulations also referred to section 6652(c)(4) through (6)

[2] As of 2018, the successor to Form 1024 for section 501(c)(4) organizations is new IRS Form 1024–A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code.*

for information on the applicable penalties for failure to submit the section 506 notification. The temporary regulations specifically referred to section 6652(c)(5), which provides a reasonable cause exception, and section 6652(c)(6), which provides other special rules that generally apply for purposes of section 6652(c) penalties.

The IRS received three comments in response to the notice of proposed rulemaking, two that addressed several issues, which are discussed in detail below, and one that was withdrawn from regulations.gov. The two comments that were not withdrawn are available at *www.regulations.gov* or upon request. No public hearing was requested or held.

The IRS has considered all the issues addressed in the comments. The proposed regulations that cross-referenced the text of the temporary regulations are adopted without substantive change by this Treasury decision, except that this Treasury decision removes the temporary regulations.

Summary of Comments and Explanation of Provisions

This section discusses comments received in response to the notice of proposed rulemaking.

1. Exception for Organizations That Filed a Form 990 Series Return or Notice on or Before July 8, 2016

One commenter recommended that final regulations clarify whether an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, is exempt from the requirement to submit Form 8976. The commenter also suggested that final regulations clarify whether an organization that merely filed an application for extension of time to file Form 990 (Form 8868) on or before July 8, 2016, and not the Form 990 itself, is exempt from the requirement to submit Form 8976.

The PATH Act provides that the requirement to submit the notification does not apply to certain organizations that notified the IRS of their existence on or before December 18, 2015. The Treasury Department and the IRS recognized that additional organizations may have notified the IRS of their existence, after the enactment of the PATH Act but before the availability of the new electronic Form 8976 for submitting the notification, by applying for a written determination of tax-exempt status or filing a required information return or notice. Accordingly, § 1.506–1T(b) provided two special rules for organizations that were organized on or before July 8, 2016. First, the temporary regulations noted that the requirement to submit the notification does not apply to a section 501(c)(4) organization that, on or before December 18, 2015, either (i) applied for a written determination of recognition as a section 501(c)(4) organization; or (ii) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Second, the temporary regulations provided that a section 501(c)(4) organization is not required to submit the notification if, on or before July 8, 2016, the organization either (i) applied for a written determination of recognition as a 501(c)(4) organization; or (ii) filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

Under § 1.6033–2(d)(4), a group return is considered the return of each subsidiary organization included on the return. Consequently, an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, qualified for the special rules in § 1.506–1T(b), and an additional provision in the regulations is not required. However, filing an extension of time to file Form 990 does not provide the IRS with the information required under section 506, including the date of organization. Accordingly, the special rules apply only to a Form 990 series return or notice, not to a request for an extension of time to file. For these reasons, the commenter's suggestions are not incorporated into the final regulations.

2. Treatment of Disregarded Entities

One commenter suggested that the final regulations confirm that a single-member limited liability company (LLC), the sole member of which is a section 501(c)(4) organization and that is disregarded as an entity separate from its owner, is not required to submit Form 8976.

Unless the entity elects otherwise, a domestic eligible entity that has a single owner is disregarded as an entity separate from its owner. See § 301.7701–2(c)(2)(i). For this reason, the instructions to Form 990 provide that an LLC treated as a disregarded entity by its tax-exempt member should not file a separate Form 990; instead the sole member includes activities conducted by the disregarded entity LLC on its Form 990. Similarly, a single-member LLC organization, the sole member of which is a section 501(c)(4) organization, should not submit a separate Form 8976 if it intends to be disregarded as an entity separate from its owner and only the sole member section 501(c)(4) organization should submit a Form 8976. Therefore, any further clarification in the final regulations is not necessary.

3. Exception for Organizations Terminated or Dissolved Before September 6, 2016

One commenter requested that the final regulations include an exception from the requirement to submit Form 8976 for organizations terminated or dissolved before September 6, 2016 (the extended due date for organizations as provided in § 1.506–1T(b)(3)). Although there is no statutory basis for exempting organizations that terminated by a certain date from the requirement to submit Form 8976, the commenter suggested that it would serve little purpose for the organization to notify the IRS that it intended to operate as an organization described in section 501(c)(4) if the organization had already terminated by the time it was required to submit Form 8976. However, such organizations may still be included in the IRS's Exempt Organizations Business Master File, and a filed Form 8976 would serve the purpose of notifying the IRS that it operated as an organization described in section 501(c)(4). Thus, these final regulations do not provide the requested exception.

4. Option To File Application for Exemption in Lieu of Form 8976

One commenter requested that the final regulations provide that an organization should be treated as satisfying the requirement under section 506 if it files Form 1024–A, rather than Form 8976, within the 60-day notice period.

The notification requirement under section 506(a) is separate and distinct from the application process. See section 506(f). In addition, it is not administrable for the IRS to treat Form 1024–A as the notification required under section 506. First, there is no systemic process for the IRS to use the Form 1024–A both as a required notification under section 506 and as an optional application for exempt status. Second, the Service is required under section 506(c) to acknowledge receipt of the notification within 60 days, but review of an application for exempt status may require more time than 60 days (as reflected in the 270-day period under the declaratory judgment procedures in section 7428). Thus, the timeline for processing an application for exempt status does not align with the timeline for processing Form 8976 and it would be impractical for the

Service to maintain two separate processes for responding to Form 1024–A. Therefore, these final regulations do not adopt the suggestion.

5. Group Ruling Organizations

Both commenters inquired whether a subordinate organization included in a group exemption letter is excepted from the requirement to submit Form 8976, or in the alternative, whether the requirement to notify the IRS that a subordinate organization intends to operate under section 501(c)(4) is satisfied if the central organization informs the IRS that it is adding the subordinate organization to the group exemption letter within 60 days from when the subordinate is organized.

A group exemption letter is a ruling or determination letter that is issued to a central organization recognizing, on a group basis, the exemption from federal income tax under section 501(a) of subordinate organizations on whose behalf the central organization has applied for recognition of exemption (see Rev. Proc. 80–27, 1980–1 C.B. 677). Under the group ruling procedures of Rev. Proc. 80–27, the central organization is required to submit annually to the IRS at least 90 days before the close of its annual accounting period any changes to the subordinates in the group ruling, including any subordinates that are no longer included in the group exemption letter and any subordinates that are to be added to the group exemption letter.

As discussed in the Background section, the PATH Act provided that the requirement to submit the notification does not apply to organizations that either filed Form 1024 or filed at least one Form 990 series return or notice on or before December 18, 2015. To reduce the burden on organizations and the IRS, the temporary regulations similarly relieved from the notification requirement any organization that filed Form 1024 or filed a Form 990 series return or notice on or before July 8, 2016, the date that Form 8976 became available. Unlike the transition relief provided in the temporary regulations, there is no similar statutory basis for relieving subordinates included in a group exemption letter from the requirement to submit Form 8976 if they do not meet one of these special rules. For the administrative convenience of taxpayers and the IRS, Rev. Proc. 80–27 relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption. However, this administrative relief from the application requirements does not apply with respect to section 506 because the process for recognition of exemption is separate from the section 506 notification process. See section 506(f).

Similar to annual Form 990 series returns or notices, an annual group exemption update as required by Rev. Proc. 80–27, may replicate the information provided on Form 8976. However, the annual group exemption update also requires different information than the organization initially provides on the Form 8976, such as detailed information on the organization's activities, and the annual group exemption update may be filed significantly later than the 60 days required by section 506 and the Form 8976 depending on when the subordinate joins the group exemption and the due date of the annual group exemption update.

Furthermore, Rev. Proc. 80–27 provides that a central organization must submit information on subordinate organizations to be added to the group exemption letter in an annual update that is due at least 90 days before the end of the central organization's annual accounting period. There is not a procedure for updating the group exemption letter within 60 days of a subordinate organization's date of organization. Allowing such updates to serve in place of the statutory notification required under section 506 would lead to additional administrative burdens on central organizations and the IRS to process changes to group exemption letters multiple times per year rather than once annually.

Accordingly, these final regulations do not adopt the suggestions.

6. Date of Organization

One commenter recommended that final regulations define the ''date of organization'' of an organization that was not initially formed as a section 501(c)(4) organization as the date the change in status to section 501(c)(4) is accomplished (such as the date that the organization's governing document is amended) or in the case of a foreign organization, the date that the foreign organization first commences activities or receives income that would cause it to have a filing requirement under section 6033.

The section 506(a) notification requirement applies no later than 60 days after the organization is established. Section 506(b)(2) further provides that the 506(a) notification shall include the date on which, and the state under the laws of which, the organization was organized. Section 506 did not indicate that any difference was intended between the use of ''established'' in section 506(a) and the reference to ''organized'' in section 506(b). Accordingly, the temporary regulations provided that, except as provided in paragraph (b) of the section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976. See § 1.506–1T(a)(1). Following the longstanding approach on forms used to apply for exemption and for entering data into the IRS system, the temporary regulations in § 1.506–1T(a)(2)(ii) clarify that the date an organization is ''organized'' for section 506 purposes is the date on which it is formed as a legal entity.

It would be administratively difficult if the date of organization reported on Form 8976 were different from the date of legal formation reflected on organizational documents and used for other reporting purposes. For this reason, these final regulations do not adopt the suggestion. However, see section 7 of this Summary of Comments and Explanation of Provisions for discussion of availability of reasonable cause relief.

7. Reasonable Cause Relief

One commenter suggested that the IRS extend automatic reasonable cause relief to: (1) Organizations formed before December 18, 2015, that timely submit a first Form 990 after July 8, 2016; (2) foreign organizations that file Forms 8976 within 60 days after first commencing activities or receiving income that would cause them to have a section 6033 filing requirement; (3) small organizations; and (4) organizations formed as organizations described in another paragraph of section 501(c) that file Form 8976 within 60 days after amending their organizing document to qualify under section 501(c)(4). With regard to small organizations, the commenter recommended that the IRS provide small organizations with automatic reasonable cause relief similar to the relief provided under Rev. Proc. 2014–11 regarding reinstatement of exempt status after automatic revocation under section 6033(j). Alternatively, the commenter recommended that the IRS expand the example of reasonable cause relief provided in Rev. Proc. 2016–41 to include a non-exhaustive list of factors that will weigh in favor of finding ''reasonable cause'' for a failure to timely submit Form 8976.

Section 6652(c)(5) provides that no penalty shall be imposed under this subsection with respect to any failure if

it is shown that such failure is due to reasonable cause. Reasonable cause is determined based on all the facts and circumstances. This reasonable cause provision does not include a provision for automatic reasonable cause.

Furthermore, Rev. Proc. 2014–11 does not provide a helpful model for a procedure to establish automatic reasonable cause relief from section 6652(c) penalties for small organizations because the IRS does not have similar information for Form 8976 as it does for organizations under Rev. Proc. 2014–11 relief. Under section 4.01 of Rev. Proc. 2014–11, the IRS determined that it may retroactively reinstate an organization's exempt status without requiring the organization to show reasonable cause for the failure to file a Form 990 series return or notice for three consecutive years. In this situation, the IRS already has information in its systems and obtains additional information as part of the application for retroactive reinstatement of exempt status that shows that the size of the organization made it eligible to file Form 990–EZ or 990–N for each of the three years. By contrast, the IRS does not have similar information at the time Form 8976 is filed that would enable the IRS to identify the organization as a ''small organization'' eligible for the relief requested by the commenter. Thus, the streamlined procedure described in section 4 of Rev. Proc. 2014–11 is not adaptable to the section 506 notification requirement.

Although the final regulations do not provide for a procedure for automatic reasonable cause relief, organizations (including organizations formed before December 18, 2015, foreign organizations, small organizations, and organizations that originally operated under sections other than section 501(c)(4)) may seek reasonable cause relief by following the instructions in the penalty letter, as provided in Rev. Proc. 2016–41. Rev. Proc. 2016–41 includes an example of a situation in which reasonable cause relief would be appropriate regarding foreign organizations. The reasonable cause example included in Rev. Proc. 2016–41 is just one example of reasonable cause for purposes of section 506 only. Similar to the foreign organization discussed in the example provided in Rev. Proc. 2016–41, an organization (other than a section 501(c)(3) organization) that did not originally intend to operate under section 501(c)(4) is subject to the requirement to submit Form 8976 once it begins to operate as a section 501(c)(4) organization. Such an organization that files a Form 8976 within 60 days of amending its organizing document to be described in section 501(c)(4) would have reasonable cause for not filing a Form 8976 within 60 days of formation. The organization may obtain relief from the penalty described under section 6652(c)(4) by submitting a request in response to the correspondence from the IRS regarding the penalty. Because reasonable cause is determined on a case by case basis, it was not intended that Rev. Proc. 2016–41 would provide all situations where reasonable cause relief may be appropriate.

Accordingly, the final regulations do not adopt these suggestions.

8. Individual Authorized To Submit Form 8976

One commenter requested the final regulations clarify that Form 8976 may be submitted by any individual authorized by the organization to submit the form on its behalf and that the authorized individual may receive certain communications regarding Form 8976, including the acknowledgment required by section 506(c). The commenter further requested that guidance clarify that the Form 8976 does not need to be submitted by an officer or a person holding a power of attorney on file with the IRS. Lastly, the commenter recommended that a central organization may submit Form 8976 on behalf of its subordinate organization.

The temporary regulations did not address authorization to submit Form 8976 on behalf of an organization. However, Rev. Proc. 2016–41, section 4.01(2) provides that the individual submitting Form 8976 on behalf of a section 501(c)(4) organization must establish an account at *www.irs.gov* to submit Form 8976 electronically. The IRS may then send electronically to the account of the individual submitting the Form 8976 on behalf of the organization (1) the confirmation of transmittal of Form 8976 described in section 6.02 of Rev. Proc. 2016–41, (2) the notice of non-acceptance for processing of Form 8976 described in section 5 of Rev. Proc. 2016–41, and/or (3) the acknowledgement of receipt of Form 8976 described in section 6.01 of Rev. Proc. 2016–41. Accordingly, just like any communications regarding a taxpayer's filing obligations, an organization should ensure that the individual submitting the Form 8976 is not only authorized by the organization to submit the Form 8976 on its behalf, but also to receive communications from the IRS relating to the organization's submission. This would also apply to a subordinate organization included in a group exemption letter, as the organization should ensure that any individual (including an individual who represents the central organization) is authorized by the subordinate organization to submit Form 8976 on behalf of the subordinate organization and to receive communications from the IRS. No additional clarification within the final regulations is needed; thus, the final regulations do not adopt these suggestions.

9. Correction to Form 8976

Lastly, one commenter requested clarification in the final regulations that there is no obligation to update Form 8976 if any of the information on the Form 8976 was originally correct, but later changes. The temporary regulations did not address corrections to Form 8976 as this issue is more appropriately addressed, if necessary, in non-regulatory guidance or the instructions to the form.

The Treasury Department and the IRS note, however, that Rev. Proc. 2016–41, section 4.04 provides that a Form 8976 submitted by an organization is complete if it provides accurate responses for each required line item of the form, consistent with the form instructions, and section 5.03 provides that if an organization attempts to submit more than one Form 8976, only the first Form 8976 will be accepted for processing. Thus, Rev. Proc. 2016–41 indicates that there is no obligation to submit a new Form 8976 if the organization's information changes, or if the Form 8976 was accepted for processing. Rather, any updated information should be reported on the organization's annual information return or notice, as provided in the instructions to that form. Therefore, the final regulations do not adopt this suggestion.

Effective/Applicability Dates

The temporary regulations have applied since July 8, 2016, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, for clarity and continuity in application, the final regulations apply on and after July 8, 2016.

Special Analyses

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

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget under control number 1545–2268 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The collection of information is in § 1.506–1(a)(2). The likely respondents are organizations described in section 501(c)(4) of the Code (section 501(c)(4) organizations). The collection of information in § 1.506–1(a)(2) flows from section 506(b) of the Code, which requires a section 501(c)(4) organization to submit a notification including the following items of information: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. The final regulations provide that the notification must be submitted on Form 8976, ''Notice of Intent to Operate Under Section 501(c)(4),'' or its successor. In addition to the specific information required by statute, the final regulations require that an organization provide any additional information that may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Form 8976 requires an organization to provide its annual accounting period to ensure that the statutorily-required items of information in the notification are correlated accurately within existing IRS systems.

For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of information with respect to section 506(b), will be reflected in the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545–2161, published in the **Federal Register** on 10/21/2016). The IRS Form 8976 Paperwork Reduction Act Submission estimated for 2016 the total number of filers at 2,500, with an estimated average time per filer of 45 minutes to complete Form 8976, and with an estimated total annual burden of 1,875 hours. A valuation of the burden hours leads to a Paperwork Reduction Act estimate of the reporting costs to taxpayers of $85,031. This is a one-time paperwork burden, as the Treasury Department and the IRS anticipate that substantially all paperwork burdens related to these final regulations will only be incurred by the taxpayer in the year of formation. All organizations operating under section 501(c)(4), regardless of their size, are required to notify the Commissioner utilizing Form 8976.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Regulatory Flexibility Act

It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. This certification is based on the fact that the registration and filing fee for Form 8976 is $50.00 and the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545–2161) estimates the time to complete Form 8976 at 45 minutes, which should not constitute an economic burden upon small organizations. Pursuant to section 7805(f), the temporary and proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business and no comments were received.

Drafting Information

The principal authors of these regulations are Peter A. Holiat and Melinda Williams of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

Statement of Availability of IRS Documents

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

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par 2.** Section 1.506–1 is added to read as follows:

§ 1.506–1 Organizations required to notify Commissioner of intent to operate under section 501(c)(4).

(a) *Notification requirement*—(1) *In general.* Except as provided in paragraph (b) of this section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976, ''Notice of Intent to Operate Under Section 501(c)(4),'' or its successor (the notification). The notification must be submitted in accordance with the form and its instructions. The notification must include the information specified in paragraph (a)(2) of this section and be accompanied by payment of the user fee described in paragraph (a)(3) of this section. Additional guidance on the procedure for submitting the notification may be provided in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(2) *Contents of the notification.* The notification must include the following information:

(i) The name, address, and taxpayer identification number of the organization.

(ii) The date on which, and the state or other jurisdiction under the laws of which, the organization was organized (that is, formed as a legal entity). For an organization formed outside the United States, the jurisdiction is the foreign country under the laws of which it is organized.

(iii) A statement of the purpose of the organization.

(iv) Such additional information as may be specified in published guidance in the Internal Revenue Bulletin (see

§ 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(3) *User fee.* The notification must be accompanied by payment of the user fee set forth by published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(4) *Extension for reasonable cause.* The Commissioner may, for reasonable cause, extend the 60-day period for submitting the notification.

(b) *Special rules for organizations that were organized on or before July 8, 2016*—(1) *Notification requirement does not apply to organizations that filed with the IRS on or before December 18, 2015.* The requirement to submit the notification does not apply to any organization described in section 501(c)(4) that, on or before December 18, 2015, either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(2) *Transition relief available for organizations that filed with the IRS on or before July 8, 2016.* An organization described in section 501(c)(4) is not required to submit the notification if, on or before July 8, 2016, the organization either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(3) *Extended due date.* An organization that was organized on or before July 8, 2016, and is not described in paragraph (b)(1) or (2) of this section, satisfies the requirement to submit the notification if the notification was submitted on or before September 6, 2016.

(c) *Failure to submit the notification.* For information on the penalties for failure to submit the notification, the applicable reasonable cause exception, and applicable special rules, see section 6652(c)(4) through (6).

(d) *Acknowledgment of receipt.* Within 60 days after receipt of the notification, the Commissioner will send the organization an acknowledgment of such receipt. This acknowledgment is not a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). See paragraph (e) of this section.

(e) *Separate procedure by which an organization may request an IRS determination that it qualifies for section 501(c)(4) tax-exempt status.* Submission of the notification does not constitute a request by an organization for a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). An organization seeking IRS recognition of its tax-exempt status must separately request such a determination in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions.

(f) *Applicability date.* This section applies on and after July 8, 2016.

§ 1.506–1T [Removed]

■ **Par. 3.** Section 1.506–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 4.** The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 5.** In § 602.101, paragraph (b) is amended by adding an entry in numerical order for § 1.506–1 and removing the entry for § 1.506–1T to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.506–1	1545–2268
* * *	* *

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: July 9, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019–15614 Filed 7–19–19; 4:15 pm]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 566, 590, and 594

Global Terrorism Sanctions Regulations; Transnational Criminal Organizations Sanctions Regulations; and Hizballah Financial Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Global Terrorism Sanctions Regulations (GTSR), and the Transnational Criminal Organizations Sanctions Regulations (TCOSR), to implement and reference the Hizballah International Financing Prevention Amendments Act of 2018 (HIFPAA). OFAC is also amending the GTSR to implement and reference the Sanctioning the Use of Civilians as Defenseless Shields Act of 2018 (Shields Act). OFAC is further amending the TCOSR to implement Executive Order 13863 of March 15, 2019 (''Taking Additional Steps to Address the National Emergency with respect to Significant Transnational Criminal Organizations''). Finally, OFAC is amending the Hizballah Financial Sanctions Regulations (HFSR), to make certain technical and conforming changes and to update certain provisions.

DATES: *Effective:* July 23, 2019.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

Implementing HIFPAA and the Shields Act in the GTSR and Implementing HIFPAA in the TCOSR

HIFPAA. On October 25, 2018, the President signed HIFPAA into law. HIFPAA amends the Hizballah International Financing Prevention Act of 2015 (HIFPA), Public Law 114–102, to impose certain specified sanctions on: (1) Foreign persons that knowingly assist in or provide significant support for fundraising or recruitment activities for Hizballah (section 101(a) of HIFPAA); (2) agencies of foreign states that knowingly provide certain significant support to Hizballah (section 103(a) of HIFPAA); and (3) affiliated networks of Hizballah (section 201(b) of HIFPAA).

More specifically, section 101(a) of HIFPAA provides for blocking sanctions on any foreign person that the President determines knowingly provides significant financial, material, or technological support for or to: (1) Bayt al-Mal, Jihad al-Bina, the Islamic Resistance Support Association, the Foreign Relations Department of Hizballah, the External Security Organization of Hizballah, or any successor or affiliate thereof as designated by the President; (2) al-Manar TV, al Nour Radio, or the Lebanese Media Group, or any successor or affiliate thereof as designated by the President; (3) a foreign person determined by the President to be engaged in fundraising or recruitment activities for Hizballah; or (4) a foreign person owned or controlled by a person described in paragraph (1), (2), or (3). Section 103(a) of HIFPAA provides for blocking sanctions on any agency or instrumentality of a foreign state that the President determines has, on or after October 25, 2018 (the date of the enactment of HIFPAA), knowingly: (A) Conducted significant joint combat operations with, or significantly supported combat operations of, Hizballah; or (B) provided significant financial support for or to, or significant arms or related materiel to, Hizballah.

Section 201(b) of HIFPAA provides for specified sanctions with respect to affiliated networks of Hizballah, including, as appropriate, by reason of significant transnational criminal activities engaged in by such networks. Section 201(b) requires the President to impose on such networks sanctions applicable with respect to Hizballah pursuant to any provision of law, including Executive Order (E.O.) 13581 (relating to blocking property of transnational organizations).

Section 301 of HIFPAA provides authority for the President to promulgate regulations ''as necessary for the implementation of this Act and the amendments made by this Act.'' Pursuant to the Presidential Memorandum of May 24, 2019, ''Delegation of Function under the Hizballah International Financing Prevention Act of 2015, as Amended'' (84 FR 24975, May 30, 2019), the President delegated the function vested in the President by section 102(d) of HIFPA, as amended by HIFPAA, to the Secretary of the Treasury, in consultation with the Secretary of State. Pursuant to the Presidential Memorandum of January 15, 2019, ''Delegation of Functions and Authorities under the Hizballah International Financing Prevention Act of 2015, as Amended, and the Hizballah International Financing Prevention Amendments Act of 2018'' (84 FR 3963, February 13, 2019), the President delegated, among other things, the functions and authorities set forth in sections 101(a), 101(b)(1), 102(a), 102(c), 102(d), 103(a), 201(a–b), 204(b), and 302 of HIFPA, as amended by HIFPAA, as well as section 301 of HIFPAA, to the Secretary of the Treasury, in coordination with the State Department and other relevant departments and agencies.

Section 302(a) of HIFPAA provides for exemptions from the prohibitions in sections 101, 102, 103 and 201 for certain activities, including authorized U.S. intelligence, law enforcement or national security activities as well as transactions necessary for the U.S. to comply with United Nations obligations. These exemptions are being added to the GTSR in § 594.207.

Shields Act. On December 21, 2018, the President signed the Shields Act into law. The Shields Act states that it shall be U.S. policy to condemn the use of innocent civilians as human shields. Section 3(b) of the Shields Act provides that the President shall submit to Congress within one year, and annually thereafter until the expiration of the Shields Act on December 31, 2023, a list of: (1) Each foreign person that the President determines on or after December 21, 2018, is (A) a member of Hizballah or HAMAS or is knowingly acting on behalf of Hizballah or HAMAS and (B) knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack; and (2) each foreign person or agency or instrumentality of a foreign state, that the President determines on or after December 21, 2018, knowingly and materially directs or supports any such act by such a person. Sections 3(a)(1) and (d) require the President, with certain exceptions, to exercise powers granted by the International Emergency Economic Powers Act (IEEPA) to the extent necessary to block, and prohibit all transactions in, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of a listed person.

Section 3(c) of the Shields Act urges the President to submit to Congress within one year, and annually thereafter until the expiration of the Shields Act on December 31, 2023, a list of each foreign person that the President determines on or after December 21, 2018, knowingly directs the use of civilians protected by the law of war to shield military objectives from attack, excluding those foreign persons included in the most recent mandatory sanctions list under Section 3(b). Sections 3(a)(2) and (d) provide that the President may, with certain exceptions, exercise powers granted by IEEPA to the extent necessary to block, and prohibit all transactions in, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of a listed person.

Section 3(h)(2) of the Shields Act provides authority for the President to promulgate regulations ''as may be necessary to implement this section.'' Pursuant to the ''Delegation of Functions and Authorities under the Sanctioning the Use of Civilians as Defenseless Shields Act,'' May 24, 2019, and Public Law 115–348, the President delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by sections 3(a), 3(b), 3(c), 3(d)(1), and 3(h) of the Shields Act.

Regulatory Amendments. The GTSR, 31 CFR part 594, implements E.O. 13224 of September 23, 2001 (''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism''), in which the President declared a national emergency generally with respect to ''grave acts of terrorism and threats of terrorism committed by foreign terrorists.''

Subpart B of the GTSR implements the prohibitions contained in E.O. 13224. *See* § 594.201. This rule amends § 594.201 of the GTSR to implement the additional sanctions prohibitions of HIFPAA and the Shields Act. Persons designated by or under the authority of the Secretary of the Treasury, in

consultation with the Secretary of State, pursuant to these amendments or otherwise subject to blocking pursuant to the GTSR are referred to throughout the GTSR as ''persons whose property and interests in property are blocked pursuant to § 594.201(a).'' The names of persons designated pursuant to the HIFPAA, the Shields Act, or E.O. 13224 are published on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), which is accessible via OFAC's website. Those names also are published in the **Federal Register** as they are added to the SDN List.

In addition, in subpart C, which defines key terms used throughout the GTSR, OFAC is adding several definitions. Specifically, OFAC is adding definitions for *agency or instrumentality of a foreign state* in new § 594.318, *HAMAS* in new § 594.319, *Hizballah* in new § 594.320, *knowingly* in new § 594.321, and *arms or related material* in new § 594.322.

As noted above, section 201(b) of HIFPAA also provides for blocking sanctions with respect to affiliated networks of Hizballah, including, as appropriate, by reason of significant transnational criminal activities engaged in by such networks. The TCOSR, 31 CFR part 590, implement E.O. 13581 of July 24, 2011 (''Blocking Property of Transnational Criminal Organizations''), in which the President declared a national emergency generally with respect to the activities of ''significant transnational criminal organizations.'' Accordingly, OFAC is amending the TCOSR to reference the authorities from section 201(b) of HIFPAA.

The President, through the issuance of E.O. 13224 and E.O. 13581, has put in place prohibitions and designation criteria that encompass all of the prohibitions and designation criteria contained in the provisions of HIFPAA and the Shields Act discussed above and has thereby already taken the steps necessary to implement those provisions. OFAC is issuing these amendments to the GTSR and the TCOSR to reflect the various provisions of HIFPAA and the Shields Act in the GTSR and the TCOSR.

Implementing E.O. 13863

On March 15, 2019, the President, invoking the authority of, *inter alia,* IEEPA, issued E.O.13863 (84 FR 10255, March 15, 2019) (E.O. 13863). In E.O. 13863, the President took additional steps to deal with the national emergency with respect to significant transnational criminal organizations declared in E.O. 13581, in view of the evolution of these organizations as well as the increasing sophistication of their activities, which threaten international political and economic systems and pose a direct threat to the safety and welfare of the United States and its citizens, and given the ability of these organizations to derive revenue through widespread illegal conduct, including acts of violence and abuse that exhibit a wanton disregard for human life as well as many other crimes enriching and empowering these organizations. E.O. 13863 amends subsection (e) of section 3 of E.O. 13581 to define the term ''significant transnational criminal organization'' to mean ''a group of persons that includes one or more foreign persons; that engages in or facilitates an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states, or one foreign state and the United States; and that threatens the national security, foreign policy, or economy of the United States.''

OFAC is amending the TCOSR to implement E.O. 13863, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13581. Specifically, OFAC is amending § 590.201 of the TCOSR to reference E.O. 13863 and is incorporating the amended definition of *significant transnational criminal organization* into the TCOSR by adding new § 590.315. The TCOSR were published in abbreviated form for the purpose of providing immediate guidance to the public. A copy of E.O. 13581 appears in appendix A and a copy of E.O. 13863 is being added in a new appendix B to part 590. OFAC intends to supplement part 590 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy. The appendices to part 590 will be removed at that time.

Technical Amendments to the Hizballah Financial Sanctions Regulations (HFSR)

On April 15, 2016, OFAC published the HFSR (81 FR 22185, April 15, 2016) to implement the requirements of the HIFPA. This rule amends the HFSR to make certain technical and conforming changes and to update certain provisions.

First, in § 566.309, this rule corrects two internal references to § 566.304 to read: ''covered financial institution, as defined in § 566.303.'' Second, in subpart G of the HFSR, which describes the civil and criminal penalties applicable to violations of the HFSR, OFAC is adding new § 566.705 regarding the procedures governing the potential issuance of a Finding of Violation and makes conforming changes by removing other references to a Finding of Violation in §§ 566.702 and 566.703. Third, OFAC is revising § 501.901 to reflect approval by the Office of Management and Budget (OMB) of the information collection set forth in § 566.504(b).

Finally, section 302(a) of HIFPAA provides for exemptions from the prohibitions in sections 101, 102, 103, and 201 for certain activities, including authorized U.S. intelligence, law enforcement or national security activities as well as transactions necessary for the U.S. to comply with United Nations obligations. These exemptions are being added to the HFSR in § 566.203.

Public Participation

Because the amendments of the GTSR, the TCOSR, and the HFSR involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information in the TCOSR, the GTSR, and § 566.601 of the HFSR are made pursuant to the Reporting, Procedures and Penalties Regulations (RPPR), 31 CFR part 501, and have been approved by OMB under control number 1505–0164. The collection of information in § 566.504(b) of the HFSR has been approved by OMB under control number 1505–0255.

With respect to all of the foregoing collections of information, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 566

Administrative practice and procedure, Banks, banking, Brokers, Foreign trade, Hizballah, Investments, Loans, Money laundering, Penalties, Securities, Services.

31 CFR Part 590

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Foreign financial institutions, Foreign trade, Loans, Money laundering, Penalties, Reporting

and recordkeeping requirements, Services.

31 CFR Part 594

Administrative practice and procedure, Banks, banking, Blocking of assets, Penalties, Reporting and recordkeeping requirements, Sanctions, Terrorism.

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR parts 566, 590 and 594 as follows:

PART 566—HIZBALLAH FINANCIAL SANCTIONS REGULATIONS

■ 1. Revise the authority citation for part 566 to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–102, 129 Stat. 2205 (50 U.S.C. 1701 note); Pub. L. 115–272, 132 Stat. 4144 (50 U.S.C. 1701 note).

Subpart B—Prohibitions

■ 2. Add § 566.203 to read as follows:

§ 566.203 Exempt transactions.

Sanctions will not be imposed under § 566.201 with respect to:

(a) Any authorized intelligence, law enforcement, or national security activities of the United States.

(b) Any transaction necessary to comply with United States obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United States, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or any other United States international agreement.

Subpart C—General Definitions

■ 3. Revise § 566.309(a)(2) and (3) to read as follows:

§ 566.309 Foreign financial institution.

(a) * * *

(2) Any branch or office located outside the United States of a covered financial institution, as defined in § 566.303;

(3) Any other person organized under foreign law (other than a branch or office of such person in the United States) that, if it were located in the United States, would be a covered financial institution, as defined in § 566.303; and

* * * * *

■ 4. Revise the heading for subpart G to read as follows:

Subpart G—Penalties and Finding of Violation

■ 5. Revise § 566.702(a) and (d) to read as follows:

§ 566.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

* * * * *

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

* * * * *

■ 6. Revise § 566.703 to read as follows:

§ 566.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

■ 7. Add § 566.705 to read as follows:

§ 566.705 Finding of Violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706);

(ii) Considers it important to document the occurrence of a violation; and,

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; Default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(i) *Computation of time for response.* A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that the alleged violation did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501 of this chapter. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

Note 1 to paragraph (c)(2): A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart I—Paperwork Reduction Act

■ 8. Revise § 566.901 to read as follows:

§ 566.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. The information collection in § 566.504(b) has been approved by OMB and assigned control number 1505–0255. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 590—TRANSNATIONAL CRIMINAL ORGANIZATIONS SANCTIONS REGULATIONS

■ 9. Revise the authority citation for part 590 to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 115–272, 132 Stat. 4144 (50 U.S.C. 1701 note); E.O. 13581, 76 FR 44757, 3 CFR, 2011 Comp., p. 260; E.O. 13863, 84 FR 10255, March 15, 2019.

Subpart B—Prohibitions

§ 590.201 [Amended]

■ 10. Amend § 590.201 by adding the text ‘‘, as amended by Executive Order 13863 of March 15, 2019 (84 FR 10255, March 15, 2019),’’ before the text ‘‘are also prohibited.’’

Subpart C—Definitions

■ 11. Add § 590.315 to read as follows:

§ 590.315 Significant transnational criminal organization.

The term *significant transnational criminal organization* means a group of persons that includes one or more foreign persons; that engages in or facilitates an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states, or one foreign state and the United States; and that threatens the national security, foreign policy, or economy of the United States.

■ 12. Add § 590.316 to read as follows:

§ 590.316 Hizballah.

The term *Hizballah* means:

(a) The entity known as Hizballah and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

(b) Any person:

(1) The property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*); and

(2) Who is identified on the Specially Designated Nationals and Blocked Persons List (SDN List) maintained by OFAC as an agent, instrumentality, or affiliate of Hizballah.

■ 13. Add appendix B to part 590 to read as follows:

Appendix B to Part 590—Executive Order 13863

Executive Order 13863 of March 15, 2019

Taking Additional Steps To Address the National Emergency With Respect to Significant Transnational Criminal Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code;

I, DONALD J. TRUMP, President of the United States of America, in order to take additional steps to deal with the national emergency with respect to significant transnational criminal organizations declared in Executive Order 13581 of July 24, 2011 (Blocking Property of Transnational Criminal Organizations), in view of the evolution of these organizations as well as the increasing sophistication of their activities, which threaten international political and economic systems and pose a direct threat to the safety and welfare of the United States and its citizens, and given the ability of these organizations to derive revenue through widespread illegal conduct, including acts of violence and abuse that exhibit a wanton disregard for human life as well as many other crimes enriching and empowering these organizations, hereby order:

Section 1. Subsection (e) of section 3 of Executive Order 13581 is hereby amended to read as follows:

‘‘(e) the term ‘‘significant transnational criminal organization’’ means a group of persons that includes one or more foreign persons; that engages in or facilitates an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states, or one foreign state and the United States; and that threatens the national security, foreign policy, or economy of the United States.’’

Sec. 2. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP
THE WHITE HOUSE
March 15, 2019

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 14. Revise the authority citation for part 594 to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 115–44, 131 Stat 886 (22 U.S.C. 9401 *et seq.*); E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13268, 67 FR 44751, 3 CFR 2002 Comp., p. 240; E.O. 13284, 68 FR 4075, 3 CFR, 2003 Comp., p. 161; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159; Pub. L. 115–348, 132 Stat. 5055 (50 U.S.C. 1701 note); Pub. L. 115–272, 132 Stat. 4144 (50 U.S.C. 1701 note).

Subpart B—Prohibitions

■ 15. Amend § 594.201 by:

■ a. Revising paragraph (a)(4)(ii).

■ b. In paragraph (a)(5), removing the period at the end of the paragraph and adding a semicolon in its place.

■ c. Adding paragraphs (a)(6) through (11) and (c).

The revision and additions read as follows:

§ 594.201 Prohibited transactions involving blocked property.

(a) * * *

(4) * * *

(ii) To be otherwise associated with any person whose property or interests in property are blocked pursuant to paragraph (a)(1), (2), or (3) or (a)(4)(i) of this section;

* * * * *

(6) Foreign persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to knowingly provide significant financial, material, or technological support for or to:

(i) Bayt al-Mal, Jihad al-Bina, the Islamic Resistance Support Association, the Foreign Relations Department of Hizballah, the External Security Organization of Hizballah, or any successor or affiliate thereof as designated by the Secretary of the Treasury, in consultation with the Secretary of State;

(ii) Al-Manar TV, al Nour Radio, or the Lebanese Media Group, or any successor or affiliate thereof as designated by the Secretary of the Treasury, in consultation with the Secretary of State;

(iii) A foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be engaged in fundraising or recruitment activities for Hizballah; or

(iv) A foreign person owned or controlled by a person described in paragraph (a)(6)(i), (ii), or (iii) of this section;

(7) Agencies or instrumentalities of a foreign state determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have, on or after October 25, 2018, knowingly:

(i) Conducted significant joint combat operations with, or significantly supported combat operations of, Hizballah; or

(ii) Provided significant financial support for or to, or significant arms or related materiel to, Hizballah;

(8) Foreign persons included on a list provided to Congress under paragraph (b) of Section 3 of the Sanctioning the Use of Civilians as Defenseless Shields Act of 2018 (Pub. L. 115–348) (Shields Act) because they have been determined by the Secretary of the Treasury, in consultation with the Secretary of State, on or after December 21, 2018:

(i) To be a member of Hizballah or to be knowingly acting on behalf of Hizballah; and

(ii) To knowingly order, control, or otherwise direct the use of civilians protected as such by the law of war to shield military objectives from attack;

(9) Foreign persons included on a list provided to Congress under paragraph (b) of Section 3 of the Shields Act because they have been determined by the Secretary of the Treasury, in consultation with the Secretary of State, on or after December 21, 2018:

(i) To be a member of HAMAS or to be knowingly acting on behalf of Hamas; and

(ii) To knowingly order, control, or otherwise direct the use of civilians protected as such by the law of war to shield military objectives from attack;

(10) Foreign persons, agencies, or instrumentalities of a foreign state, included on a list provided to Congress under paragraph (b) of Section 3 of the Shields Act because they have been determined by the Secretary of the Treasury, in consultation with the Secretary of State, on or after December 21, 2018, to knowingly and materially support, order, control, direct, or otherwise engage in:

(i) Any act described in paragraph (a)(8)(ii) of this section by a person described in paragraph (a)(8) of this section; or

(ii) Any act described in paragraph (a)(9)(ii) of this section by a person described in paragraph (a)(9) of this section; or

(11) Foreign persons included on a list provided to Congress under paragraph (c) of Section 3 of the Shields Act because they have been determined by the Secretary of the Treasury, in consultation with the Secretary of State, on or after December 21, 2018, to knowingly order, control, or otherwise direct the use of civilians protected as such by the law of war to shield military objectives from attack, and with respect to which the Secretary of the Treasury, in consultation with the Secretary of State, has exercised the authority to block all property and interests in property.

* * * * *

(c) The prohibitions in paragraph (a) of this section do not apply to the importation of any goods that would otherwise be prohibited solely due to the interest of a person whose property and interests in property are blocked solely pursuant to paragraph (a)(6) or (7) of this section. For the purposes of this paragraph (c), the term ''goods'' means any articles, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data.

* * * * *

■ 16. Add § 594.207 to read as follows:

§ 594.207 Exempt transactions.

The prohibitions contained in § 594.201(a)(6) and (7) do not apply to the following activities:

(a) Any authorized intelligence, law enforcement, or national security activities of the United States; or

(b) Any transaction necessary to comply with United States obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United States, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or any other United States international agreement.

Subpart C—Definitions

■ 17. Add § 594.318 to read as follows:

§ 594.318 Agency or instrumentality of a foreign state.

The term *agency or instrumentality of a foreign state* has the meaning given that term in section 1603(b) of title 28, United States Code.

■ 18. Add § 594.319 to read as follows:

§ 594.319 HAMAS.

The term *HAMAS* means:

(a) The entity known as HAMAS and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

(b) Any person:

(1) The property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*); and

(2) Who is identified on the Specially Designated Nationals and Blocked Persons List (SDN List) maintained by OFAC as an agent, instrumentality, or affiliate of HAMAS.

Note 1 to § 594.319: The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. Persons on the SDN List based on conduct described in § 594.201(a)(9), (10), (11) are identified by a special reference at the end of their entries on the SDN List—''[SHIELD–ACT]''—in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, a person whose property and interests in property are blocked pursuant to the Global Terrorism Sanctions Regulations, § 594.201(a)(9), (10), or (11), and identified on the SDN List will have the program tag ''[SDGT]'' and ''[SHIELD–ACT].''

■ 19. Add § 594.320 to read as follows:

§ 594.320 Hizballah.

The term *Hizballah* means:

(a) The entity known as Hizballah and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

(b) Any person:

(1) The property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*); and

(2) Who is identified on the Specially Designated Nationals and Blocked Persons List (SDN List) maintained by OFAC as an agent, instrumentality, or affiliate of Hizballah.

Note 1 to § 594.320: The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. Persons on the SDN List based on conduct described in § 594.201(a)(8), (10), and (11) are identified by a special reference at the end of their entries on the SDN List—''[SHIELD–ACT]''—in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, a person whose property and interests in property are blocked pursuant to the Global Terrorism Sanctions Regulations, § 594.201(a)(8), (10), or (11), and identified on the SDN List will have the program tag ''[SDGT]'' and ''[SHIELD–ACT]''. Persons on the SDN List based on conduct described in § 594.201(a)(6) and (7) are identified by a special reference at the end of their entries on the SDN List—''[HIFPAA]''—in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, a person whose property and interests in property are blocked pursuant to the Global Terrorism Sanctions Regulations, § 594.201(a)(6) or (7), and identified on the SDN List will have the program tag ''[SDGT]'' and ''[HIFPAA]''.

■ 20. Add § 594.321 to read as follows:

§ 594.321 Knowingly.

The term *knowingly,* with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

■ 21. Add § 594.322 to read as follows:

§ 594.322 Arms or related materiel.

The term *arms or related materiel* means:

(a) Nuclear, biological, chemical, or radiological weapons or materials or components of such weapons;

(b) Ballistic or cruise missile weapons or materials or components of such weapons; or

(c) Destabilizing numbers and types of advanced conventional weapons.

Dated: July 18, 2019.

Bradley Smith,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2019–15600 Filed 7–22–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0597]

RIN 1625–AA00

Safety Zone; NAACP Fireworks, Detroit River, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 200-yard radius of a portion of the Detroit River, Detroit, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the NAACP Fireworks.

DATES: This temporary final rule is effective from 9:30 p.m. on July 23, 2019, through 11 p.m. on July 24, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0597 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 temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313–568–9564, or email *Tracy.M.Girard@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. Furthermore, immediate action is needed to allow the Coast Guard to enhance the safety of this event.

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 inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Detroit (COTP) has determined that potential hazard associated with fireworks from 9:30 p.m. through 11 p.m. on July 23, 2019 will be a safety concern to anyone within a 200-yard radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 p.m. through 11 p.m. on July 23, 2019. The safety zone will encompass all U.S. navigable waters of the Detroit River, Detroit, MI, within a 200-yard radius of position 42°19.529′ N, 083°02.436′ W (NAD 83). No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Detroit River from 9:30 p.m. through 11 p.m. on July 23, 2019. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one and a half hours on two nights that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L[60](a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A

Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0597 to read as follows:

§ 165.T09–0597 Safety Zone; NAACP Fireworks, Detroit, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of the Detroit River, Detroit, MI, within a 200-yard radius of position 42°19.529′ N, 083°02.436′ W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) will be enforced from 9:30 p.m. until 11 p.m. on July 23, 2019. In the case of inclement weather on July 23, 2019, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 24, 2019.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his or her on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his or her on-scene representative.

(3) The ''on-scene representative'' of COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his or her behalf.

(4) Vessel operators shall contact the COTP or his or her on-scene representative to obtain permission to enter or operate within the safety zone. The COTP or his or her on-scene representative may be contacted via VHF Channel 16 or at (313) 568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or his or her on-scene representative.

Dated: July 17, 2019.

Jeffrey W. Novak,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2019–15624 Filed 7–22–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

[EPA–HQ–ORD–2018–0280; FRL–9996–48–ORD]

RIN 2080–AA13

Protection of Human Research Subjects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 19, 2017, the Environmental Protection Agency (EPA), acting in concert with other agencies, promulgated revisions to the ''Common Rule.'' EPA's codification of these revisions is in 40 CFR part 26, subpart A. These revisions went into effect on July 19, 2018, and compliance with the new provisions was required beginning on January 21, 2019. In addition to the core protections found in the Common Rule, EPA has promulgated regulations that are specific to research involving human subjects conducted or sponsored by EPA or submitted to EPA for regulatory purposes. The revisions to the Common Rule create discrepancies within some of these EPA-specific regulations. This final rule harmonizes the EPA-specific regulations with revisions to the Common Rule in order to resolve those discrepancies.

DATES: This rule is effective on September 23, 2019.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–ORD–2018–0280, is available at *https://www.regulations.gov* or at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in the EPA WJC West Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20004. 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: Tom Sinks, Director, Office of Science Advisor, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460 (Mail Code: 8105R); telephone number: 202–564–3099; email address: *sinks.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of particular interest to those who conduct human research on substances regulated by EPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

The Agency is finalizing the amendments to its human studies rules as proposed in December 2018 (83 FR 62760) (FRL–9987–01–ORD). These amendments include the following:

- Revisions to regulatory citation references in subparts C and D;
- Harmonization, where appropriate, of language in subpart K with revisions in subpart A due to revisions to the Common Rule, 82 FR 7149 (January 19, 2017); and
- Correction of a typographical error in subpart M.

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

These amendments are authorized under the following legal authorities. The amendments to subparts C and D, which relate to research conducted or sponsored by EPA are authorized pursuant to 5 U.S.C. 301. The amendments to subparts K and M, which govern third-party research involving intentional human exposure to pesticides or to other substances where such research is used for purposes of pesticide decision-making are authorized under sections 3(a) and

25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(a) and 136w(a), and section 408(e)(1)(C) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e)(1)(C).

In response to a comment received, the Agency is clarifying that it is not relying on the section 201 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Public Law 109–54 (''2006 Appropriations Act'') as authority for this rulemaking. The reference to the 2006 Appropriations Act included in the preamble to the December 2018 proposed rule was to explain in part the authority for EPA's initial promulgation in 2006 of its rules governing research with human subjects beyond the provisions contained in the Common Rule, including the subparts being updated herein. As noted in the Agency's Response to Comments Document prepared as part of the record for the 2013 revisions to EPA's human studies rule, the Agency has determined that the 2006 Appropriations Act is no longer in effect and does not provide authority for new regulatory provisions. *See https://www.regulations.gov,* in Docket No. EPA–HQ–OPP–2010–0785, document number 38.

II. Background

As discussed in the preamble to the proposed rule, on January 19, 2017, several federal departments and agencies, including EPA, adopted revisions to the provisions of the Common Rule, a set of regulations intended to create a uniformity across the federal government for the protection of human subjects involved in research. *See* 82 FR 7149 (January 19, 2017). Those revisions, which were intended to ''modernize, strengthen, and make [the Common Rule] more effective'', established new requirements for the informed consent process; allowed the use of broad consent (*i.e.,* seeking prospective consent to unspecified future research) from a subject for storage, maintenance, and secondary research use of identifiable private information and identifiable biospecimens; established new exempt categories of research based on their risk profile; required the use of a single institutional review board (IRB) for U.S.-based cooperative research; and removed the continuing review requirement for certain research, in addition to making minor changes intended to improve the clarity and accuracy of the rule. *Id.* at 7150. EPA's codification of the Common Rule provisions is located in 40 CFR part 26, subpart A. Compliance with these revisions was required starting on January 21, 2019. *See* 83 FR 28497.

In addition to the provisions of the subpart A, EPA's regulations governing human studies research include several additional subparts at 40 CFR 26, including subparts B through D, which govern research conducted or sponsored by EPA involving pregnant or nursing women and children, and subparts, K through Q, which govern third-party pesticide research involving intentional exposure of human subjects and EPA's reliance on research involving intentional exposure of human subjects. In particular, EPA's provisions in subpart K, which govern the conduct of pesticide-related third-party research involving intentional exposure of human subjects, borrowed heavily from the Common Rule provisions based on the Agency's conclusion that it would be appropriate to apply ethical standards to third-party research that were equivalent to the protections for human subjects participating in research conducted or sponsored by EPA. *See* 70 FR 53838, 53845 (September 12, 2005).

III. The Final Rule

EPA is finalizing revisions to its human studies regulations as proposed. As discussed in the preamble to the proposed rule, these revisions include updating numerical references in subparts C and D to accurately refer to exemption text in subpart A and to eliminate language concerning tribal laws that is no longer necessary due to the revisions in subpart A. These revisions are necessary to ensure that the exemptions will apply as intended to research conducted or sponsored by EPA and avoid unnecessary confusion about the applicability of tribal law.

In addition, this final rule also includes revisions as proposed to subpart K to harmonize, as appropriate, language governing third-party research with the revisions in subpart A and to clarify the timing and applicability of these revisions. These revisions are important to encourage equivalency in protections of human subjects between research conducted or sponsored by federal departments and agencies and third-party research, wherever appropriate. Furthermore, the harmonization of provisions allows investigators and IRBs to follow equivalent or similar standards for regulating the ethical conduct of research involving human subjects, regardless of who conducts that research. Consistency in standards will result in greater clarity and less regulatory burden as well as less potential for confusion and misapplication of standards for the regulated community.

Finally, EPA is correcting a typographical error in subpart M, as discussed in the preamble.

IV. Public Comments on the Proposed Amendments

Public comments on the proposed rule are discussed here, in general terms, along with EPA's response to the comments. EPA received a total of nine public comments during the 60-day comment period. All comments were submitted by individuals, two self-identified and seven anonymous. The docket (ID Number EPA–HQ–ORD–2018–0280) includes all the comments submitted to EPA on the proposed amendments.

A. Comments on Proposal To Maintain Exemptions Limiting the Application in Research Involving Children

One commenter described the changes concerning Subpart D the commenter considers necessary (1) to maintain access to the exemptions integrated by reference and the provision limiting the application (of exemptions) in research involving children; (2) to withdraw the clarification concerning preemption of tribal laws; and (3) to comprise reference to the new general provisions in the Common Rule. EPA agrees that these changes are necessary and, indeed, are reflected in the revisions to Subpart D as proposed.

B. Comments on the Legal Authority of the Rule

One person commented on references to the 2006 Appropriations Act in the preamble to the proposal and in the regulatory citation to legal authorities. As explained above, this final rulemaking is being promulgated under 5 U.S.C. 301, FIFRA sections 3(a) and 25(a), and FFDCA section 408(e)(1)(C), not the 2006 Appropriations Act. The commenter asserts that changes to the authorities citation in the regulatory text are necessary to enable the Agency to make potential, future revisions to part 26. The Agency disagrees that the authority citation needs to be revised in this action in order to facilitate future revisions, as such questions can be taken up in relevant future actions. As explained above, this action is limited to revisions in subparts C, D, K, and M; changes that may impact other subparts of part 26 or part 26 more broadly are considered to be beyond the limited scope of the revisions in this rulemaking.

C. Comments on the Requirement for Mixed-Gender, Professionally Diverse IRBs

One commenter drew attention to the proposed changes in Subpart K to harmonize IRB membership requirements with those in the revised Common Rule (Subpart A). As noted in the comment, the revised Common Rule removes the language that had been found in 40 CFR 26.107(b), requiring that ''[e]very nondiscriminatory effort . . . be made to ensure that no IRB consists entirely of men or entirely of women, including the IRB's consideration of qualified persons of both sexes, so long as no selection is made on the basis of gender'' and prohibiting IRBs from consisting entirely of members of one profession. The commenter expressed concern that because third-party research subject to subpart K may be more likely to be conducted overseas and subject to IRB review outside the United States than research conducted or sponsored by EPA, it is appropriate to retain the pre-2018 Common Rule language in 26.1107(b), rather than harmonize with the revised Common Rule language, in order to ensure that the same membership diversity continue to be required of the overseas IRBs.

EPA disagrees with the comment that IRB membership requirements for IRBs that review third-party research subject to subpart K warrant a divergence from the harmonization objectives of this action. EPA acknowledges that some research subject to subpart K may be conducted overseas and subject to the membership requirements and foreign procedures of international IRBs. EPA already has provisions in place that permit EPA to approve of the use of the foreign procedures in lieu of the procedural requirements in subpart K upon determining that those procedures are at least as protective as EPA's regulations. *See* 40 CFR 26.1603(f). Under this current language, EPA may approve research conducted in a foreign country that does not meet the current diversity requirements in 26.1107(b), as long as it determines the protections are at least equivalent to EPA's procedures for protecting human subjects. In that way, EPA does not view the revisions to the membership diversity requirements concerning gender and professional diversity as likely to meaningfully impact the integrity of the IRB reviews and approvals for research conducted overseas that is subject to subpart K. In any event, if EPA determines that the membership of the overseas IRB is so deficient that EPA cannot support a determination that the protections afforded by the foreign procedures are at least equivalent to subpart K, EPA would not be required to approve of the use of those procedures.

In addition, for the same reasons that were stated in the preamble to the Common Rule, EPA views the language in 26.107(a), which requires members to have varying backgrounds and such diversity of the members, including gender, as to promote respect for its advice, and in the revised 26.107(b), which requires IRBs to consist of at least one member whose primary concerns are scientific and one member whose primary concerns are nonscientific, to be sufficient to accomplish the same goal of diversity in IRB membership. *See* 82 FR 7149, 7203 (January 19, 2017). To the extent EPA considers the gender and professional diversity of an international IRB to be relevant to whether that IRB has protections in place that are at least equivalent to EPA's protections, EPA is not required to accept the use of those foreign procedures. For the rest of the third-party studies subject to subpart K, *e.g.,* those conducted within the United States and reviewed by domestic IRBs, EPA sees no reason to deviate from the overall goal of harmonizing IRB requirements to reduce the potential for confusion and regulatory burden caused by conflicting requirements. Consequently, EPA is harmonizing 26.1107 with the revised language in 26.107 as proposed.

D. Request for Extension of the Comment Period

One commenter requested an extension of the comment period, but EPA did not do so. There were relatively few comments submitted, most supported the rulemaking, and the one commenter that requested additional time appeared to be concerned about issues that were not only outside the scope of this rulemaking, but primarily concerned with another federal agency.

E. Other Comments

The remaining comments were either supportive of the proposed amendments or were beyond the scope of this rule; as such, they provided no basis for any changes to the rule as proposed.

V. Conclusion

EPA received relatively few comments on the proposed rule. EPA considered the comments but ultimately concluded that none raised any issues that merit any change to the amendments as proposed. Accordingly, EPA is finalizing the amendments as proposed for the reasons stated herein.

VI. FIFRA Review Requirements

In accordance with FIFRA section 25(a), EPA has submitted a draft of the rule to the FIFRA Scientific Advisory Panel (SAP), the Secretary of Agriculture (USDA), and appropriate Congressional Committees. The SAP waived its review on May 20, 2019. USDA responded on June 4, 2019 and had no substantive comments on the proposal. Both responses are in the docket for this rulemaking.

VII. Statutory and Executive Order Reviews

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

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

Because OMB considered this rulemaking to be a significant regulatory action when EPA issued its proposal, the Notice of Proposed Rule Making was reviewed by OMB under Executive Order 12866. Any changes made in response to OMB recommendations have been documented in the docket for this rulemaking as required by the Executive Order. After the proposed rule, OMB changed its determination to non-significant. This rule is expected to result in no more than *de minimis* costs since its purpose is to resolve internal discrepancies created by the recent revision to the Common Rule to avoid confusion, and potential compliance issues for researchers, institutions and sponsors who must follow EPA regulations.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act

This action does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. OMB previously approved the information collection requirements contained in the existing regulations at 40 CFR part 26 under OMB Control No. 2070–0169.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a

substantial number of small entities under the RFA.

The Agency has not identified any small entities subject to the requirements in this proposal, but it is possible that some small pesticide registrants may initiate research subject to EPA's Human Studies rule. The Agency has determined that impacted small entities, if any, may experience an impact of 0.02% as indicated in the ''Economic Analysis of Final Rule: Protections for Human Research Participants'' (January 12, 2006). The Agency does not have any information to support revising that analysis.

E. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. This action is not expected to have substantial direct effects on Indian Tribes, will not significantly or uniquely affect the communities of Indian Tribal governments, and does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. EPA's regulations governing research involving human subjects applies to the conduct and review of research involving intentional exposure of human subjects, and prohibits the conduct of or EPA reliance on any such research involving subjects who are children, or pregnant or nursing women. These provisions remain in effect and would not be affected by the amendments.

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

This action is not a ''significant energy action'' because it is not likely to have any effect on the supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act

This action does not involve any technical standards.

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

This action does not entail special considerations of environmental justice-related issues as delineated by Executive Order 12898. The strengthened protections for human subjects participating in covered research established in the 2006 rule would not be altered by these amendments.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 26

Environmental protection, Administrative practice and procedures, Human research, Pesticides and pests.

Dated: July 3, 2019.

Andrew R. Wheeler,

Administrator.

Therefore, 40 CFR chapter I is amended as follows:

PART 26—PROTECTION OF HUMAN SUBJECTS

■ 1. The authority citation for part 26 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 136a(a) and 136w(a)(1); 21 U.S.C. 346a(e)(1)(C); sec. 201, Pub. L. 109–54, 119 Stat. 531; and 42 U.S.C. 300v–1(b).

■ 2. Amend § 26.301 by revising paragraphs (b) and (c) to read as follows:

§ 26.301 To what does this subpart apply?

* * * * *

(b) The exemptions at § 26.104(d) are applicable to this subpart.

(c) The provisions of § 26.101(c) through (m) are applicable to this subpart.

* * * * *

■ 3. Amend § 26.401 by revising paragraphs (a) and (b) to read as follows:

§ 26.401 To what does this subpart apply?

(a) This subpart applies to all observational research involving children as subjects, conducted or supported by EPA. This includes research conducted in EPA facilities by any person and research conducted in any facility by EPA employees.

(b) Exemptions at § 26.104(d)(1) and (d)(3) through (8) are applicable to this subpart. The exemption at § 26.104(d)(2) regarding educational tests is also applicable to this subpart. However, the exemption at § 26.104(d)(2) for research involving survey or interview procedures or observations of public behavior does not apply to research covered by this subpart, except for research involving observation of public behavior when the investigator(s) do not participate in the activities being observed.

* * * * *

§ 26.402 [Amended]

■ 4. Amend § 26.402 by removing paragraph (g).

■ 5. Amend § 26.406 by revising the last sentence of paragraph (a) to read as follows:

§ 26.406 Requirements for permission by parents or guardians and for assent by children.

(a) * * * Even where the IRB determines that the subjects are capable of assenting, the IRB may still waive the assent requirement under circumstances in which consent may be waived in accord with § 26.116(e).

* * * * *

■ 6. Revise subpart K, consisting of §§ 26.1101 through 26.1125, to read as follows:

Subpart K—Basic Ethical Requirements for Third-Party Human Research for Pesticides Involving Intentional Exposure of Non-Pregnant, Non-Nursing Adults

Sec.

26.1101 To what does this subpart apply?
26.1102 Definitions.
26.1103–26.1106 [Reserved]
26.1107 IRB membership.
26.1108 IRB functions and operations.
26.1109 IRB review of research.
26.1110 Expedited review procedures for certain kinds of research involving no

more than minimal risk, and for minor changes in approved research.
26.1111 Criteria for IRB approval of research.
26.1112 Review by institution.
26.1113 Suspension or termination of IRB approval of research.
26.1114 Cooperative research.
26.1115 IRB records.
26.1116 General requirements for informed consent.
26.1117 Documentation of informed consent.
26.1118–26.1122 [Reserved]
26.1123 Early termination of research.
26.1124 [Reserved]
26.1125 Prior submission of proposed human research for EPA review.

Subpart K—Basic Ethical Requirements for Third-Party Human Research for Pesticides Involving Intentional Exposure of Non-Pregnant, Non-Nursing Adults

§ 26.1101 To what does this subpart apply?

(a) Except as provided in paragraph (c) of this section, this subpart applies to all research initiated on or after September 23, 2019 involving intentional exposure of a human subject to:

(1) Any substance if, at any time prior to initiating such research, any person who conducted or supported such research intended either to submit results of the research to EPA for consideration in connection with any action that may be performed by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136–136y) or section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a), or to hold the results of the research for later inspection by EPA under FIFRA or section 408 of FFDCA; or

(2) A pesticide if, at any time prior to initiating such research, any person who conducted or supported such research intended either to submit results of the research to EPA for consideration in connection with any action that may be performed by EPA under any regulatory statute administered by EPA other than those statutes designated in paragraph (a)(1) of this section, or to hold the results of the research for later inspection by EPA under any regulatory statute administered by EPA other than those statutes designated in paragraph (a)(1) of this section.

(b) For purposes of determining a person's intent under paragraph (a) of this section, EPA may consider any available and relevant information. EPA must rebuttably presume the existence of intent if:

(1) The person or the person's agent has submitted or made available for inspection the results of such research to EPA; or

(2) The person is a member of a class of people who, or whose products or activities, are regulated by EPA and, at the time the research was initiated, the results of such research would be relevant to EPA's exercise of its regulatory authority with respect to that class of people, products, or activities.

(c) Unless otherwise required by the Administrator, research is exempt from this subpart if it involves only the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens from previously conducted studies, and if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(d) The EPA Administrator retains final judgment as to whether a particular activity is covered by this subpart and this judgment shall be exercised consistent with the ethical principles of the Belmont Report.

(e) Compliance with this subpart requires compliance with pertinent Federal laws or regulations that provide additional protections for human subjects.

(f) This subpart does not affect any state or local laws or regulations (including tribal law passed by the official governing body of an American Indian or Alaska Native tribe) that may otherwise be applicable and that provide additional protections for human subjects.

(g) This subpart does not affect any foreign laws or regulations that may otherwise be applicable and that provide additional protections to human subjects of research.

(h) Notwithstanding paragraph (a) of this section, nothing in this section alters the previous obligation to comply with EPA regulations in this subpart that governed research involving intentional exposure of human subjects initiated prior to September 23, 2019 and that were in effect and applicable to such research at the time it was initiated.

§ 26.1102 Definitions.

(a) *Administrator* means the Administrator of the Environmental Protection Agency (EPA) and any other officer or employee of EPA to whom authority has been delegated.

(b) *Common Rule* refers to the Federal Policy for the Protection of Human Subjects as established in 1991 and codified by EPA and 14 other Federal departments and agencies (see the **Federal Register** issue of June 18, 1991 (56 FR 28003)) and its subsequent revisions as adopted by EPA and other federal departments and agencies (see the **Federal Register** issue of January 19, 2017 (82 FR 7149)). The Common Rule contains a widely accepted set of standards for conducting ethical research with human subjects, together with a set of procedures designed to ensure that the standards are met. Once codified or adopted by a Federal department or agency, the requirements of the Common Rule apply to research conducted or sponsored by that Federal department or agency. EPA's codification of the Common Rule appears in 40 CFR part 26, subpart A.

(c) *Federal department or agency* refers to a federal department or agency (the department or agency itself rather than its bureaus, offices or divisions) that takes appropriate administrative action to make the Common Rule applicable to the research involving human subjects it conducts, supports, or otherwise regulates (*e.g.,* the U.S. Department of Health and Human Services, the U.S. Department of Defense, or the Central Intelligence Agency).

(d)(1) *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research:

(i) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens, or

(ii) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

(2) *Intervention* includes both physical procedures by which information or biospecimens are gathered (*e.g.,* venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes.

(3) *Interaction* includes communication or interpersonal contact between investigator and subject.

(4) *Private information* includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (*e.g.,* a medical record).

(5) *Identifiable private information* is private information for which the identity of the subject is or may readily

be ascertained by the investigator or associated with the information.

(6) *An identifiable biospecimen* is a biospecimen for which the identity of the subject is or may readily be ascertained by the investigator or associated with the biospecimen.

(e) *Institution* means any public or private entity or agency (including federal, state, and other agencies).

(f) *IRB* means an institutional review board established in accord with and for the purposes expressed in this part.

(g) *IRB approval* means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and federal requirements.

(h) *Minimal risk* means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

(i) *Person* means any person, as that term is defined in FIFRA section 2(s) (7 U.S.C. 136), except:

(1) A Federal agency that is subject to the provisions of the Federal Policy for the Protection of Human Subjects of Research, and

(2) A person when performing human research supported by a federal agency covered by paragraph (i)(1) of this section.

(j) *Pesticide* means any substance or mixture of substances meeting the definition in 7 U.S.C. 136(u) (Federal Insecticide, Fungicide, and Rodenticide Act, section 2(u)).

(k) *Research* means a systematic investigation, including research, development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this subpart, whether or not they are considered research for other purposes. For example, some demonstration and service programs may include research activities.

(l) *Research involving intentional exposure of a human subject means* a study of a substance in which the exposure to the substance experienced by a human subject participating in the study would not have occurred but for the human subject's participation in the study.

(m) *Written,* or *in writing,* for purposes of this subpart refers to writing on a tangible medium (*e.g.,* paper) or in an electronic format.

§ § 26.1103–26.1106 [Reserved]

§ 26.1107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities that are presented for its approval. The IRB shall be sufficiently qualified through the experience and expertise of its members (professional competence), and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. The IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments (including policies and resources) and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a category of subjects vulnerable to coercion or undue influence, such as prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these categories of subjects.

(b) Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(c) Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

(d) No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

(e) An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.

§ 26.1108 IRB functions and operations.

(a) In order to fulfill the requirements of this subpart each IRB shall:

(1) Have access to meeting space and sufficient staff to support the IRB's review and recordkeeping duties;

(2) Prepare and maintain a current list of the IRB members identified by name; earned degrees; representative capacity; indications of experience such as board certifications or licenses sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution, for example, full-time employee, part-time employee, member of governing panel or board, stockholder, paid or unpaid consultant;

(3) Establish and follow written procedures for:

(i) Conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution;

(ii) Determining which projects require review more often than annually and which projects need verification from sources other than the investigator that no material changes have occurred since previous IRB review;

(iii) Ensuring prompt reporting to the IRB of proposed changes in research activity, and for ensuring that investigators will conduct the research activity in accordance with the terms of the IRB approval until any proposed changes have been reviewed and approved by the IRB, except when necessary to eliminate apparent immediate hazards to the subject.

(4) Establish and follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the Environmental Protection Agency of:

(i) Any unanticipated problems involving risks to human subjects or others or any instance of serious or continuing noncompliance with this subpart or the requirements or determinations of the IRB; and

(ii) Any suspension or termination of IRB approval.

(b) Except when an expedited review procedure is used (see § 26.1110), an IRB must review proposed research at convened meetings at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting.

§ 26.1109 IRB review of research.

(a) An IRB shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered by this subpart.

(b) An IRB shall require that information given to subjects as part of

informed consent is in accordance with § 26.1116. The IRB may require that information, in addition to that specifically mentioned in § 26.1116, be given to the subjects when, in the IRB's judgment, the information would meaningfully add to the protection of the rights and welfare of subjects.

(c) An IRB shall require documentation of informed consent in accordance with § 26.1117.

(d) An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the research activity. If the IRB decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(e) An IRB shall conduct continuing review of research requiring review by the convened IRB at intervals appropriate to the degree of risk, not less than once per year, except as described in paragraph (f) of this section.

(f)(1) Unless an IRB determines otherwise, continuing review of research is not required in the following circumstances:

(i) Research eligible for expedited review in accordance with § 26.1110;

(ii) Research that has progressed to the point that it involves only one or both of the following, which are part of the IRB-approved study:

(A) Data analysis, including analysis of identifiable private information or identifiable biospecimens, or

(B) Accessing follow-up clinical data from procedures that subjects would undergo as part of clinical care.

(2) [Reserved]

(g) An IRB shall have authority to observe or have a third party observe the consent process and the research.

§ 26.1110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.

(a) The Secretary of HHS, has established, and published as a notice in the **Federal Register**, a list of categories of research that may be reviewed by the IRB through an expedited review procedure. The Secretary will evaluate the list at least every 8 years and amend it, as appropriate after consultation with other federal departments and agencies and after publication in the **Federal Register** for public comment. A copy of the list is available from the Office for Human Research Protections, HHS, or any successor office.

(b)(1) An IRB may use the expedited review procedure to review the following:

(i) Some or all of the research appearing on the list described in paragraph (a) of this section, unless the reviewer finds that the study involves more than minimal risk.

(ii) Minor changes in previously approved research during the period for which approval is authorized.

(2) Under an expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB. In reviewing the research, the reviewers may exercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the non-expedited procedure set forth in § 26.1108(b).

(c) Each IRB that uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals that have been approved under the procedure.

(d) The Administrator may restrict, suspend, terminate, or choose not to authorize an institution's or IRB's use of the expedited review procedure for research covered by this subpart.

§ 26.1111 Criteria for IRB approval of research.

(a) In order to approve research covered by this subpart the IRB shall determine that all of the following requirements are satisfied:

(1) Risks to subjects are minimized:

(i) By using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk, and

(ii) Whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (*e.g.,* the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.

(3) Selection of subjects is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted. The IRB should be particularly cognizant of the special problems of research that involves a category of subjects who are vulnerable to coercion or undue influence, such as prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons.

(4) Informed consent will be sought from each prospective subject, in accordance with, and to the extent required by § 26.1116.

(5) Informed consent will be appropriately documented in accordance with § 26.1117.

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

§ 26.1112 Review by institution.

Research covered by this subpart that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, those officials may not approve the research if it has not been approved by an IRB.

§ 26.1113 Suspension or termination of IRB approval of research.

An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the Administrator of EPA.

§ 26.1114 Cooperative research.

In complying with this subpart, sponsors, investigators, or institutions involved in multi-institutional studies may use joint review, reliance upon the review of another qualified IRB, or similar arrangements aimed at avoidance of duplication of effort.

§ 26.1115 IRB records.

(a) An institution, or when appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:

(1) Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects.

(2) Minutes of IRB meetings, which shall be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.

(3) Records of continuing review activities, including the rationale for conducting continuing review of research that otherwise would not require continuing review as described in § 26.1109(f)(1).

(4) Copies of all correspondence between the IRB and the investigators.

(5) A list of IRB members in the same detail as described in § 26.1108(a)(2).

(6) Written procedures for the IRB in the same detail as described in § 26.1108(a)(3) and (4).

(7) Statements of significant new findings provided to subjects, as required by § 26.1116(c)(5).

(8) The rationale for an expedited reviewer's determination under § 26.1110(b)(1)(i) that research appearing on the expedited review list described in § 26.1110(a) is more than minimal risk.

(9) Documentation specifying the responsibilities that an institution and an organization operating an IRB each will undertake to ensure compliance with the requirements of this subpart.

(b) The records required by this subpart shall be retained for at least 3 years, and records relating to research which is conducted shall be retained for at least 3 years after completion of the research. The institution or IRB may maintain the records in printed form or electronically. All records shall be accessible for inspection and copying by authorized representatives of EPA at reasonable times and in a reasonable manner.

§ 26.1116 General requirements for informed consent.

(a) *General.* General requirements for informed consent, whether written or oral, are set forth in this paragraph and apply to consent obtained in accordance with the requirements set forth in paragraphs (b) and (c) of this section. Except as provided elsewhere in this subpart:

(1) Before involving a human subject in research covered by this subpart, an investigator shall obtain the legally effective informed consent of the subject.

(2) An investigator shall seek informed consent only under circumstances that provide the prospective subject sufficient opportunity to discuss and consider whether or not to participate and that minimize the possibility of coercion or undue influence.

(3) The information that is given to the subject shall be in language understandable to the subject.

(4) The prospective subject must be provided with the information that a reasonable person would want to have in order to make an informed decision about whether to participate, and an opportunity to discuss that information.

(5)(i) Informed consent must begin with a concise and focused presentation of the key information that is most likely to assist a prospective subject in understanding the reasons why one might or might not want to participate in the research. This part of the informed consent must be organized and presented in a way that facilitates comprehension.

(ii) Informed consent as a whole must present information in sufficient detail relating to the research and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates the prospective subject's understanding of the reasons why one might or might not want to participate.

(6) No informed consent may include any exculpatory language through which the subject is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

(b) *Basic elements of informed consent.* In seeking informed consent the following information shall be provided to each subject:

(1) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures that are experimental;

(2) A description of any reasonably foreseeable risks or discomforts to the subject;

(3) A description of any benefits to the subject or to others that may reasonably be expected from the research;

(4) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

(5) A statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

(6) For research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

(7) An explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject;

(8) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled; and

(9) One of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens:

(i) A statement that identifiers might be removed from the identifiable private information or identifiable biospecimens and that, after such removal, the information or biospecimens could be used for future research studies or distributed to another investigator for future research studies without additional informed consent from the subject, if this might be a possibility; or

(ii) A statement that the subject's information or biospecimens collected as part of the research, even if identifiers are removed, will not be used or distributed for future research studies.

(c) *Additional elements of informed consent.* One or more of the following elements of information, when appropriate, shall also be provided to each subject:

(1) A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject may become pregnant) that are currently unforeseeable;

(2) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

(3) Any additional costs to the subject that may result from participation in the research;

(4) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

(5) A statement that significant new findings developed during the course of the research that may relate to the subject's willingness to continue participation will be provided to the subject;

(6) The approximate number of subjects involved in the study;

(7) A statement that the subject's biospecimens (even if identifiers are removed) may be used for commercial profit and whether the subject will or will not share in this commercial profit;

(8) A statement regarding whether clinically relevant research results, including individual research results, will be disclosed to subjects, and if so, under what conditions; and

(9) For research involving biospecimens, whether the research will (if known) or might include whole genome sequencing (*i.e.,* sequencing of a human germline or somatic specimen with the intent to generate the genome or exome sequence of that specimen).

(d) *Elements of broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens.* Broad consent for the storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens (collected for either research studies other than the proposed research or non-research purposes) is permitted as an alternative to the informed consent requirements in paragraphs (b) and (c) of this section. Broad consent is only permitted for the purposes mentioned and may not be substituted for the elements of informed consent in paragraphs (b) and (c) of this section, as required for the intentional exposure research subject to this subpart. If the subject is asked to provide broad consent, in addition to providing the informed consent required in paragraphs (b) and (c), the following shall be provided to each subject:

(1) The information required in paragraphs (b)(2), (3), (5), and (8) and, when appropriate, (c)(7) and (9) of this section;

(2) A general description of the types of research that may be conducted with the identifiable private information or identifiable biospecimens. This description must include sufficient information such that a reasonable person would expect that the broad consent would permit the types of research conducted;

(3) A description of the identifiable private information or identifiable biospecimens that might be used in research, whether sharing of identifiable private information or identifiable biospecimens might occur, and the types of institutions or researchers that might conduct research with the identifiable private information or identifiable biospecimens;

(4) A description of the period of time that the identifiable private information or identifiable biospecimens may be stored and maintained (which period of time could be indefinite), and a description of the period of time that the identifiable private information or identifiable biospecimens may be used for research purposes (which period of time could be indefinite);

(5) Unless the subject will be provided details about specific research studies, a statement that they will not be informed of the details of any specific research studies that might be conducted using the subject's identifiable private information or identifiable biospecimens, including the purposes of the research, and that they might have chosen not to consent to some of those specific research studies;

(6) Unless it is known that clinically relevant research results, including individual research results, will be disclosed to the subject in all circumstances, a statement that such results may not be disclosed to the subject; and

(7) An explanation of whom to contact for answers to questions about the subject's rights and about storage and use of the subject's identifiable private information or identifiable biospecimens, and whom to contact in the event of a research-related harm.

(e) *Screening, recruiting, or determining eligibility.* An IRB may approve a research proposal in which an investigator will obtain information or biospecimens for the purpose of screening, recruiting, or determining the eligibility of prospective subjects without the informed consent of the prospective subject, if either of the following conditions are met:

(1) The investigator will obtain information through oral or written communication with the prospective subject, or

(2) The investigator will obtain identifiable private information or identifiable biospecimens by accessing records or stored identifiable biospecimens.

(f) *Preemption.* The informed consent requirements in this subpart are not intended to preempt any applicable Federal, state, or local laws (including tribal laws passed by the official governing body of an American Indian or Alaska Native tribe) that require additional information to be disclosed in order for informed consent to be legally effective.

(g) *Emergency medical care.* Nothing in this subpart is intended to limit the authority of a physician to provide emergency medical care, to the extent the physician is permitted to do so under applicable Federal, state, or local law (including tribal law passed by the official governing body of an American Indian or Alaska Native tribe).

(h) *Additional information for subjects when research involves a pesticide.* If the research involves intentional exposure of subjects to a pesticide, the subjects of the research must be informed of the identity of the pesticide and the nature of its pesticidal function.

§ 26.1117 Documentation of informed consent.

(a) Informed consent shall be documented by the use of a written consent form approved by the IRB and signed (including in an electronic format) by the subject. A written copy shall be given to the subject.

(b) The informed consent form may be either of the following:

(1) A written informed consent form that meets the requirements of § 26.1116. The investigator shall give the subject adequate opportunity to read the informed consent form before it is signed; alternatively, this form may be read to the subject.

(2) A short form written informed consent form stating that the elements of informed consent required by § 26.1116 have been presented orally to the subject, and that the key information required by § 26.1116(a)(5)(i) was presented first to the subject, before other information, if any, was provided. The IRB shall approve a written summary of what is to be said to the subject. When this method is used, there shall be a witness to the oral presentation. Only the short form itself is to be signed by the subject. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary must be given to the subject, in addition to a copy of the short form.

§ § 26.1118–26.1122 [Reserved]

§ 26.1123 Early termination of research.

The Administrator may require that any project covered by this subpart be terminated or suspended when the

Administrator finds that an IRB, investigator, sponsor, or institution has materially failed to comply with the terms of this subpart.

§ 26.1124 [Reserved]

§ 26.1125 Prior submission of proposed human research for EPA review.

Any person or institution who intends to conduct or sponsor human research covered by § 26.1101(a) shall, after receiving approval from all appropriate IRBs, submit to EPA prior to initiating such research all information relevant to the proposed research specified by § 26.1115(a), and the following additional information, to the extent not already included:

(a) A discussion of:

(1) The potential risks to human subjects;

(2) The measures proposed to minimize risks to the human subjects;

(3) The nature and magnitude of all expected benefits of such research, and to whom they would accrue;

(4) Alternative means of obtaining information comparable to what would be collected through the proposed research; and

(5) The balance of risks and benefits of the proposed research.

(b) All information for subjects and written informed consent agreements as originally provided to the IRB, and as approved by the IRB.

(c) Information about how subjects will be recruited, including any advertisements proposed to be used.

(d) A description of the circumstances and methods proposed for presenting information to potential human subjects for the purpose of obtaining their informed consent.

(e) All correspondence between the IRB and the investigators or sponsors.

(f) Official notification to the sponsor or investigator, in accordance with the requirements of this subpart, that research involving human subjects has been reviewed and approved by an IRB.

■ 7. Revise § 26.1302 to read as follows:

§ 26.1302 Definitions.

The definitions in § 26.1102 apply to this subpart as well.

[FR Doc. 2019–15665 Filed 7–22–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002 FRL–9996–98–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the New Brighton/Arden Hills/Twin Cities Army Ammunition Plant (TCAAP) Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Partial Deletion of all soil and five aquatic sites in Operable Unit 2 (OU2) of the New Brighton/Arden Hills/TCAAP Superfund Site in Minnesota from the National Priorities List (NPL). 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). This direct final partial deletion is being published by EPA with the concurrence of the State of Minnesota, through the Minnesota Pollution Control Agency, because all appropriate response actions for soil and these five aquatic sites under CERCLA, other than maintenance, monitoring and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund.

DATES: This direct final partial deletion is effective September 23, 2019 unless EPA receives adverse comments by August 22, 2019. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1983–0002 by one of the following methods:

https://www.regulations.gov. Follow the on-line instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Email: cano.randolph@epa.gov.

Mail: Randolph Cano, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5 (ST–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6036.

Hand deliver: Superfund Records Center, U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, 7th Floor South, Chicago, IL 60604, Phone: (312) 886–0900. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1983–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov* or email. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *https://www.regulations.gov* or electronically or in hard copy at:

U.S. Environmental Protection Agency, Region 5, Superfund Records Center, 77 West Jackson Boulevard, 7th Floor South, Chicago, IL 60604, Phone: (312) 886–0900, Hours: Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

Minnesota National Guard, 4761 Hamline Avenue North, Arden Hills, MN 55112, Contact: Mary Lee, Arden Hills Army Training Site, Phone: (651) 282–4420. Hours: Monday through Friday, 8 a.m. to 3:30 p.m., excluding State holidays.

FOR FURTHER INFORMATION CONTACT: Randolph Cano, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5 (ST–6J), 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 886–6036, or via email at *cano.randolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Partial Deletion Procedures
IV. Basis for Site Partial Deletion
V. Partial Deletion Action

I. Introduction

EPA Region 5 is publishing this direct final Notice of Partial Deletion for the New Brighton/Arden Hills/Twin Cities Army Ammunition Plant Site (NB/AH/TCAAP Site), from the NPL. This partial deletion pertains to all soil (shallow and deep) located within the boundary of OU2 of the NB/AH/TCAAP Site and to the surface water and sediment (not groundwater) of the five aquatic sites located within the OU2 boundary: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G (see Figures 2–2 and 11–1 in the Docket). The remaining areas at the NB/AH/TCAAP Site, including OU1, OU3, groundwater in OU2 and a sixth aquatic site, Round Lake located southwest of the OU2 boundary, will remain on the NPL and are not being considered for deletion as part of this action.

The NPL constitutes Appendix B of the NCP, which EPA promulgated pursuant to CERCLA. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the NB/AH/TCAAP 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 40 CFR 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the shallow and deep soil and the five aquatic sites located within OU2 of the NB/AH/TCAAP Site and demonstrates how they meet the deletion criteria. Section V discusses EPA's action to partially delete the soil and five aquatic sites located within the OU2 boundary of the NB/AH/TCAAP Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites, or portions thereof, 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. EPA conducts such five-year reviews even if a site or a portion of a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of the soil portion of OU2 and to the five aquatic sites located within the OU2 boundary of the NB/AH/TCAAP Site:

(1) EPA consulted with the State of Minnesota prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the State, through the MPCA, has concurred on the partial deletion of the NB/AH/TCAAP Site from the NPL.

(3) Concurrent with the publication of this direct final Notice of Partial Deletion, an announcement of the availability of the parallel Notice of Intent for Partial Deletion is being published in three major local newspapers, the Minneapolis Star Tribune, The Mounds View/New Brighton Sun Focus and the Shoreview Press. The newspaper notices announce the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the NB/AH/TCAAP Site from the NPL.

(4) The EPA placed copies of documents supporting the partial deletion in the deletion docket and made these items available for public inspection and copying at the NB/AH/TCAAP Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the

Notice of Intent for Partial Deletion and the comments already received.

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 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 further response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting the soil portion of OU2 and the five aquatic sites located within the OU2 boundary (Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G) of the NB/AH/TCAAP Site from the NPL:

Site Background and History

The NB/AH/TCAAP Site (CERCLIS ID: MN7213820908) consists of a 25-square mile area located in Ramsey County, Minnesota. The NB/AH/TCAAP Site includes the 4-square mile area of the original TCAAP facility (about 2,370 acres) operated by the U.S Army (Army), located east of U.S. Interstate Highway 35W and north of Ramsey County Highway 96 at the time of NPL listing in 1983 (OU2) and portions of seven nearby communities with Site-related groundwater contamination (OU1 and OU3). These communities include: New Brighton, Arden Hills, St. Anthony, Shoreview, Mounds View, Columbia Heights and Minneapolis. See Figure 2–1 in in the Docket.

The TCAAP facility manufactured, stored and tested small-caliber ammunition and related materials for the United States military and handled and stored strategic and critical materials for other government agencies from 1941 to 2005. Between 1941 and 1981, the facility disposed of waste materials including volatile organic compounds (VOCs), heavy metals, corrosive materials and explosives at several locations on the TCAAP property. Alliant Techsystems Inc. (Alliant) was the Army's installation services contractor for TCAAP and also operated manufacturing facilities at the TCAAP property.

The U.S. Army Toxic Hazardous Materials Agency issued a report on waste disposal activities at TCAAP in 1978. In 1981, MPCA and the Minnesota Department of Health (MDH) began sampling water supply wells in the TCAAP area. The sampling found that municipal and private drinking water wells near the TCAAP facility and wells at TCAAP were contaminated with VOCs.

Due to the contamination, the City of New Brighton shut down six municipal wells, deepened two municipal wells and constructed three new municipal wells from 1982 to 1984. One of the City of St. Anthony's municipal wells was also contaminated and this well was closed.

In 1983 EPA installed carbon treatment filters on two of the City of New Brighton wells that were reopened to meet summertime peak demand. EPA also provided New Brighton with an additional deep well and carbon treatment for two of St. Anthony's municipal wells in the late 1980s.

In 1983, MPCA connected several private well users adjacent to the TCAAP facility to New Brighton's and Arden Hills' water mains. In 1984, MPCA constructed a temporary water connection from the City of St. Anthony to the City of Roseville to alleviate a water shortage due to the shutdown of one of St. Anthony's wells.

EPA proposed the NB/AH/TCAAP Site to the NPL on December 30, 1982 (47 FR 58476). EPA finalized the NB/AH/TCAAP Site on the NPL on September 8, 1983 (48 FR 40658).

The Army began a Phase I investigation at the TCAAP facility in 1981. The Army installed and sampled a significant number of monitoring wells at TCAAP to identify the overall contribution of the facility to the groundwater contamination identified by MPCA and MDH.

Site records and investigations conducted at TCAAP subsequent to the Army's 1978 waste disposal report identified 14 source areas of contamination at TCAAP. These areas were used for the burial or open-burning of waste or were industrial sources of contamination. The Army designated the source areas as Sites A, B, C, D, E, F, G, H, I, J, K, 129–3, 129–5 and 129–15. See Figure 3 in the Docket.

The Army entered into a Federal Facilities Agreement (FFA) with EPA and the State of Minnesota in 1987. The FFA establishes the framework, schedule and requirements for the Army to conduct a remedial investigation (RI) and feasibility study (FS) at the TCAAP facility and to implement the selected cleanup actions.

The Army implemented several interim remedial actions (IRAs) at the TCAAP facility (*i.e.,* OU2 of the NB/AH/TCAAP Site) under the Army's Installation Restoration Program (IRP). The Army conducted the IRAs in the 1980s and 1990s before an overall remedy was selected for OU2 in the OU2 Record of Decision (ROD) in 1997. These actions included unilateral actions by the Army, actions with EPA and State concurrence, and other actions initiated by the Army/Alliant. The IRAs were coordinated with the State and Federal regulatory agencies.

The Army implemented unilateral removal actions at TCAAP using its own delegated removal authorities under CERCLA Section 104. These actions included installing in-situ soil vapor extraction (SVE) systems at Sites D and G to remediate VOC-contaminated soils in 1986 and installing groundwater pump-and-treat systems at Sites A and K to treat VOC-contaminated groundwater in 1988.

Army IRAs at TCAAP undertaken with EPA and State concurrence included: (1) Installing a Boundary Groundwater Recovery System (BGRS) in 1987 to prevent additional groundwater contaminants from flowing off of the TCAAP property pursuant to a 1987 ROD; (2) expanding the BGRS into the TCAAP Groundwater Recovery System (TGRS) with source control wells installed downgradient of Sites D, G and I; (3) thermally treating 1,400 cubic yards of soil contaminated with polychlorinated biphenyls (PCBs) at Site D in 1989 pursuant to a 1989 ROD on Removal Action for PCB-Contaminated Soils Near Site D; (4) remediating heavy metal soil contamination through soil washing/leaching technologies at Site F from 1993–1997 under the Resource Conservation and Recovery Act (RCRA); and (5) modifying the Site A groundwater remediation system installed in 1983 to include eight boundary extraction wells in 1994.

Other IRAs the Army implemented at TCAAP included: Cleaning of the sanitary sewer system lines (Site J) from 1984 to 1986 and closing Site J in accordance with the EPA and MPCA-approved Final Site J Closure Report issued in 1994; and excavation by Alliant of the PCB-contaminated soils around Building 502 in 1985 and disposing of the soils at a permitted off-site facility in 1996.

Several property ownership transfers and reassignments of control have occurred at the TCAAP property since the NB/AH/TCCAP Site was listed on the NPL. See Figure 4 in the Docket. Since 1983, control of over 1,500 acres of TCAAP has been reassigned to the National Guard Bureau which licenses the use of the property to the Minnesota Army National Guard for the operation of the Arden Hills Army Training Site (AHATS) and to the U.S. Army Reserve.

The National Guard Bureau and Army Reserve property is still federally-owned and is controlled by the Army, but it is no longer controlled by TCAAP, which reports to a different division.

Prior to 2010, the Army also transferred more than 270 acres of TCAAP that did not require land or groundwater use restrictions to Ramsey County and the City of Arden. This property consists of: Parcels 093023320001 and 093023240003 owned by Ramsey County (the unlabeled OU2 area in the northwest corner of OU2 on Figure 4 in the Docket); Parcel 153023340001 located at 1425 Paul Kirkwold Drive owned by Ramsey County; and Parcel ID 153023430001 located at 1245 Highway 96W owned by the City of Arden Hills (shown as the unlabeled OU2 areas along the southern boundary of OU2 on Figure 4).

In 2013, the Army transferred another 397 acres of TCAAP to Ramsey County and leased another 30 acres of TCAAP to the County. In 2017, the Army transferred the ownership of the 30 acres Ramsey County was leasing from the Army to Ramsey County.

Forty-seven of the 427 acres of property the Army transferred and leased to Ramsey County in 2013 did not require land or groundwater use restrictions (see the *Operation and Maintenance* section of this notice). The other 380 acres were restricted by land use controls (LUCs) for soil and groundwater.

Ramsey County conducted an additional soil investigation at the 380 acres of restricted property they owned or were leasing in 2014. Ramsey County remediated the areas of remaining soil contamination, including the soil contamination at Sites I and K located within the 380-acre area.

Following the additional cleanup, MPCA and EPA approved the soil in the 380-acre area to be suitable for unlimited use/unrestricted exposure (UU/UE). The Army removed the soil LUCs on the 380 acres in Revision 4 of the OU2 Land Use Control Remedial Design (LUCRD) dated August 2016. This property, however, is still subject to the groundwater LUCs (see Figure 5, Area with Groundwater LUCs, in the Docket).

The Army determined that the remaining 160 acres of the TCAAP property are surplus to the needs of the Federal government. This property is in the process of being transferred out of Federal ownership. These 160 acres are controlled by the Base Realignment and Closure (BRAC) Division of the Army, the organization to which TCAAP currently reports.

Ramsey County identified 108 acres of the remaining 160-acre TCAAP property (Parcels A through D) for use as part of the Rice Creek Regional Trail Corridor (RCRTC) (see Attachment B, Site Boundary—Rice Creek Regional Trail Parcels A–D in the Docket). Ramsey County completed an additional soil investigation and cleanup on the 108 acres to levels that are suitable for recreational use. The Army removed the soil LUCs on the 108-acre property in Revision 5 of the OU2 Land Use Control Remedial Design (LUCRD) dated March 2018.

The Army will transfer title to Parcels A, B, and D of the 108-acre property to Ramsey County. Parcel C will remain under Federal ownership, but the government intends to grant Ramsey County a perpetual easement to Parcel C for its use as part of the RCRTC.

This partial deletion pertains to all soil (shallow and deep) located within the OU2 boundary of the NB/AH/TCAAP Site (see Figure 2–2 in the Docket). This partial deletion also pertains to surface water and sediment (not groundwater) in the five aquatic sites located within the OU2 boundary of the NB/AH TCAAP Site: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G (see Figure 11–1 in the Docket).

The remaining areas at the NB/AH/TCAAP Site, including OU1, OU3, groundwater in OU2 and a sixth aquatic site, Round Lake located southwest of the OU2 boundary, will remain on the NPL and are not being considered for deletion as part of this action.

Remedial Investigation (RI) and Feasibility Study (FS)

The Army conducted a RI at the TCAPP portion of the NB/AH/TCAAP Site (OU2) from 1988 to 1991. The purpose of the RI was to characterize the nature and extent of soil, sediment, surface water and groundwater contamination within the OU2 boundary. The FS developed and evaluated cleanup alternatives to address the unacceptable risks identified at OU2.

The Army completed the OU2 RI and conducted an OU2 Terrestrial Ecological Risk Assessment in 1991. The Army conducted a Tier II Ecological Risk Assessment for the OU2 aquatic sites in 2004. Due to EPA and MPCA concerns, the Army conducted additional sampling at Marsden Lake and Pond G in 2008. The Army issued a separate FS for the five aquatic sites located within the OU2 site boundary in 2011. The Army is addressing Round Lake, which is still considered part of OU2 but is located outside of the OU2 site boundary, southwest of OU2, separately.

EPA completed a Human Health Risk Assessment (HHRA) addressing OU1, OU2 and OU3 of the NB/AH/TCAAP Site in 1991. In 1992, the Army collected additional data as part of the FS development process to further characterize the nature and extent of OU2. The Army completed the OU2 FS in 1997. The OU2 FS included an updated list of additional contaminants of concern (COCs) and cleanup levels.

The Agency for Toxic Substances and Disease Registry (ATSDR) completed a Public Health Assessment of the NB/AH portion of the NB/AH/TCAAP Site (OU1 and OU3) in 1994. Based on the assessment, ATSDR considered the NB/AH portion of the NB/AH/TCAAP Site to be a ''public health hazard'' because people were exposed to past groundwater contaminants from TCAAP at concentrations that could result in adverse health effects.

The Army's RI identified all known or suspected sources of contamination at OU2 of the NB/AH/TCAAP Site. The RI separated the OU2 contamination into four categories: Shallow soil sites, with soil contamination less than 12 ft-bgs (Sites A, C, E, H, 129–3 and 129–5); deep soil sites, with soil contamination greater than 12 ft-bgs, down to depths between 50 and 170 feet (Sites D and G); shallow (Unit 1) groundwater contamination (Sites A, I and K); and deep (Units 3 and 4) groundwater contamination (groundwater underlying the southwestern portion of OU2, originating primarily from Sites D, G and I). Although Sites D and G were considered deep soil sites, shallow soil contaminants were also present at Site D, and Site G also contains a dump.

The Army addressed Sites F (RCRA) and J (sewer line cleaning) separately and did not include these areas in the OU2 RI. Also, the Army did not find any contamination in Site B other than part of a dump (Site B–3) that would require additional investigation.

The RI and additional FS sampling indicated that the shallow soil sites (Sites A, C, E, H, 129–3 and 129–5) were contaminated by heavy metals, VOCs, polynuclear aromatic hydrocarbons (PAHs) and PCBs. The contamination was generally present in the upper five to 10 feet of soil. Contaminated soil volumes ranged from as little as 15 cubic yards (CY) at Site 129–5 to as much as 2,600 CY at Site C.

Unpermitted landfills or dumps also existed within the boundaries of shallow soil Sites A, E and H. The estimated material in these dumps ranged from 4,400 CY at Site A to 12,200 CY at Site E. The RI identified

two additional dumps in OU2. Dump Site B–3 was estimated to contain 12,400 CY of material. The other dump is Site 129–15 and is estimated to be 53,000 CY.

The RI did not investigate the material at Site B–3 or Site 129–15. The RI indicated that additional characterization would be required before response actions could be selected for these areas. There was no clear indication, however, that either dump was contaminating the groundwater.

The Army updated EPA's 1991 HHRA in the 1997 OU2 FS to incorporate the results of the additional sampling. The updated risk assessment in the FS indicated that the surface soil and debris at Sites A, C, H and 129–3 posed an unacceptable cancer and/or noncancer risk to on-site workers under a current industrial exposure scenario. Subsurface soil and debris at Sites A, C, H and 129–3 and at Sites D, E, G and 129–5 also posed an unacceptable cancer and/or noncancer risk to future construction workers in these areas. The risks were primarily due to the incidental ingestion of and dermal contact with surface and/or subsurface soil and debris.

According to the updated HHRA, surface soil and debris at Sites A, C, E, H and 129–3 posed an unacceptable cancer and/or noncancer risk to potential future residents living in these areas under a future residential exposure scenario. These risks were primarily due to the incidental ingestion of and dermal contact with surface soil and debris and to the ingestion of home-grown fruits and vegetables.

The Army developed remedial action objectives (RAOs) for the OU2 cleanup in the FS based on the current and most probable future land use for the property, which was industrial. The FS then developed numerical remediation goals for the cleanup based on applicable or relevant and appropriate requirements (ARARs), health-based risk values, background concentrations of metals, contaminant migration potential and technological limitations.

The health-based risk values developed for surface soil were based on the lower of either an excess lifetime cancer risk equal to one in a million or a noncancer hazard of one, adjusted for exposure to multiple contaminants. The industrial values were calculated based on the primary routes of exposure which were ingestion and dermal contact. The cleanup levels for the deep soil Sites D and G were based primarily on leaching-based goals that are protective of the underlying groundwater for use as residential drinking water. For Site 129–15, a one-time commercial, industrial or utility construction scenario was utilized. The construction scenario assumed that construction workers would be exposed to excavated soils for 40 days (*i.e.,* a two-month construction period) a year for two years. See the *Cleanup Levels* section below for additional information. The FS developed general response actions for the OU2 cleanup based on the technical applicability and the contaminant characteristics of each individual site within OU2. After initial screening, the FS retained a set of final cleanup alternatives for full evaluation. The alternatives evaluated for the shallow soil Sites A, C, E, H, 129–3 and 129–5 were: No action, in-situ fixation/capping, soil washing/soil leaching and excavation/stabilization with off-site disposal. The alternatives evaluated for the deep soil Sites D and G were: No action, continue shallow SVE, or expand the SVE systems vertically.

The only alternative the FS evaluated for the unpermitted landfills in Sites A, E and H was excavation and off-site disposal. The FS indicated that the landfills in Site B and Site 129–15 would require further characterization.

Selected Remedy

EPA, MPCA and the Army selected an industrial cleanup remedy for the OU2 shallow soil sites, dumps and deep soil sites in a 1997 OU2 ROD. The agencies also selected remedies for the five aquatic sites located within the OU2 boundary in OU2 ROD Amendment #4 (Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G).

The selected remedy for the shallow soil Sites A, C, E, H, 129–3 and 129–5 and for the dumps within Sites A, E and H in the 1997 OU2 ROD included the following remedial components (see the 1997 ROD for information about the groundwater components of the OU2 remedy):

(1) Identification/characterization of contaminated soil boundaries, surface and subsurface debris and dump contents;

(2) Excavation and sorting of hazardous and nonhazardous dump materials, debris and ordnance;

(3) Removal and disposal of ordnance, debris and oversized material;

(4) On-site stabilization of hazardous and contaminated soils from Sites A, E, H, 129–3 and 129–5;

(5) Off-site disposal of stabilized materials from Sites A, E, H, 129–3 and 129–5;

(6) Off-site transport, incineration and disposal of soils containing low levels of dioxin-furans from Site C (if required);

(7) Backfill/regrade excavations;

(8) Restrict site access and use during remedy implementation; and

(9) A limited period of monitoring to verify remedy effectiveness.

The selected remedy for the dumps at shallow soil Sites B and 129–15 was characterization to determine the contents of the dumps. If the contents were found to be toxic, hazardous or contaminated, then a remedy for the landfill would be documented through a ROD Amendment. If the contents were not toxic, hazardous or contaminated then a no further action remedy will be selected.

The selected remedy for the shallow and deep soil contamination at Site D and for the deep soil contamination and dump at Site G was to expand the SVE systems vertically. The remedy included:

(1) Groundwater monitoring;

(2) Access and use restrictions;

(3) Installation and operation of deep SVE systems with modified shallow SVE systems, as appropriate;

(4) Evaluation and potential use of enhancements to the SVE systems;

(5) Maintenance of existing soil caps and surface drainage controls; and

(6) Characterization of shallow soils at Site D and the dump at Site G following cessation of SVE system operation to determine appropriate action.

The remedy in the 1997 OU2 ROD also included the characterization of the unsaturated Unit 1 soil at Site K as part of the Site K shallow groundwater remedy.

The 1997 OU2 ROD clarified that Site F, a former disposal area within OU2, was being closed under RCRA and was not addressed in the OU2 ROD. The 1997 OU2 ROD also confirmed that the 1994 Final Site J Closure Report for the sanitary sewer cleaning was approved by the regulatory agencies, documented the absence of contaminants above background levels and recommended no further action for this area.

Between 2007 and 2014, EPA, MPCA and the Army issued five ROD Amendments and an Explanation of Significant Differences (ESD) modifying various components of the selected remedies for the shallow soil sites, dumps and deep soil sites in the 1997 OU2 ROD and selecting remedies for the five aquatic sites located within the OU2 boundary.

OU2 ROD Amendment #1, issued in 2007, modified the requirements for Site C–2 shallow soil and sediment contamination discovered in 2004 in two Site C–2 ditches. Because the depth to groundwater is shallow at Site C–2, it was not feasible to remove all of the contaminated soil and sediment from

this area. The OU2 ROD Amendment #1 modified the remedy to allow the placement of a 4-foot thick soil cover over the Site C–2 areas where the contamination remains in-place above the cleanup levels instead of excavating the material. The OU2 ROD Amendment #1 also specified LUCs to maintain the integrity of the soil cover, prohibit unauthorized disturbance to the underlying soil and sediment and to restrict the Site C area outside the soil cover to site-specific industrial use. The OU2 ROD Amendment #1 also included the creation of a new wetland within the TCAAP facility to replace the loss of existing wetland.

OU2 ROD Amendment #3 was issued in 2009 and modified the remedies for the shallow soil and dump sites as follows:

(1) Documented, as a final remedy, the additional actions performed for shallow soil at Site D (soil cover for residual PCB-contaminated soil following the 1985 interim remedial action and 1989 thermal treatment selected in the 1989 ROD for Removal Action for PCB-Contaminated Soils Near Site D, and excavation, stabilization and off-site disposal of other contaminated Site D soil) after completing the deep soil cleanup at Site D.

(2) Documented, as a final remedy, the additional action (capping) implemented for the dump at Site G after completing the Site G deep soil cleanup.

(3) Documented the use of soil covers as part of the final remedies, in addition to excavation and off-site disposal, at Sites E and H and as the primary remedy for the dump at Site 129–15.

(4) Documented that three OU2 areas not addressed in the 1997 OU2 ROD were acceptable for unrestricted use: 135 Primer/Tracer Area (PTA) Stormwater Ditch, Trap Range Site and Water Tower Area. The OU2 ROD Amendment #3 determined that the previous soil removals at the 135 PTA Stormwater Ditch in 2005 and at the Water Tower Area in 1993 reduced soil contamination to levels that allow for unrestricted use. ROD Amendment #3 also determined that, based on the 1999 preliminary assessment of the Trap Range Site, that the Trap Range Site is acceptable for unrestricted use.

(5) Documented the final remedies for two OU2 areas not addressed in the 1997 ROD: Grenade Range and Outdoor Firing Range. The OU2 ROD Amendment #3 determined that the 1993 and 1999 soil and unexploded ordnance removal actions at the Grenade Range and at the Outdoor Firing Range, and the construction of a soil cover at the Outdoor Firing Range in 2003–2004, cleaned up these areas to levels that are acceptable for industrial use.

(6) Requires long-term LUCs as an additional remedy component for shallow soil and dump Sites: D, E, G, H, 129–15, Grenade Range, and Outdoor Firing Range. The LUCs restrict these areas to site-specific industrial use, require the integrity of the soil covers to be maintained, and prohibit the unauthorized disturbance of materials underlying the soil covers. The exact details of the LUCs were to be specified and maintained in accordance with a LUCRD document approved by EPA and MPCA. ROD Amendment #3 concluded that LUCs are not needed for the 135 PTA Stormwater Ditch or Trap Range because contamination levels in these areas are suitable for UU/UE. The Amendment also concluded the Water Tower Area is suitable for UU/UE; however, it is located within the area of ''blanket LUCs'' the Army implemented as specified in the 2010 LUCRD so it is restricted.

ESD #2, issued in 2009, modified the 1997 OU2 ROD by requiring long-term LUCs as an additional remedy component for Sites A, C–1, 129–3 and 129–5 restricting these areas to industrial use. ESD #2 also documented that based on an additional investigation, the Site B dump is cleared for unrestricted use and no further action is the final remedy for Site B.

OU2 ROD Amendment #4 was signed in 2012. The OU2 ROD Amendment #4 documented remedy decisions for the five aquatic sites located within the OU2 boundary and the 535 PTA Site, which were not addressed in the 1997 OU2 ROD. OU2 ROD Amendment #4 also documented the remedy decision for the Site K unsaturated Unit 1 soil characterized as part of the Site K shallow groundwater remedy.

OU2 ROD Amendment #4 determined:

(1) No action is needed for Rice Creek, Sunfish Lake, Marsden Lake North or Marsden Lake South. The 2011 FS, which the Army prepared following the 2004 Tier II Ecological Risk Assessment, documented that there are no human health risks associated with these areas and that the ecological risks are considered to be acceptable. These aquatic areas are acceptable for unrestricted use.

(2) In-situ treatment to raise hardness is the selected cleanup remedy for Pond G. No human health risks were associated with Pond G, however, Pond G surface water contains lead above the State water quality standard and may not be protective of the entire aquatic ecosystem. Pond G surface water was to be chemically altered and monitored to verify that the adjusted level of hardness increases to the minimum required level to comply with the Class 2Bd Minnesota chronic surface water quality standard for lead.

(3) The 2009 removal actions at the 535 PTA Site and for the VOC-contaminated soil at Site K, which involved the excavation and off-site disposal of contaminated soil, cleaned up the soils for unrestricted use. No further action is necessary for the soil in these areas and LUCs are not required.

OU2 ROD Amendment #5 was signed in 2014. The OU2 ROD Amendment #5 documented remedy decisions for three additional areas of soil contamination not addressed in the 1997 OU2 ROD. The Army remediated these areas as a 2013 removal action and addressed: (1) Additional metal contamination at Site A, (2) PAH-contamination at Site 135 PTA, and (3) PAH and/or metals contamination discovered in two areas during an environmental baseline survey (EBS Areas) conducted by the Minnesota National Guard before the property was transferred to the National Guard Bureau.

The 2013 soil removal action involved excavating the soil that was contaminated above industrial use cleanup levels in these areas and disposing of the contaminated materials off-site. OU2 ROD Amendment #5 documented that the completed 2013 removal action constitutes the final remedy for these soil areas of concern. OU2 ROD Amendment #5 also added the requirement that these areas be covered by a LUC restricting the areas to industrial use.

Decision documents that address the groundwater components of the OU2 remedy (groundwater not included in this partial deletion) include: OU2 ROD (1997), OU2 ROD Amendment #2 (2009), OU2 ESD #1 (2009), OU2 ROD Amendment #4 (2012) and OU2 ROD Amendment #6 (2017).

Response Actions

The Army constructed a corrective action management unit (CAMU) to aid in the OU2 cleanup and initiated shallow soil site remediation in 1998 beginning with Site A. The CAMU was a bermed, asphalt pad with lined ponds to store rainwater runoff from the pad. The CAMU was to be a central staging area where soils from each site would be brought for treatment before loading for off-site disposal at a permitted landfill. In 1999, however, the Army discovered asbestos-containing material (ACM) at the shallow soil sites which made further use of the CAMU impractical. The safeguards needed to control the

asbestos during handling defeated the cost savings of the central processing pad. The Army determined that it was more convenient and cost-effective to treat the soil at each site instead of moving the contaminated material to a central location for treatment.

The Army removed the CAMU in 2002. The Army decontaminated and removed the storage and storm water holding ponds, tested for contamination under the pad and ponds, and monitored the groundwater. EPA and MPCA approved the Army's CAMU Closeout Report in 2004. The CAMU Closeout Report states that there were no adverse impacts to soil or groundwater due to CAMU operations and that no LUCs are required for this area.

The Army completed the remedial actions at the shallow soil Sites A, C, E, H, 129–3, 129–5 and the Outdoor Firing Range from 1999 to 2010. The Army excavated debris and contaminated soil above industrial cleanup levels, stabilized the material and disposed of it at an off-site landfill. The Army excavated approximately: 16,300 CY from Site A; 21,450 CY from Site C; 20,900 CY from Site E; 8,620 CY from Site H; 3,470 CY from Site 129–3; 100 CY from Site 129–5 and 100 CY from the Outdoor Firing Range.

The Army also constructed a 2-foot thick protective soil cover over a portion of Site E and a 30-inch thick soil cover over a portion of Site H where ACM remains in-place; a 4-foot thick soil cover over portions of Site C where metals-contaminated soils and sediment from the former ditches remain in-place; and a 2-foot thick soil cover at the 1900 Yard Range of the Outdoor Firing Range where PAH-contaminated soils remain in place.

The Army investigated the Site 129–5 dump then constructed a protective soil cover over the materials. The Army also constructed a new wetland at Site C to replace the loss of existing wetlands when the Site C ditches were backfilled.

The Army completed the remediation work (shallow and deep soils) at the deep soil Sites D and G in 2004. The Army dismantled the SVE systems in 2000 after the deep soil cleanups were complete. At Site D, the Army then excavated 1,300 CY of shallow soils contaminated with non-VOCs and disposed of them at an off-site landfill. The Army also constructed a four to six foot soil cover over residual PCB-contaminated soils remaining at Site D after the 1985 interim remedial action. At Site G, the Army characterized the dump then constructed a 2-foot thick protective soil cover over the material.

The Army conducted five years of groundwater monitoring at the shallow soil sites and Site D from 2003 through 2007. The Army conducted three years of groundwater monitoring at the Grenade Range from 1999 to 2004. The Army conducted the monitoring to verify that the groundwater beneath these areas was not impacted by remediation activities.

The Army conducted the groundwater monitoring in accordance with groundwater monitoring plans that were reviewed and updated annually as part of the Army's Annual Performance Report (APR). Based on the monitoring data, the Army extended the monitoring at Site H. The groundwater sampling is now complete at all shallow soils sites and confirms that there are no adverse remedy impacts to groundwater in these areas. Groundwater monitoring for VOCs, however, continues as part of OU2 deep groundwater monitoring in the vicinity of Sites D and G.

The Army treated the Pond G surface water in 2012 in accordance with the Pond G RD/RA Work Plan. The Army monitored the Pond G surface water in 2012 and 2013. The monitoring results verified that the surface water in Pond G was in compliance with the surface water standard for lead. Since the Pond G remedy does not result in hazardous substances remaining in the Pond above levels that allow for UU/UE, long-term maintenance, monitoring, and LUCs are not required.

Reports documenting the completion of remedial activities for the shallow soil Sites A, C, E, H, 129–3, 129–5, 129–15, the shallow and deep soil in deep soil Site D and the deep soil and dump in deep soil Site G are in the Docket in the following reports: Final Remedial Action Completion and Shallow Soil Sites Close Out, Volumes I through VIII; Final Site 129–15 Dump Investigation, Characterization and Remedial Action Completion and Close Out Report; Final Site D Shallow and Deep Soil Volatile Organic Compound Investigation and Close Out Report; Final Site G Volatile Organic Compound Investigation and Dump Close Out Report; and Outdoor Firing Range 1900 Yard Range Cover Construction: Addendum to the Final Close Out Report, Outdoor Firing Range and #150 Reservoir Site Removal. The completed Pond G remedial action work and surface water monitoring results are documented in the 2013 Remedial Action Completion and Close Out Report, Pond G.

No action or no further action (other than LUCs) was required for shallow soil Site B, Site J, the Unit 1 soil in Site K, Grenade Range, Site 135 PTA, Site 135 PTA Stormwater Ditch, Site 535 PTA, the EBS areas, Water Tower Area, the Trap Range Site, Former Building 576, Rice Creek, Sunfish Lake, Marsden Lake North or Marsden Lake South. Also, Site F was closed under RCRA. Additional information about these areas is documented in the 1997 OU2 ROD, 2009 OU2 ROD Amendment #3, 2009 ESD #2, 2012 OU2 ROD Amendment #4 and 2014 ROD Amendment #5 and the following reports in the Docket: Final Site B Dump Investigation, Characterization, and Close Out Report; Final Close Out Report, Outdoor Firing Range and #150 Reservoir Site Soil Removal Action, Completion of Soil Removal; Remedial Action Report, Site K; Lead-Impacted Soil Cleanup documentation, TCAAP Former Building 576; Close Out Report: Removal of Contaminated Sediment at the 135 Primer/Tracer Area Stormwater Outfall; Removal Action Completion Report, Site K; Final Close Out Report for Soil Removal Action at 535 Primer/Tracer Area; and Removal Action Completion Report for Soil Areas of Concern—Site A, 135 Primer/Tracer Area, EBS Areas.

Cleanup Levels

The cleanup levels for shallow soils in the 1997 OU2 ROD were derived specifically for each shallow soil site because MPCA did not have published rules or guidance values for soil at the time. The ROD selected cleanup levels for shallow soils based on background levels, ARARs and the more stringent of either the site-specific industrial health-based value or leaching-based goal (see Table 8 in the 1997 OU2 ROD in the Docket). The health-based values were the lower of either an excess lifetime cancer risk equal to one in a million or a noncancer hazard of one, adjusted for exposure to multiple contaminants. The cleanup levels for the deep soil Sites D and G were based primarily on leaching-based goals that are protective of the underlying groundwater.

The site-specific health-based values calculated for the shallow soils sites assumed that adult industrial workers at TCAAP would be exposed to contaminated soil through dermal contact and ingestion for 250 days a year for 25 years. The calculations assumed an adult body weight of 70 kilograms, a soil ingestion rate of 50 milligrams/day and a dermal exposure over 0.31 square meters of body surface.

For Site 129–15, a one-time commercial, industrial or utility construction scenario was utilized. The construction scenario assumed that construction workers would be exposed to excavated soils for 40 days (*i.e.,* a two-month construction period) a year

for two years. The construction exposure assumes that the excavated soils are managed to eliminate or greatly reduce exposure to fugitive dusts; all other parameters were assumed to be the same as the industrial exposure scenario.

The leaching-based goals for shallow and deep soils were calculated by MPCA using a soil model for chemicals that were found at the site in groundwater above drinking water or health-based standards. The industrial soil cleanup level for lead of 1,200 milligrams per kilogram (mg/Kg) was calculated by EPA using the Exposure Model for Assessing Risks Associated with Adult Exposure to Lead in Soil. Additional information concerning the soil cleanup standards is in Appendix C of the 1997 OU2 ROD.

Additional soil cleanup standards were later added based on subsequent investigations for Site A (tetrachloroethene and TCE), Site D (antimony, lead, and nitroglycerine) and Site 129–15 (lead). PCBs were not specifically listed as COCs for Site D in the OU2 ROD; however, the PCBs that were ''secured in-place'' exist at concentrations that exceed the ARAR of 10 mg/Kg cited in the OU2 ROD, so the cleanup standard for PCBs is considered to be 10 mg/Kg. Nitroglycerine was listed as a COC for Site 129–3 in the OU2 ROD; however, no cleanup level was established. The current cleanup level for nitroglycerine was calculated at the time of soil remediation work at Site 129–3.

In 1999, the background number for arsenic in the TCAAP soils increased from 4 mg/Kg to 10 mg/Kg, as documented in a June 14, 1999 MPCA letter to the Army. This resulted in the cleanup level for arsenic increasing to 10 mg/Kg at Sites C and H. At Site 129–15 the highest arsenic concentration detected in soils was 5 mg/Kg and arsenic was dropped as a COC.

In 2002, the soil cleanup level for TCE at Site G increased to 36.1 mg/Kg. This revised cleanup standard is based on an updated soil leaching analysis that specifically accounted for the lower permeability of the Site G cover. EPA and MPCA agreed with this change on July 24, 2002. For cleanup levels that were established subsequent to the OU2 ROD, the health risk calculations are noted to be based on the same methodology and input parameters that were documented in Appendix C of the OU2 ROD.

The current cleanup standards for the OU2 shallow and deep soils sites are provided in Table 1 of the 2018 LUCRD Revision 5. A copy of Table 1 and the complete 2018 LUCRD document are available in the Docket.

The cleanup level for lead in Pond G is the Minnesota Class 2Bd surface water quality standard for lead, as promulgated in Minnesota Rule 7050.0222. The lead standard is calculated based on the hardness value of the surface water. At Pond G, the calculated lead standard ranged from a concentration of 11.4 micrograms per liter (µg/L) after initial treatment with lime and calcium to 1.6 to 2.0 µg/L approximately one year later.

The Army confirmed that the soil cleanup levels were attained at each of the shallow and deep soils sites through extensive soil verification sampling around each of the excavated areas, and by soil sampling below the shallow and deep vents at the SVE systems at Sites D and G. The Army conducted the verification sampling at the shallow soil Sites A, C, E, H, 129–3, 129–5, 129–15, the shallow soil at deep soil Site D and the dump at deep soil Site G through field and laboratory sampling and analysis at gridded locations in accordance with the 2000 Final Comprehensive Work Plan, Final Sampling and Analysis Plan and Final Site Safety and Health Plan, Shallow Soil Sites RD/RA Activities and associated Work Plan Clarifications. The Army conducted the verification sampling for deep soil at deep soil Sites D and G in accordance with the 1997 Final Work Plan, Sites D and G Pilot Study and the 1999 Addendum 1, Final Work Plan Sites D and G Pilot Study. The Army conducted the verification sampling at the other sites in accordance with the Removal Action Work Plan or other work plan for each area.

The Army confirmed that the cleanup level for lead in the Pond G surface water was met through four rounds of post-treatment monitoring. The Army detected lead during the second monitoring event at an average concentration of 0.61 µg/L. This concentration was well below the calculated standard for lead of 10.6 µg/L based on the average surface water hardness of 255 mg/L for that event. The Army did not detect lead in any of the other rounds of post-treatment monitoring.

Complete documentation of the verification of the cleanup levels for Pond G and the shallow and deep OU2 soils is available in the Remedial Action Completion Reports, Removal Action Completion Reports and Final Close Out Reports referenced in the *Response Actions* section above which are available in the Docket.

Operation and Maintenance

Operation and maintenance (O&M) for the soil portion of OU2 (shallow and deep) is limited to inspecting and maintaining the cautionary warning signs and the thicknesses of the soil covers at Sites C, D, E, G, H, 129–15 and the Outdoor Firing Range; annually removing woody vegetation from the Site G soil cover to prevent deep rooting that could cause increased infiltration by any VOCs remaining below the cover; and to maintain, monitor and enforce the ESD and ROD Amendment-required LUCs, which are in the form of the Army's OU2 LUCRD document approved by EPA and MPCA. No O&M or LUCs are required for the five aquatic sites within the OU2 boundary: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South or Pond G.

The Army issued the initial EPA and MPCA-approved OU2 LUCRD (Revision 1) in 2010. The Army updated the LUCRD in 2011, 2015, 2016 and 2018 as portions of OU2 were further characterized, remediated as needed, and transferred for reuse and redevelopment. The current LUCRD is LUCRD Revision 5 issued in 2018.

The LUCRD documents that since 1997, the working presumption is that the OU2 property outside of the individual areas of concern (*i.e.,* the OU2 property beyond Site A, Site C, Site D, etc.) does not have soil contamination above the typical ''industrial use'' cleanup levels derived for the areas of contamination within OU2. Ongoing and future uses of the OU2 property outside of the areas of concern would be compatible with past uses. Land used for manufacturing could continue to be used for manufacturing; open space could continue to be used for open space. As such, the mostly open space along Rice Creek and the former OU2 staff housing area the Army previously transferred to Ramsey County and other OU2 property the Army transferred to the City of Arden Hills without any use restrictions (approximately 270 acres total) would remain acceptable for UU/UE.

LUCRD Revision 1 and subsequent revisions formalize the Army's decision to implement ''blanket LUCs'' limiting the OU2 property to industrial land use and restricting groundwater use across the remaining federally-owned OU2 property at the time LUCRD Revision 1 was issued in 2010 (except for Site F which the Army cleaned up to unrestricted use under RCRA). A map showing the initial federally-owned property with LUCs at the time of the 2010 LUCRD is in the September 2010 Figure 4 in the Docket.

The ''blanket LUCs'' resolved the outstanding LUC issues for the OU2 property outside of the individual areas of concern (*i.e.,* OU2 property beyond Site A, Site C, Site D, etc.,) because the remedy-required LUCs in the OU2 ESDs and ROD Amendments only apply to each individual area of concern, not to the OU2 property outside of those areas. The Army's ''blanket LUCs'' also address the uncertainty associated with not having soil data to characterize the entire OU2 property outside of the areas of concern. The 2010 LUCRD and subsequent revisions include additional restrictions for OU2 areas with soil covers and components of the OU2 groundwater extraction and treatment systems to protect the integrity of these remedies.

The 2010 LUCRD and subsequent revisions allow and formalize a process for the Army to demonstrate to EPA and MPCA that less restrictive uses of OU2 property are acceptable in anticipation of future redevelopment and property transfers at the NB/AH/TCAAP site.

The Army issued Revisions 2, 3, 4 and 5 to the LUCRD from 2011 to 2018. These revisions: (1) Cleared the Watchable Wildlife Area of AHATS for unrestricted public use and revised the LUCs for a portion of the AHATS Cantonment Area to allow uses compatible with a restricted commercial exposure scenario (Revision 2, 2011); (2) revised the LUCs for the remainder of the Cantonment Area and the Army Reserve Center to restricted commercial use and documented the transfer/lease of 427 acres of Army/BRAC controlled property to Ramsey County (Revision 3, 2015); (3) revised the LUCs to eliminate soil LUCs from the 380-acre ''California-Shaped Area'' of the 427 acres transferred to Ramsey County in 2013 following the County's additional investigation and soil cleanup to levels consistent with UU/UE (Revision 4, 2016); and (4) revised the LUCs to allow recreational use on 108 acres in the western portion of OU2 to be used as part of the Rice Creek Regional Trail Corridor (Revision 5, 2018).

The specific details of the current OU2 soil and groundwater use restrictions and the provisions for long-term stewardship of the LUCs are contained in the 2018 OU2 LUCRD Revision 5 which is available in the Docket. The technical basis and supporting documentation for the LUC revisions are included in Appendices B through E of LUCRD Revision 5. Maps showing the areas covered by the current soil and groundwater LUCs for OU2 are in Figures 4 and 5 in the Docket.

The Army is the lead agency for the NB/AH/TAACP Site and is responsible for conducting routine inspections to ensure that the LUCs are maintained and enforced. The Army is responsible for reporting the results of the inspections and any breach of the LUCs to the MPCA and EPA.

Five-Year Review

The Army is required to conduct statutory five-year reviews (FYR) at the NB/AH/TCAAP Site because hazardous substances, pollutants, or contaminants remain at the Site above levels that allow for UU/UE. The Army completed the last FYR of the NB/AH/TCAAP Site in 2014. The FYR was approved by MPCA and by EPA on August 19, 2014.

The Army's 2014 FYR concluded that the remedy has been completed for the OU2 soils sites: Sites A, C, D, E, G, H, 129–3, 129–5, 129–15, the Grenade Range and the Outdoor Firing Range. The FYR also determined that the protective soil covers at Sites C, D, E, G, H, 129–15 and the Outdoor Firing Range, in conjunction with the implemented LUCs, effectively prevent exposure to contaminated soils/debris remaining at OU2 above industrial exposure levels. The protective soil cover at Site G also minimizes infiltration and reduces the leaching of any remaining VOCs below the cover.

The 2014 FYR concluded that OU2 has been restored for industrial use. The Army also reviewed the toxicity data that the 1991 and 1997 health risk assessments for the soil sites were based on and determined that no changes have occurred that could potentially affect the protectiveness of the soil remedies. The 2014 FYR did not identify any issues or recommendations for the OU2 soils sites.

For OU2 groundwater, the FYR concluded that the OU2 groundwater remedies are protective in the short term. The groundwater containment systems are meeting the containment objectives and the treatment systems are meeting their discharge requirements. The alternate water supply and well abandonment program, along with Ramsey County's Special Well Construction Area permitting system, mitigate potential risks associated with private wells. At Site A, monitored natural attenuation is adequately controlling plume migration and water quality trends indicate that aquifer restoration continues to occur in both shallow and deep groundwater. A vapor intrusion investigation the Army conducted north of County Road I in 2014 indicates that there are no significant soil vapor risks and no further vapor intrusion investigation work is warranted (see the 2014 Site A Vapor Intrusion Investigation Report in the Docket).

The Army must complete the next FYR of the NB/AH/TCAAP Site and have it approved by EPA and MPCA on or before August 19, 2019.

Community Involvement

The Army satisfied public participation activities for the NB/AH/TCAAP Site as required by Sections 113(k)(2)(B)(i–v) and 117 of CERCLA, 42 U.S.C. 9613(k)(2)(B)(i–v) and 9617. The communities near the NB/AH/TCAAP Site have been involved in NB/AH/TCAAP Site activities since the environmental problems were initially identified. The Army developed a Community Involvement Plan for the NB/AH/TCAAP Site in 1991 to establish processes for sharing knowledge and encouraging community participation concerning the hazardous waste remediation activities underway and planned at the NB/AH/TCAAP Site. The Community Relations Plan outlines specific community relations strategies for addressing these goals and for updating the plan as needed to adjust to evolving community needs and concerns. The Army updated the Community Involvement Plan in 1997.

Over the years the Army has prepared and distributed numerous fact sheets to a large number of local and interested residents to keep the community apprised of the remedial activities at the NB/AH/TCAAP Site. The Army sponsored tours of the facility and accompanying wildlife areas, in addition to providing monthly Technical Review Committee (TRC) meetings open to the public to review the status of restoration activities at the NB/AH/TCAAP Site.

The TCAAP Restoration Advisory Board (RAB) was established in 1996 to provide citizen input into the cleanup of the NB/AH/TCAAP Site. The RAB provides an opportunity for community representatives to review and analyze issues concerning the contamination and remediation of the NB/AH/TCAAP soils and groundwater; provide comments and recommendations regarding the remediation of contaminated areas at the site; and to provide advice on decisions that affect the quality of the environment of the communities that are impacted by the contamination.

The Army met the public participation requirements for selecting cleanup remedies and the amended cleanup remedies for the NB/AH/TCAAP Site required by CERCLA Sections 113(k)(a)(B)(i–v) and 117. The Army met these requirements by issuing

fact sheets and Proposed Plans, notifying the public of the availability of the Proposed Plans in newspaper advertisements, holding public meetings and holding 30-day public comment periods.

The Army involves project stakeholders in the FYR process by notifying them at the start of each FYR. Project stakeholders notified at the start of the 2014 FYR include EPA, MPCA, Alliant Techsystems, Army National Guard, U.S. Army Environmental Command, U.S. Army Corp of Engineers, City of New Brighton, and the RAB.

The Army published a notice indicating that the 2014 FYR for the NB/AH/TCAAP Site was starting during the week of November 18, 2013 in the following newspapers: Minneapolis Star Tribune, Mounds View/New Brighton Sun Focus, and the Shoreview Press. The notice invited anyone interested in the FYR process to contact the Army TCAAP representative. The City of New Brighton was interested in participating in the FYR process.

The Army published a notice indicating that the FYR was complete and included contact information and the location of the public repository for the report (470 West Hwy. 96, Suite 100, Shoreview, MN 55126) in the newspapers after the FYR was finalized.

EPA has satisfied public participation activities for this partial deletion of the NB/AH/TCAAP Site as required by CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. EPA arranged to publish advertisements announcing this proposed direct final Partial Deletion and the 30-day public comment period in the Minneapolis Star Tribune, the Mounds View/New Brighton Sun Focus, and the Shoreview Press concurrent with publishing this partial deletion in the **Federal Register**. Documents in the deletion docket, which EPA relied on for recommending the partial deletion of the NB/AH/TCAAP Site from the NPL, are available to the public in the information repositories and at *https://www.regulations.gov.* Documents in the Docket include maps which identify the NB/AH/TCAAP Site, the locations of the OU2 areas of contamination/sites, the OU2 area included with this proposed direct final Partial Deletion, and the LUCs implemented for OU2.

Determination That the Criteria for Partial Deletion Have Been Met

The soil (shallow and deep) portion of OU2 and the five aquatic sites located within the OU2 boundary of the NB/AH/TCAAP Site: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G, meet all of the site completion requirements specified in Office of Solid Waste and Emergency Response (OSWER) Directive 9320.2–22, Close-Out Procedures for National Priorities List Sites. All cleanup actions and remedial action objectives for OU2 shallow and deep soil and these five aquatic sites set forth in the 1997 ROD, 2007 ROD Amendment #1, 2009 ROD Amendment #3, 2009 ESD #2, 2012 ROD Amendment #4 and 2014 ROD Amendment #5 have been implemented for all pathways of exposure. The selected remedial actions, RAOs, and associated cleanup levels for OU2 soil and the five aquatic sites located within the OU2 boundary are consistent with EPA policy and guidance. No further Superfund response is necessary to protect human health or the environment from the soil portion of OU2 (shallow and deep) or from the five aquatic sites located within the OU2 boundary.

Section 300.425(e) of the NCP states that a Superfund site or a portion of a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Minnesota, has determined that all required response actions have been implemented for all soil (shallow and deep) located within the OU2 boundary of the NB/AH/TCAAP Site and for the five aquatic sites located within the OU2 boundary: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G, and that no further response action by the Army is appropriate for these media/areas.

V. Deletion Action

EPA, with concurrence of the State of Minnesota, through the MPCA, has determined that all appropriate response actions under CERCLA, other than maintenance, monitoring and five-year reviews, have been completed for all soil (shallow and deep) located within the OU2 boundary and for the five aquatic sites located within the OU2 boundary: Rice Creek, Sunfish Lake, Marsden Lake North, Marsden Lake South and Pond G. Therefore, EPA is deleting all soil (shallow and deep) located within OU2 and these five aquatic sites located within the OU2 boundary from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective *September 23, 2019* unless EPA receives adverse comments by *August 22, 2019.* If adverse comments are received within the 30-day public comment period, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date and the partial deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

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.

Dated: July 8, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

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.

■ 2. Table 2 of Appendix B to part 300 is amended by revising the entry for ''MN, New Brighton/Arden Hills/Twin Cities Army Ammunition Plant, New Brighton'' to read as follows:

Appendix B to Part 300—[Amended]

TABLE 2—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes [a]
*	*	*	*
MN	New Brighton/Arden Hills/TCAAP (USARMY)	New Brighton	P

TABLE 2—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Notes [a]
* * *	* * *	*	*

[a] * * *
* P = Sites with partial deletion(s).

[FR Doc. 2019–15633 Filed 7–22–19; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[PS Docket No. 15–94, FCC 18–39; PS Docket Nos. 15–91, 15–94, FCC 18–94]

Emergency Alert System; Wireless Emergency Alerts

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the *State EAS Plan Order* and *Alerting Reliability Order.* This document is consistent with the *State EAS Plan Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval of these rules, and the *Alerting Reliability Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of these rules.

DATES: *Effective date:* The amendments to 47 CFR 11.45(b) and 11.61 published at 83 FR 39610, August 10, 2018, are effective July 23, 2019.

Compliance date: The Commission will publish a document in the **Federal Register** announcing the compliance date for the amendments to 47 CFR 11.18 and 11.21. See the **SUPPLEMENTARY INFORMATION** for additional details.

FOR FURTHER INFORMATION CONTACT: Nicole McGinnis, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by email at *Nicole.McGinnis@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on June 17, 2019, OMB approved, until June 30, 2022, the information collection requirements associated with (i) the Commission's *State EAS Plan Order,* PS Docket No. 15–94, FCC 18–39, adopted on March 28, 2018, released on April 10, 2018, and published at 83 FR 37750, August 2, 2018, which among other things required State Emergency Communications Committees (SECC) to file State EAS Plans electronically and established an online Alert Reporting System (ARS) for that purpose; and, (ii) the false alert notification requirements, and rules governing ''Live Code Tests'' of the EAS contained in the Commission's *Alerting Reliability Order,* PS Docket Nos. 15–94 and 15–91, FCC 18–94, adopted on July 12, 2018, released on July 13, 2018, and published at 83 FR 39610, August 10, 2018. The Commission publishes this document as an announcement of the effective date of the false alert notification requirements, and rules governing ''Live Code Tests'' of the EAS contained in the Commission's *Alerting Reliability Order.* In addition, the Commission publishes this document as an announcement of OMB's approval of the information collection requirements associated with the State EAS Plan online reporting requirements contained in the Commission's *State EAS Plan Order.* The *State EAS Plan Order* stated that compliance with the State EAS Plan online reporting requirements would be required within one year of publication in the **Federal Register** of a Public Notice announcing: (i) OMB approval of ARS information collection requirements or (ii) the availability of the ARS to receive such information, whichever is later. Accordingly, compliance with the State EAS Plan online reporting requirements contained in the Commission's *State EAS Plan Order* will be required within one year of publication in the **Federal Register** of a Public Notice announcing the availability of the ARS for filing State EAS Plans.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, Room 1–A620, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–0207, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on June 17, 2019, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 11. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0207.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0207.

OMB Approval Date: June 17, 2019.

OMB Expiration Date: June 30, 2022.

Title: Part 11, Emergency Alert System, (EAS), Orders, FCC 18–94.

Form Number: N/A.

Respondents: Business and other for-profit entities, Not-for-profit institutions, and State, Local and Tribal Government.

Number of Respondents and Responses: 63,084 respondents; 3,588,830 responses.

Estimated Time per Response: 0.017–100 hours.

Frequency of Response: One-time reporting requirement and on-occasion reporting requirements.

Obligation to Respond: Mandatory. The statutory authority for this information collection is contained in

sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615.

Total Annual Burden: 140,751 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: Section 11.21 of the Commission's part 11 (EAS) rules, 47 CFR 11.21, requires that State Emergency Communications Committees (SECC) prepare and submit State EAS Plans to the FCC for approval before State and local EAS alerts may be distributed within the state. On April 10, 2018, the Commission released the *State EAS Plan Order,* FCC 18–39, published at 83 FR 37750, August 2, 2018, requiring that SECCs file the State EAS Plans electronically using the ARS to provide a baseline level of uniformity across State EAS Plans, in terms of both format and terminology, and ensure more efficient and effective delivery of Presidential as well as state, local and weather-related alerts by providing the Commission, FEMA, and other authorized entities with the means to more easily review and identify gaps in the EAS architectures, detect problems, and take measures to address these shortcomings.

On July 13, 2018, the Commission released the *Alerting Reliability Order,* FCC 18–94, published at 83 FR 39610, August 10, 2018, which, among other things, required EAS Participants (the broadcasters, cable systems, and other service providers subject to the EAS rules) to notify the Commission (via email to the FCC Ops Center at *FCCOPS@fcc.gov*) within twenty-four (24) hours of the EAS Participant's discovery that it has transmitted or otherwise sent a false alert to the public, and codified requirements for conducting ''Live Code Tests'' of the EAS, which are local and regional tests of the EAS that use the same alert codes as, and function identically to, alerts issued for an actual emergency. The false alert notification requirements should provide the Commission with the information necessary to identify and mitigate problems associated with false EAS alerts. Codification of the ''live code test'' requirements removed the burdens associated with the filing of waiver requests to conduct such tests, while maintaining the safeguards that ensure ''live code tests'' will not confuse the public that the alert is only a test.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2019–15602 Filed 7–22–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 384

[Docket No. FMCSA–2018–0361]

RIN 2126–AC20

Lifetime Disqualification for Human Trafficking

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule revises the list of offenses permanently disqualifying individuals from operating a commercial motor vehicle (CMV) for which a commercial drivers' license or a commercial learner's permit is required. This final rule reflects a change made by Congress in the ''No Human Trafficking on Our Roads Act'' (the Act) which prohibits an individual from operating a CMV for life if that individual uses a CMV in committing a felony involving a severe form of human trafficking, adding to the list of other disqualifying offenses identified in statute. A list of these disqualifying offenses already exists in the FMCSRs; this final rule is necessary to update that list to include the new disqualifying offense established by the Act. This final rule also sets a deadline for States to come into substantial compliance with this requirement.

DATES: This final rule is effective September 23, 2019.

Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than August 22, 2019.

FOR FURTHER INFORMATION CONTACT: Kathryn Sinniger, Office of the Chief Counsel, Regulatory and Legislative Affairs, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or by telephone at 202–366–0908. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: This Final Rule is organized as follows:

I. Availability of Rulemaking Documents
II. Executive Summary
III. Legal Basis
IV. Discussion of Final Rule
V. International Impacts
VI. Section-by-Section
VII. Regulatory Analyses
A. E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)
B. Regulatory Flexibility Act (Small Entities)
C. Assistance for Small Entities
D. Unfunded Mandates Reform Act of 1995
E. Paperwork Reduction Act (Collection of Information)
F. E.O. 13132 (Federalism)
G. E.O. 12988 (Civil Justice Reform)
H. E.O. 13045 (Protection of Children)
I. E.O. 12630 (Taking of Private Property)
J. Privacy
K. E.O. 12372 (Intergovernmental Review)
L. E.O. 13211 (Energy Supply, Distribution, or Use)
M. E.O. 13175 (Indian Tribal Governments)
N. National Technology Transfer and Advancement Act (Technical Standards)
O. Environment

I. Availability of Rulemaking Documents

For access to docket FMCSA–2018–0361 to read background documents, go to *http://www.regulations.gov* at any time, or to Docket Services at U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Executive Summary

This final rule revises the list of offenses permanently disqualifying individuals required to have a commercial drivers' license (CDL) or a commercial learner's permit (CLP). This final rule reflects a change made by Congress in the ''No Human Trafficking on Our Roads Act'' (Pub. L. 115–106, 131 Stat. 2265, Jan. 8, 2018) (the Act). The Act prohibits an individual from operating a commercial motor vehicle (CMV), as defined in 49 U.S.C. 31301(4), for life, not eligible for reinstatement, if that individual uses a CMV in committing a felony involving a severe form of human trafficking, adding to the list of disqualifying offenses found in 49 U.S.C. 31310. A list of those existing disqualifying offenses already exists in 49 CFR 383.51; this final rule is necessary to update that list to include the new lifetime disqualifying offense established by the Act.

This final rule also sets a deadline for States to come into substantial compliance, as required by 49 U.S.C. 31311(a)(15).

III. Legal Basis for the Rulemaking

This final rule is based on the authority of the Commercial Motor Vehicle Safety Act of 1986, as amended (CMVSA) (Pub. L. 99–570, Title XII, 100 Stat. 3207–170, 49 U.S.C. chapter 313). The CMVSA, implemented in 49 CFR parts 383 and 384, established the commercial driver's license (CDL) and commercial learner's permit (CLP) programs. As part of the standards governing the operation of CMVs for which a CDL or CLP is required, section 31310 sets forth the offenses for which the Secretary of Transportation (the Secretary) must disqualify an individual from operating a CMV. In accordance with 49 CFR 1.87, the FMCSA Administrator is delegated authority to carry out the motor carrier functions vested in the Secretary. Section 31311(a)(15) requires the State, in order to avoid having amounts withheld from apportionment under section 31314, to disqualify the individual from operating a CMV for the same reasons and time periods set forth in section 31310, subsections (b–e), (i)(1)(A), and (i)(2).

The specific authority for this final rule derives from the ''No Human Trafficking on Our Roads Act'' (the Act) (Pub. L. 115–106, 131 Stat. 2265, Jan. 8, 2018), which amended 49 U.S.C. 31310(d) by adding the use of a CMV in committing a felony involving a severe form of human trafficking as a basis for an individual to be disqualified from operating a CMV for life without the possibility of reinstatement. Today's rule adds this offense to the other bases for disqualification already set forth in 49 CFR 383.51.

The Administrative Procedure Act (APA) provides that notice and public comment procedures are not required when an Agency finds there is ''good cause'' to dispense with such procedures and incorporates the finding and a brief statement of reasons to support the finding in the rule issued. Good cause exists when the agency determines that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(3)(B)). The statutory provision set forth in the Act is already in effect, and is enforceable regardless of whether it is incorporated into the CFR. This final rule incorporates the statutory provision into the CFR, to promote public awareness of this important provision and to ensure there is no discrepancy between statute and regulation, which could cause confusion. Because this final rule simply codifies already-existing statutory requirements into regulation, FMCSA would be unable to make any changes to this rule in response to comments. FMCSA therefore finds good cause that public comment procedures are unnecessary.

FMCSA is aware of the regulatory requirements concerning public participation in FMCSA rulemaking (49 U.S.C. 31136(g)). These requirements pertain to certain major rules,[1] but, because this final rule is not a major rule, they are not applicable here. In addition, the Agency finds that publication of an advance notice of proposed rulemaking under 49 U.S.C. 31136(g)(1)(A), or a negotiated rulemaking under 49 U.S.C. 31136(g)(1)(B), is unnecessary and contrary to the public interest in accordance with the waiver provision in 49 U.S.C. 31136(g)(3).

IV. Discussion of Final Rule

As noted above, the Act imposes a lifetime ban from operating a CMV on an individual who uses a CMV in committing a felony involving a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(11).[2] As noted in the Senate Report accompanying the legislation, ''Human trafficking, particularly sex trafficking, is known to be present at commercially operated truck stops and State-operated rest areas throughout the United States. Given their remoteness and insulation from communities, these locations can be a convenient place for sex traffickers to operate with minimal concerns for detection'' (Senate Report 115–188, Nov. 30, 2017). While Congress noted that CMV drivers can play an important part in identifying trafficking incidents, it concluded that more can be done to combat human trafficking. The Act is therefore intended to serve as a deterrent measure, as well as to punish those felonies involving severe forms of trafficking in persons.

The Act, which is self-executing, disqualifies any individual who uses a CMV in committing a felony involving a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(11), from operating a CMV for life. 22 U.S.C. 7102(11) defines the term ''severe forms of trafficking in persons'' to mean either ''sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;'' or ''the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.'' The term ''sex trafficking'' is further defined as ''the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act'' (22 U.S.C. 7102(12).

This final rule adds the lifetime disqualification without reinstatement to the list of disqualifying major offenses currently set forth in 49 CFR 383.51(b), Table 1.

This final rule also give States three years to come into substantial compliance with the Act, as required by 49 U.S.C. 31311(a)(15), which reads ''The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under subsections (b)–(e), (i)(1)(A) and (i)(2) of section 31310.'' Because, as noted above, the Act amended 49 U.S.C. 31310(d), States must satisfy the requirement to disqualify for life without reinstatement any individual who uses a CMV in committing a felony involving a severe form of trafficking in persons (as those terms are defined above). Recognizing that some States may need to conform their licensing statutes and regulations to include this new disqualifying offense, the Agency requires that States come into substantial compliance with 49 U.S.C. 31311(a) as soon as practicable, but not later than three years from the effective date of this final rule.

V. International Impacts

The FMCSRs, and any exceptions to the FMCSRs, apply only within the United States (and, in some cases, United States territories). Motor carriers and drivers are subject to the laws and regulations of the countries that they operate in, unless an international agreement states otherwise. Drivers and

[1] A ''major rule'' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)). The term ''major rule'' does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

[2] The Act references the definition found in 22 U.S.C. 7102(9). A recent reauthorization of the Trafficking Victims Protection Act of 2000 resulted in the redesignation of 22 U.S.C. 7101(9) to 22 U.S.C. 7102(11). This rule references the redesignated paragraph, in order to maintain the original intent of Congress when passing the Act. See ''Trafficking Victims Protection Reauthorization Act of 2017,'' Public Law 115–427 (Jan, 9, 2019).

carriers should be aware of the regulatory differences amongst nations.

VI. Section-by-Section Analysis

This final rule adds a new entry to 49 CFR 383.51(b), Table 1 to read as follows: (10) using the vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11).

This final rule also adds new paragraph (j) to 49 CFR 384.301, requiring States to come into substantial compliance with the changes made by this final rule within three years of its effective date.

VII. Regulatory Analyses

A. Executive Order (E.O). 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011). Accordingly, the Office of Management and Budget has not reviewed it under that Order. The rule also is not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6 dated December 20, 2018).

The Agency does not expect this rule to result in incremental costs or benefits. This rule brings FMCSRs into alignment with statute by adding the statutory provision in 49 U.S.C. 31310(d) to 49 CFR part 383.51. As described above in ''III. Legal Basis for the Rulemaking,'' the Act added a lifetime disqualification, not eligible for reinstatement, from operating a CMV to the list of disqualifying offenses found in 49 U.S.C. 31310 for individuals using a CMV in committing a felony involving a severe form of human trafficking. This offense, resulting in disqualification for life without reinstatement, is currently enforceable under the Act as of January 8, 2018. Therefore, individuals operating a CMV are already subject to enforcement under the existing statute regardless of whether this rule is promulgated.

This final rule requires States to come into substantial compliance with these changes within three years of the effective date. This follows the Agency's precedent of allowing States three years to take any required conforming legislative or regulatory actions.

B. E.O. 13771 Reducing Regulation and Controlling Regulatory Costs

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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.[3] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

FMCSA is not required to complete a regulatory flexibility analysis, because, as discussed earlier in the Legal Basis section, this action is not subject to notice and comment under section 553(b) of the APA.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

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 $161 million (which is the value equivalent of $100,000,000 in 1995, adjusted for inflation to 2017 levels) or more in any one year. Though this final rule is not a discretionary regulatory action and thus will not result in such an expenditure, the Agency does discuss the effects of this rule elsewhere in this preamble.

F. Paperwork Reduction Act

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

G. E.O. 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' FMCSA has determined that this rule would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. E.O. 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined

[3] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) see National Archives at *http://www.archives.gov/federal-register/laws/regulaotry-flexibility/601.html.*

this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

K. Privacy Impact Assessment

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not require the collection of personally identifiable information (PII).

The E-Government Act of 2002, Public Law 107–347, 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. Because no new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule, FMCSA did not conduct a privacy impact assessment.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

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

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 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.

O. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

P. Environment

FMCSA analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph(s)(5). The Categorical Exclusion (CE) in paragraph(s) covers Regulations intended to help reduce or prevent truck and bus accidents, fatalities, and injuries by requiring drivers to have a single commercial motor vehicle driver's license and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner and provide for periods of disqualification and penalties for those persons convicted of certain criminal and other offenses and serious traffic violations. The content in this rule is covered by this CE and the final action does not have any effect on the quality of the environment. The CE determination is available for inspection or copying in the *Regulations.gov* website listed under **ADDRESSES**.

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Commercial driver's license, Commercial motor vehicles, Highway safety, Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

In consideration of the foregoing, FMCSA amends 49 CFR chapter III as follows:

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 1. The authority citation for part 383 continues to read as follows:

Authority: Authority: 49 U.S.C. 521, 31136, 31301 *et seq.,* and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 stat. 405, 830; and 49 CFR 1.87.

Subpart D—Driver Disqualifications and Penalties

■ 2. In § 383.51, by add paragraph (b)(10) to table 1 to read as follows:

§ 383.51 Disqualification of drivers.

* * * * *

(b) * * *

TABLE 1 TO § 383.51

If a driver operates a motor vehicle and is convicted of:	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in § 383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for * * *	For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for * * *
*	*	*	*	*	*
(10) Using a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined and described in 22 U.S.C. 7102(11).	Life—not eligible for 10-year reinstatement.	Not applicable	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Not applicable.

* * * * *

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 5. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301 *et seq.,* and 31502; secs. 103 and 215 of Pub. L. 106–59, 113 Stat. 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5401 and 7208 of Pub. L. 114–94, 129 Stat. 1312, 1546, 1593; and 49 CFR 1.87.

Subpart C—Procedures for Determining State Compliance

■ 6. In § 384.301, add paragraph (j) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(j) A State must come into substantial compliance with the requirements of part 383 of this chapter in effect as of September 23, 2019, or as soon as practicable, but not later than September 23, 2023.

Issued under authority delegated in 49 CFR 1.87.

Dated: July 11, 2019.

Raymond P. Martinez,

Administrator.

[FR Doc. 2019–15611 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120404257–3325–02]

RIN 0648–XS003

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2019 Commercial Accountability Measure and Closure for South Atlantic Golden Tilefish Hook-and-Line Component

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for the commercial hook-and-line component for golden tilefish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial hook-and-line landings for golden tilefish will reach the hook-and-line component's commercial annual catch limit (ACL) by July 20, 2019. Therefore, NMFS closes the commercial hook-and-line component for golden tilefish in the South Atlantic EEZ on July 23, 2019, and it will remain closed until the start of the next fishing year on January 1, 2020. This closure is necessary to protect the golden tilefish resource.

DATES: This rule is effective at 12:01 a.m., local time, July 23, 2019, until 12:01 a.m., local time, January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes golden tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial golden tilefish sector has two components, each with its own quota (ACL): The longline and hook-and-line components (50 CFR 622.190(a)(2)). The golden tilefish commercial ACL is allocated 75 percent to the longline component and 25 percent to the hook-and-line component. On December 4, 2018, NMFS published a final rule (83 FR 62508) that implemented Regulatory Amendment 28 to the FMP, which revised the commercial and recreational ACLs for golden tilefish. The commercial ACL was revised from 323,000 lb (146,510 kg), gutted weight, to 331,740 lb (150,475 kg), gutted weight, and the hook-and-line quota was set at 82,935 lb (37,619 kg), gutted weight, with the remainder of the commercial quota, 248,805 lb (112,856 kg), assigned to the longline component.

Under 50 CFR 622.193(a)(1)(i), NMFS is required to close the commercial hook-and-line component for golden tilefish when the hook-and-line component's commercial ACL (quota) has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for the golden tilefish hook-and-line component in the South Atlantic will be reached by July 20, 2019. Accordingly, the hook-and-line component of South Atlantic golden

tilefish is closed effective at 12:01 a.m., local time, July 23, 2019.

The commercial longline component for South Atlantic golden tilefish closed on March 14, 2019, and will remain closed for the remainder of the fishing year, until 12:01 a.m., local time, January 1, 2020 (84 FR 8997; March 13, 2019). Additionally, the recreational sector for South Atlantic golden tilefish closed on June 17, 2019, and will remain closed for the remainder of the fishing year, until 12:01 a.m., local time, January 1, 2020 (84 FR 27479; June 16, 2019). Therefore, because the recreational sector and the commercial longline component is already closed, and NMFS is closing the commercial hook-and-line component through this temporary rule, all fishing for South Atlantic golden tilefish in the EEZ will be closed effective at 12:01 a.m., local time, July 23, 2019, until 12:01 a.m., local time, January 1, 2020.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper having golden tilefish on board must have landed and bartered, traded, or sold such golden tilefish prior to 12:01 a.m., local time, July 23, 2019. During the closure, the harvest or possession and sale or purchase of golden tilefish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of golden tilefish that were harvested by hook-and-line, landed ashore, and sold prior to 12:01 a.m., local time, July 23, 2019, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the prohibitions on harvest or possession and sale and purchase provisions of the commercial closure for golden tilefish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic golden tilefish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial hook-and-line component for golden tilefish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because the capacity of the fishing fleet allows for rapid harvest of the commercial ACL for the hook-and-line component, and there is a need to immediately implement this action to protect golden tilefish. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 18, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–15608 Filed 7–18–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02]

RIN 0648–XT008

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 30 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the Harpoon category. With this transfer, the adjusted Harpoon category quota for the 2019 fishing season is 76 mt. The 2019 Harpoon category fishery is open until November 15, 2019, or until the Harpoon category quota is reached, whichever comes first. The action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas Harpoon category (commercial) permitted vessels.

DATES: Effective July 18, 2019, through November 15, 2019.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260, or Larry Redd, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in Amendment 7 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline quotas for the Harpoon and Reserve categories are 46 mt and 29.5 mt, respectively. See § 635.27(a). To date for 2019, NMFS has published two actions that have adjusted the available 2019 Reserve category quota, which currently is 143 mt (84 FR 3724, February 13, 2019, and 84 FR 6701, February 28, 2019). The 2019 Harpoon category fishery opened June 1 and is open through November 15, 2019, or until the Harpoon category quota is reached, whichever comes first.

Quota Transfer

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered the relevant determination criteria and their applicability to the Harpoon category

fishery. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by Harpoon category fishermen and provided by BFT dealers continue to provide valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the Harpoon category would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the Harpoon category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). As of July 17, 2019, the Harpoon category has landed 38.5 mt. Commercial-size BFT are currently readily available to vessels fishing under the Harpoon category quota. Without a quota transfer at this time, Harpoon category participants would have to stop BFT fishing activities with very short notice, while commercial-sized BFT remain available in the areas Harpoon category permitted vessels operate. Transferring 30 mt of BFT quota from the Reserve category would result in a total of 76 mt being available for the Harpoon category for the 2019 Harpoon category fishing season.

Regarding the projected ability of the vessels fishing under the particular category quota (here, the Harpoon category) to harvest the additional amount of BFT before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered Harpoon category landings over the last several years. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. NMFS anticipates that the Harpoon category could harvest the transferred 30 mt prior to the end of the Harpoon category season, subject to weather conditions and BFT availability. NMFS may transfer unused Harpoon category quota to other quota categories, as appropriate. NMFS also anticipates that some underharvest of the 2018 adjusted U.S. BFT quota will be carried forward to 2019 and placed in the Reserve category, in accordance with the regulations. Thus, this quota transfer would allow fishermen to take advantage of the availability of fish on the fishing grounds, consider the expected increases in available 2019 quota, and provide a reasonable opportunity to harvest the full U.S. BFT quota.

NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2019 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2019 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with the current quotas, which were established and analyzed in the 2018 BFT quota final rule (83 FR 51391, October 11, 2018), and with objectives of the 2006 Consolidated HMS FMP and amendments and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)).

Based on the considerations above, NMFS is transferring 30 mt of the available 143 mt of Reserve category quota to the Harpoon category. Therefore, NMFS adjusts the Harpoon category quota to 76 mt for the 2019 Harpoon category fishing season (*i.e.,* through November 15, 2019, or until the Harpoon category quota is reached, whichever comes first), and adjusts the Reserve category quota to 113 mt.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota adjustments and closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, Harpoon category vessel owners are required to report their own catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action (*i.e.,* quota and/or daily retention limit adjustment, or closure) is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

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

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2019 is also contrary to the public interest as such a delay would likely result in closure of the Harpoon fishery when the baseline quota is met and the need to re-open the fishery, with attendant administrative costs and costs to the fishery. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.27(a)(9), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: July 18, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–15616 Filed 7–18–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XH099

Fisheries of the Exclusive Economic Zone Off Alaska; Reapportionment of the 2019 Gulf of Alaska Pacific Halibut Prohibited Species Catch Limits for the Trawl Deep-Water and Shallow-Water Fishery Categories

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

ACTION: Temporary rule; reapportionment.

SUMMARY: NMFS is reapportioning the seasonal apportionments of the 2019 Pacific halibut prohibited species catch (PSC) limits for the trawl deep-water and shallow-water species fishery categories in the Gulf of Alaska. This action is necessary to account for the actual halibut PSC use by the trawl deep-water and shallow-water species fishery categories from May 15, 2019 through June 30, 2019. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 18, 2019 through 2400 hours, A.l.t., December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Gulf of Alaska (GOA) exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2019 and 2020 harvest specifications for groundfish in the GOA (84 FR 9416, March 14, 2019) apportions the 2019 Pacific halibut PSC limit for trawl gear in the GOA to two trawl fishery categories: A deep-water species fishery and a shallow-water species fishery. The halibut PSC limit for these two trawl fishery categories is further apportioned by season, including four seasonal apportionments to the shallow-water species fishery and four seasonal apportionments to the deep-water species fishery. The two fishery categories also are apportioned a combined, fifth seasonal halibut PSC limit. Unused seasonal apportionments are added to the next season apportionment during a fishing year.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. Furthermore, NMFS is required to reapportion the halibut PSC limit between the deep-water and shallow-water species fisheries after June 30 to account for actual halibut PSC use by each fishery category during May 15 through June 30. As of July 17, 2019, NMFS has determined that the trawl deep-water and shallow-water fisheries used 51 metric tons (mt) and 32 mt of halibut PSC, respectively, from May 15 through June 30. Accordingly, pursuant to § 679.21(d)(4)(iii)(D), the Regional Administrator is reapportioning the combined first and second seasonal apportionments (860 mt) of halibut PSC limit between the trawl deep-water and shallow-water fishery categories to account for the actual PSC use (428 mt) in each fishery from January 1, 2019 through June 30, 2019. Therefore, Table 15 of the final 2019 and 2020 harvest specifications for groundfish in the GOA (84 FR 9416, March 14, 2019) is revised consistent with this adjustment.

TABLE 15—FINAL 2019 AND 2020 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY CATEGORIES

[Values are in metric tons]

Season	Shallow-water	Deep-water [1]	Total
January 20–April 1	19	141	160
April 1–July 1	42	226	268
Subtotal, combined first and second season limit (January 20–July 1)	61	367	428
July 1–August 1	287	607	894
August 1–October 1	53	75	128
Subtotal January 20–October 1	401	1,049	1,450
October 1–December 31 [2]			256
Total			1,706

[1] Vessels participating in cooperatives in the Central GOA Rockfish Program will receive 191 mt of the third season (July 1 through September 1) deep-water species fishery halibut PSC apportionment.

[2] There is no apportionment between trawl shallow-water and deep-water species fishery categories during the fifth season (October 1 through December 31).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the originally specified apportionment of the halibut PSC limits to the deep-water and shallow-water fishery categories.

NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 17, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 18, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–15607 Filed 7–18–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 141
Tuesday, July 23, 2019

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

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket ID OCC–2018–0026]

RIN 1557–AE48

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–1669]

RIN 7100–AF53

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 324

RIN 3064–AF06

Regulatory Capital Rules: Treatment of Land Development Loans for the Definition of High Volatility Commercial Real Estate Exposure

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: Notice of proposed rulemaking.

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 issuing a notice of proposed rulemaking (proposal) to seek comment on the treatment of loans that finance the development of land for purposes of the one- to four-family residential properties exclusion in the definition of high volatility commercial real estate (HVCRE) exposure in the agencies' regulatory capital rule. This proposal expands upon the notice of proposed rulemaking (HVCRE NPR) issued on September 28, 2018, which proposed to revise the definition of HVCRE exposure in the regulatory capital rule to conform to the statutory definition of ''high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan,'' in accordance with section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

DATES: Comments must be received by August 22, 2019.

ADDRESSES: Comments should be directed to:

OCC: You may submit comments to the OCC by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Regulatory Capital Rules: Treatment of Land Development Loans for the Definition of High Volatility Commercial Real Estate Exposure'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2018–0026'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov,* including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2018–0026'' in your comment. In general, the OCC will enter all comments received into the docket and publish them on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2018–0026'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen and then ''Comments.'' Comments and supporting materials can be filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov.* The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

Board: You may submit comments, identified by Docket No. R–1669, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. All public comments will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly,

comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue, Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, identified by RIN 3064–AF06, by any of the following methods:

- *Agency website: https://www.fdic.gov/regulations/laws/federal/index.html.* Follow instructions for submitting comments on the FDIC website.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- *Email: comments@FDIC.gov.* Include RIN 3064–AF06 on the subject line of the message.
- *Public Inspection:* All comments received must include the agency name and RIN 3064–AF06 for this rulemaking. All comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/index.html,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, or by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT:

OCC: Mark Ginsberg, Senior Risk Expert, or Benjamin Pegg, Risk Expert, Capital and Regulatory Policy, (202) 649–6370; or Carl Kaminski, Special Counsel, or Rima Kundnani, 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; Elizabeth MacDonald, Manager, (202) 475–6216; Andrew Willis, Lead Financial Institutions Policy Analyst, (202) 912–4323; Matthew McQueeney, Senior Financial Institutions Policy Analyst (202) 452–2942; or Benjamin McDonough, Assistant General Counsel (202) 452–2036; David Alexander, Counsel, (202) 452–2877, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Benedetto Bosco, Chief, Capital Policy Section; *bbosco@fdic.gov;* David Riley, Senior Policy Analyst, Capital Policy Section; *dariley@fdic.gov;* Michael Maloney, Senior Policy Analyst, *mmaloney@fdic.gov; regulatorycapital@fdic.gov;* Capital Markets Branch, Division of Risk Management Supervision, (202) 898–6888; Beverlea S. Gardner, Senior Examination Specialist, *bgardner@fdic.gov,* Policy and Program Development; Michael Phillips, Counsel, *mphillips@fdic.gov;* or Catherine Wood, Acting Supervisory Counsel, *cawood@fdic.gov;* Supervision and Legislation Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

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I. Background

On September 28, 2018, 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) (collectively, the agencies) published a notice of proposed rulemaking in the **Federal Register** (HVCRE NPR) to revise the high volatility commercial real estate (HVCRE) exposure definition in section 2 of the capital rule [1] to conform to the statutory definition of ''high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan'' in accordance with section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).[2]

Consistent with section 214, the agencies proposed in the HVCRE NPR to exclude credit facilities that finance the acquisition, development, or construction of one- to four-family residential properties from the definition of HVCRE exposure. In the HVCRE NPR, the agencies also invited comment on whether it would be appropriate to include one-to four-family ''lot development loans'' within the scope of the one- to four-family residential properties exclusion from the definition of HVCRE exposure. Some commenters to the HVCRE NPR supported aligning the one- to four-family residential properties exclusion with the treatment of one- to four-family residential construction loans as reported in the Call Report and FR Y–9C. Other commenters to the HVCRE NPR supported the exclusion of lot development loans from the definition of HVCRE exposure.

After reviewing the comments related to lot development loans, the agencies believe that the regulatory capital treatment of such loans warrants further consideration and clarification before finalizing the definition of an HVCRE exposure. The term ''lot development loan'' is not defined in the capital rule. The agencies have considered the use of the term ''lot development loan'' or ''land development loan'' for purposes of the one-to-four-family residential properties exclusion to the definition of HVCRE exposure, and are proposing to use the term ''land development,'' which is described in the instructions to the Call Report and FR Y–9C as a loan that finances the process of improving land, such as laying sewers, water pipes, and similar improvements to prepare the land for erecting new structures. Accordingly, the agencies are issuing this notice of proposed rulemaking (proposal), which expands upon the HVCRE NPR, to seek comment on the treatment of land development loans for the purpose of the one- to four-family residential properties exclusion from the definition of HVCRE exposure.

Section 214 became effective upon enactment of the EGRRCPA. Accordingly, on July 6, 2018, the agencies issued a statement (interagency statement), advising banking organizations that, when determining which loans should be subject to a heightened risk weight, they may choose to continue to apply the current regulatory definition of HVCRE exposure, or they may choose to apply

[1] The Board and 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). On April 14, 2014 (79 FR 20754), the FDIC adopted the interim final rule as a final rule with no substantive changes.

[2] *See* 12 CFR 217.2 (Board); 12 CFR 3.2 (OCC); 12 CFR 324.2 (FDIC). Section 214 of the EGRRCPA generally defines an HVCRE ADC Loan as a credit facility secured by land or improved real property that, primarily finances, has financed, or refinances the acquisition, development, or construction of real property; has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility.

the heightened risk weight only to those loans they reasonably believe meet the definition of ''HVCRE ADC loan'' set forth in section 214 of the EGRRCPA.[3] Until the agencies take further action, banking organizations are advised to reference the interagency statement for purposes of the HVCRE exposure definition and regulatory reporting.

II. Summary of Proposal

The agencies are expanding the HVCRE NPR to revise the definition of HVCRE exposure in the capital rule by adding a new paragraph that provides that the exclusion for one- to four-family residential properties would not include credit facilities that solely finance land development activities, such as the laying of sewers, water pipes, and similar improvements to land, without any construction of one- to four-family residential structures. In order for a loan to be eligible for this exclusion, the credit facility would be required to include financing for construction of one- to four-family residential structures.

Credit facilities that combine the financing of land development and the construction of one- to four-family residential structures would qualify for the one- to four-family residential properties exclusion. This revision would generally align with the instructions set forth in the Call Report and FR Y–9C on line 1.a.(1) of Schedules RC–C and HC–C. Further, combination land acquisition and construction loans on one- to four-family residential properties, regardless of the current stage of construction or development, would qualify for the one- to four-family residential properties exclusion as these exposures are reported in the Call Report and FR Y–9C on line 1.a.(1) of Schedules RC–C and HC–C. The agencies believe such combination loans generally pose less risk than loans that solely finance land development. Consistent with the HVCRE NPR, the proposal would maintain that ''other land loans'' (generally loans secured by vacant land, except for land known to be used for agricultural purposes) would continue to be included within the scope of the revised HVCRE exposure definition. Furthermore, under the proposal, combination land acquisition loans and land development loans that do not include financing for construction of one- to four-family residential structures, would not qualify for the one- to four-family residential properties exclusion. Under the proposal, a facility that solely finances land development would be categorized as an HVCRE exposure, unless the exposure meets another exclusion from the revised HVCRE exposure definition.

Allowing banking organizations to apply a consistent definition of one- to four-family residential property and land development in this manner would simplify reporting requirements, reduce burden, and promote uniform application of the capital rule. Additionally, supervisory experience has demonstrated that certain acquisition, development, and construction loan exposures present risks for which the agencies believe banking organizations should hold additional capital. Supervisors generally consider land development loans to present elevated risk as compared to construction loans. For example, while the loan-to-value ratio is only one of several pertinent credit factors to be considered when underwriting a real estate loan, the agencies have established in their real estate lending standards more stringent supervisory loan-to-value ratios for land development loans (75 percent) than for construction loans (80 or 85 percent depending on property type) because of the elevated credit risk in land development loans.[4] Furthermore, in some cases, land development loans may be made for speculative purposes, generate no cash flow, and require other sources of cash to service the debt. Based on the risks arising from land development loans, the agencies believe it would be imprudent to include loans that solely finance land development to prepare it for erecting new structures as part of the one- to four-family residential properties exclusion from the HVCRE exposure definition.

Consistent with the HVCRE NPR, the definition of HVCRE exposure would provide that the determination of whether a land development loan is considered an HVCRE exposure would be made at a loan's origination. Therefore, with respect to land development loans originated prior to the effective date of this rulemaking, the agencies would not expect banking organizations to reevaluate those exposures against the revised definition of HVCRE exposure. However, new land development loans originated after the effective date of this rulemaking would need to be evaluated in accordance with the revised HVCRE exposure definition for the purpose of the one- to four-family residential properties exclusion.

Question 1: The agencies invite comment on the exclusion of credit facilities that finance land development without any construction of one- to four-family residential structures from the one- to four-family residential properties exclusion in the HVCRE exposure definition. What are the advantages and disadvantages of not permitting such land development loans to qualify for the one- to four-family residential properties exclusion in the revised HVCRE exposure definition? The agencies welcome any quantitative analysis that could estimate the approximate economic impact of including or excluding such land development loans from the one- to four-family residential properties exclusion.

Question 2: The agencies invite comment on the proposed change to the rule text of the HVCRE exposure definition including whether it is sufficiently clear. What interpretation issues might arise from the proposed change to the HVCRE exposure definition? What additional clarity is needed to facilitate the consistent application of this proposed change to the rule text of the HVCRE exposure definition in the context of land development?

III. Regulatory Analyses

A. Paperwork Reduction Act

Certain provisions of the proposed 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 OMB control number for the OCC is 1557–0318, Board is 7100–0313, and FDIC is 3064–0153. These information collections relate to the regulatory capital rules for each agency. However, the agencies expect that these information collections will not be affected by this proposed rule and therefore no submissions will be made 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) for each of the agencies' regulatory capital rules.

[3] Board, FDIC, and OCC, *Interagency statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706a1.pdf.* (last visited August 21, 2018).

[4] *See* Board, OCC, and FDIC, *Interagency Guidelines For Real Estate Lending Policies* (real estate lending standards), 12 CFR part 208 Appendix C (Board); 12 CFR part 34 Appendix A (OCC); 12 CFR part 365 Appendix A (FDIC).

The proposed rule also requires changes to the Call Reports (FFIEC 031, FFIEC 041, and FFIEC 051; OMB Nos. 1557–0081 (OCC), 7100–0036 (Board), and 3064–0052 (FDIC)) and Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OMB Nos. 1557–0239 (OCC), 7100–0319 (Board), and 3064–0159 (FDIC)), and Consolidated Financial Statements for Holding Companies (FR Y–9C; OMB No. 7100–0128), which will be addressed in separate **Federal Register** notices.

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 proposed rule, to prepare an Initial 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

As of June 30, 2018, the OCC supervises 886 small entities.[5]

The proposed rule applies to all OCC-supervised depository institutions. Currently, 211 small OCC-supervised institutions report HVCRE exposures. Therefore, the rule will affect a substantial number of small entities. However, the OCC does not find that the impact of this proposed rule will be economically significant.

Therefore, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

The proposed rule impacts two principal areas: (1) The capital impact associated with implementing revisions to the one- to four-family residential properties exclusion in the revised HVCRE exposure definition and, (2) the impact associated with the time required to update policies and procedures. As described in the Supplementary Information section in the preamble to this proposed rule, the OCC believes the change to the treatment of land development loans for the purpose of the one- to four-family residential properties exclusion in the definition of HVCRE exposure will result in an increase in future required capital, once existing HVCRE land development loans roll over. This is because the proposed rule does not require re-evaluation of existing land development loans and would only apply to newly issued land development loans after the effective date of this rulemaking. This will serve to minimize the compliance burden for OCC-supervised entities. The OCC finds that the amount of total capital that small OCC-supervised institutions would need in the future in order to maintain their total risk-based capital ratios, as of March 31, 2018, would increase by approximately $33.97 million.

In addition to facing increased capital requirements, OCC-supervised banks may face one-time compliance costs associated with updating policies and procedures to identify whether a newly issued land development loan is eligible for the one- to four-family residential properties exclusion in the revised HVCRE exposure definition. Based on the OCC's supervisory experience, OCC staff estimates that it would take an OCC-supervised institution, on average, a one-time investment of one business day, or 8 hours, to update policies and procedures to identify whether a newly issued land development loan is eligible for the one- to four-family residential properties exclusion in the revised HVCRE exposure definition.

The OCC's threshold for a significant effect is whether cost increases associated with a 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. OCC-supervised institutions would incur an estimated one-time compliance cost of $912 per institution (8 hours × $114 per hour).[6] OCC staff finds that the overall impact, which includes the future increase in required capital and the cost of complying with the proposed rule, will not exceed either of the thresholds for a significant impact on any OCC-supervised small entities.

For this reason, the OCC certifies that the proposed rule will not have a significant economic impact on a substantial number of OCC-supervised small entities.

Board: The RFA requires an agency to either provide an initial regulatory flexibility analysis with a proposal or certify that the proposal will not have a significant impact on a substantial number of small entities. Under regulations issued by the SBA, a small entity includes a bank, bank holding company, or savings and loan holding company with assets of $550 million or less (small banking organization).[7] 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 has considered the potential impact of the proposed rule on small entities in accordance with the RFA. Based on the Board's analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is providing an initial regulatory flexibility analysis with respect to this proposed rule. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered. The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

As discussed in this **SUPPLEMENTARY INFORMATION**, the Board has proposed to revise the definition of HVCRE exposure to conform to the statutory definition of ''high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan,'' in accordance with section 214 of EGRRCPA. The proposal would clarify that certain land development loans as defined in the Call Report and FR Y–9C instructions are included in the revised definition of HVCRE exposure.

The proposal would 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 capital rule. Certain bank holding companies, and savings and loan holding companies are excluded from the application of the Board's capital rule. In general, the Board's capital rule only applies 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

[5] 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.

[6] Under the assumption that banks would need twice the amount of time to update policies and procedures, the estimated compliance cost is $1,824 per institution (16 hours × $114 per hour).

[7] *See* 13 CFR 121.201. Effective July 14, 2014, the SBA revised the size standards for banking organizations to $550 million in assets from $500 million in assets. 79 FR 33647 (June 12, 2014).

companies and savings and loan holding companies with less than $3 billion in total assets that also meet certain additional criteria.[8] Thus, most bank holding companies and savings and loan holding companies that would be subject to the proposed rule exceed the $550 million asset threshold at which a banking organization would qualify as a small banking organization.

In assessing whether the proposal rule would have a significant impact on a substantial number of small entities, the Board has considered the proposal's capital impact as well as its compliance, administrative, and other costs. As of December 31, 2018, there were 157 small state member banks and three small bank or savings and loan holding companies that reported combined HVCRE exposures totaling $611 million and 1–4 family residential construction loans totaling $1.2 billion. To estimate the capital impact of the proposal, the Board assumed a range of 75 to 95 percent of 1–4 family residential construction loans would remain exempt from the revised definition of HVCRE exposure. Based on this assumption, the difference in required capital would be in the range of $7 million to $36 million for small banking organizations supervised by the Board.

In addition to capital impact, the Board has considered whether the compliance, administrative, and other costs associated with the proposed rule. Given that the proposed rule does not impact the recordkeeping and reporting requirements that affected small banking organizations are currently subject to, there would be no change to the information that small banking organizations must track and report. Some small banking organizations may incur costs associated with updating internal policies to reflect the revised definition of HVCRE exposure, including the treatment of land development loans. However, because the proposal would clarify the treatment of HVCRE exposure and land development loans that may currently be in effect at many small banking organizations, the Board does not anticipate that a substantial number of small banking organizations will incur significant costs to update internal systems or policies to reflect the revised HVCRE exposure definition.

The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. In addition, there are no significant alternatives to the proposed rule. In light of the foregoing, the Board does not believe that the proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities.

FDIC: The RFA generally requires that, in connection with a proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities.[9] However, a regulatory flexibility analysis is not required if the agency certifies that the proposed 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.[10] 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 and under section 605(b) of the RFA, the FDIC certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The FDIC supervises 3,489 depository institutions,[11] of which 2,674 are considered small entities for the purposes of RFA.[12] According to recent data, 2,145 small, FDIC-supervised institutions report holding some volume of ADC loans for one- to four-family residential properties. Therefore, the FDIC estimates that the proposed rule is likely to affect a substantial number, 2,145 (80.2 percent), of small, FDIC-supervised institutions.[13]

This proposed rule would require institutions to treat some future land development loans for one- to four-family residential properties as HVCRE, which means they would receive a risk weight of 150 percent rather than 100 percent, unless such loans would qualify for a different exclusion. Based on comments received by the agencies, there is some uncertainty about the treatment for certain land development loans under the proposed definition of HVCRE. This proposed rule clarifies the treatment for certain land development loans and is likely to result in increased risk-weighted assets, and therefore increased risk-based capital requirements, for affected institutions. The effects of the proposed rule will be realized over the ensuing years by affected institutions as they make more land development loans. The Call Report does not collect data on land development loans in a standalone line item. However, such loans would be included in the category of one- to four-family residential construction loans on Schedule RC–C Line 1.a(1) if they include financing for the construction of one- to four-family residential structures. Residential mortgage exposures receive a 50 percent risk weight if they are secured by prudently-underwritten first liens on one- to four-family residential properties, while other residential mortgage exposures receive a 100 percent risk weight.[14] Therefore, the 100 percent risk weight category of residential mortgage exposures includes land development loans, other construction loans, as well as credit lines secured by home equity and mortgage loans secured by junior liens on one- to four-family residential properties. The potential effects of the proposed increase in risk-weight treatment for certain land development loans is difficult to quantify as it depends on the future volume of such lending. Assuming that current loan volume is an accurate proxy for future lending activity, to determine the maximum potential capital effect of the proposed rule, the FDIC assumes that all construction loans currently reported by FDIC-supervised institutions that are secured by one- to four-family residential properties are land development loans. The FDIC also assumes that the ratio of currently reported residential construction loans to currently reported total residential mortgage loans (other than those secured by first liens of one- to four-family residential properties) is the same for each institution's 100 percent risk-weight category of residential mortgage exposures as it is for each institution's loan portfolio, and that covered institutions would maintain the same risk-based capital ratio after the proposed rule goes into effect. Using those assumptions, the FDIC finds that the amount of total capital that small

[8] *See* 12 CFR 217.1(c)(1)(ii) and (iii); 12 CFR part 225, appendix C; 12 CFR 238.9.

[9] 5 U.S.C. 601 *et seq.*

[10] The SBA defines a small commercial bank to have $550 million or less in total assets. *See* 13 CFR 121.201 (as amended, effective December 2, 2014). The SBA requires agencies to ''consider assets of affiliated and acquired financial institutions reported in the previous four quarters.'' *See* 13 CFR 121.104. Therefore, the FDIC utilizes merger-adjusted and affiliated assets, averaged over the previous four quarters, to identify whether a bank is a ''small entity'' for the purposes of RFA.

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

[12] FDIC Call Report, December 31st, 2018.

[13] *Id.*

[14] 78 FR 55340.

FDIC-supervised institutions would need in the future in order to maintain their current total risk-based capital ratios would increase by $259.20 million (0.50 percent); the amount of tier 1 capital institutions would need in order to maintain their current tier 1 risk-based capital ratios would increase by $242.8 million (0.50 percent); and the amount of common equity tier 1 capital institutions would need in order to maintain their current common equity tier 1 risk-based capital ratios would increase by $242.5 million (0.50 percent). The maximum estimated potential future capital increase of $259.20 million for small, FDIC-supervised institutions consistent with maintaining their current risk-based capital ratios, amounts to an average increase in capital of $120,839 per affected institution.[15]

The change in required capital precipitated by the proposed rule will almost certainly be less than the maximum estimated amount, since not all current credit facilities that finance land development without any construction of one- to four-family residential properties would qualify for a higher risk weight. The estimated maximum increase in capital would represent less than five percent of total current risk-based capital for all but 30 small FDIC-supervised institutions, and less than ten percent of risk-based capital for all but 11 FDIC-supervised institutions.[16] Since land development loans are not reported separately on the Call Report, they could comprise anywhere from zero to 100 percent of residential construction loans for each institution.

The proposed rule could pose some administrative costs for covered institutions associated with reviewing land development loan portfolios. It is difficult to accurately estimate the costs that each institution will incur in order to conduct reviews since it depends on each institution's volume of land development loans. However, assuming that each institution requires 40 hours of labor to adopt new policies and procedures for reviewing new lot development loans, and assuming an hourly cost of $83.23,[17] the estimated administrative costs resulting from this proposal would be $3,329.20 per institution or $7,141,134 for all small, FDIC-supervised institutions. These administrative costs amount to less than two percent of annualized salary expense, and less than one percent of annualized noninterest expense, for all small, FDIC-supervised institutions directly affected by the proposed rule.[18] Therefore, this aspect of the proposed rule does not have a significant effect on small, FDIC-supervised institutions directly affected by the proposed rule.

This proposed rule would likely increase capital requirements for some land development loans, which could potentially decrease the volume of this type of lending by small, FDIC-supervised institutions. The FDIC believes that this effect will likely be small given that the amendments only affect a subset of residential construction loans, which represent a small portion of total assets for most small, FDIC-supervised institutions. Going forward, institutions also could have an incentive to shift their loan mix away from credit facilities that finance land development without any construction of one- to four-family residential properties. Increases in required capital could enhance the ability of small, FDIC-supervised institutions to withstand an economically stressful scenario. This effect would only be relevant for a small number of institutions with material exposures to the types of loans covered by the proposed rule.

The baseline for analysis of the expected effects of the proposed rule on small entities is the current regulatory definition of HVCRE and the interagency statement.[19] However, as described previously, this NPR expands upon the HVCRE NPR. The HVCRE NPR revises the definition of HVCRE exposure in the regulatory capital rule to conform to the statutory definition of ''high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan,'' in accordance with section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). If the total expected effects of the proposed rule and the HVCRE NPR were considered together they are likely to result in a reduction in risk weighted assets for affected institutions.

Based on this supporting information, the FDIC does not believe that the proposed rule will have a significant economic impact on a substantial number of small entities.

The FDIC invites comments on all aspects of the supporting information provided in this section, and in particular, whether the proposed rule would have any significant effects on small entities that the FDIC has not identified.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[20] 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 proposed rule in a simple and straightforward manner, and invite comment on the use of plain language. For example:

- Have the agencies organized the material to suit your needs? If not, how could they present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Would more, but shorter, sections be better? If so, which sections should be changed?''
- What other changes can the agencies incorporate to make the regulation easier to understand?

D. OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC analyzed the proposed 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

[15] FDIC Call Report, December 31st, 2018.

[16] *Id.*

[17] Estimated total hourly compensation of Financial Analysts in the Depository Credit Intermediation sector as of December 2018. The estimate includes the May 2017 75th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2017 and December 2018 (3.59 percent) and grossed up by 50.83 percent to account for non-monetary compensation as reported by the December 2018 Employer Costs for Employee Compensation Data.

[18] FDIC Call Report, December 31st, 2018.

[19] Board, FDIC, and OCC, *Interagency statement regarding the impact of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20180706a1.pdf.* (last visited August 21, 2018).

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

sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a written statement to accompany this proposed 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),[21] 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.[22]

The agencies note that comment on these matters has been solicited in other sections of this **SUPPLEMENTARY INFORMATION** section, and that the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the agencies also invite any other comments that further will inform the agencies' consideration of RCDRIA.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Banks, Banking, Capital adequacy, Capital requirements, Asset Risk-weighting methodologies, Reporting and recordkeeping requirements, National banks, Federal savings associations, Risk.

12 CFR Part 217

Administrative practice and procedure, Banks, Banking, Capital adequacy, Capital requirements, Asset Risk-weighting methodologies, Reporting and recordkeeping requirements, Holding companies, State member banks, Risk.

12 CFR Part 324

Administrative practice and procedure, Banks, Banking, Capital adequacy, Capital requirements, Asset Risk-weighting methodologies, Reporting and recordkeeping requirements, State savings associations, State non-member banks, Risk.

Office of the Comptroller of the Currency

For the reasons set out in the **SUPPLEMENTARY INFORMATION**, the OCC proposes to amend 12 CFR part 3 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).

■ 2. Amend § 3.2 by revising the definition of a ''high volatility commercial real estate (HVCRE) exposure'' to read as follows:

§ 3.2 Definitions.

* * * * *

High volatility commercial real estate (HVCRE) exposure means:

(1) A credit facility secured by land or improved real property that, prior to being reclassified by the depository institution as a non-HVCRE exposure pursuant to paragraph (6) of this definition—

(i) Primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

(ii) Has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

(iii) Is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility;

(2) Does not include a credit facility financing—

(i) The acquisition, development, or construction of properties that are—

(A) One- to four-family residential properties;

(B) Real property that would qualify as an investment in community development; or

(C) Agricultural land;

(ii) The acquisition or refinance of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the national bank's or Federal savings association's applicable loan underwriting criteria for permanent financings;

(iii) Improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the national bank's or Federal savings association's applicable loan underwriting criteria for permanent financings; or

(iv) Commercial real property projects in which—

(A) The loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the OCC;

(B) The borrower has contributed capital of at least 15 percent of the real property's appraised, 'as completed' value to the project in the form of—

(*1*) Cash;

(*2*) Unencumbered readily marketable assets;

(*3*) Paid development expenses out-of-pocket; or

(*4*) Contributed real property or improvements; and

(C) The borrower contributed the minimum amount of capital described under paragraph (2)(iv)(B) of this definition before the national bank or Federal savings association advances funds (other than the advance of a nominal sum made in order to secure the national bank's or Federal savings association's lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the HVCRE exposure has been reclassified by the national bank or Federal savings association as a non-HVCRE exposure under paragraph (6) of this definition;

(3) Does not include any loan made prior to January 1, 2015; and

(4) Does not include a credit facility reclassified as a non-HVCRE exposure under paragraph (6) of this definition.

(5) *Value of Contributed Real Property.*—For the purposes of this HVCRE exposure definition, the value of any real property contributed by a borrower as a capital contribution shall be the appraised value of the property as determined under standards prescribed pursuant to section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339), in connection with the extension of the credit facility or loan to such borrower.

(6) *Reclassification As A Non-HVCRE exposure.*—For purposes of this HVCRE

[21] 12 U.S.C. 4802(a).

[22] *Id.*

exposure definition and with respect to a credit facility and a national bank or Federal savings association, a national bank or Federal savings association may reclassify an HVCRE exposure as a non-HVCRE exposure upon—

(i) The substantial completion of the development or construction of the real property being financed by the credit facility; and

(ii) Cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property, in accordance with the national bank's or Federal savings association's applicable loan underwriting criteria for permanent financings.

(7) For purposes of this definition, credit facilities that do not finance the construction of one- to four-family residential structures, but instead solely finance improvements such as the laying of sewers, water pipes, and similar improvements to land, do not qualify for the one- to four-family residential properties exclusion in paragraph 2(i)(A).

* * * * *

Board of Governors of the Federal Reserve System

For the reasons set out in the Supplementary Information, part 217 of chapter II of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 217—CAPITAL ADEQUACY OF BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND STATE MEMBER BANKS (REGULATION Q).

■ 3. 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.

■ 4. Section 217.2 is amended by revising the definition of a ''high volatility commercial real estate (HVCRE) exposure'' to read as follows:

§ 217.2 Definitions.

* * * * *

High volatility commercial real estate (HVCRE) exposure means:

(1) A credit facility secured by land or improved real property that, prior to being reclassified by the Board-regulated institution as a non-HVCRE exposure pursuant to paragraph (6) of this definition—

(i) Primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

(ii) Has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

(iii) Is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility; provided that:

(2) An HVCRE exposure does not include a credit facility financing—

(i) The acquisition, development, or construction of properties that are—

(A) One- to four-family residential properties;

(B) Real property that would qualify as an investment in community development; or

(C) Agricultural land;

(ii) The acquisition or refinance of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the Board-regulated institution's applicable loan underwriting criteria for permanent financings;

(iii) Improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the Board-regulated institution's applicable loan underwriting criteria for permanent financings; or

(iv) Commercial real property projects in which—

(A) The loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the Board;

(B) The borrower has contributed capital of at least 15 percent of the real property's appraised, 'as completed' value to the project in the form of—

(*1*) Cash;

(*2*) Unencumbered readily marketable assets;

(*3*) Paid development expenses out-of-pocket; or

(*4*) Contributed real property or improvements; and

(C) The borrower contributed the minimum amount of capital described under paragraph (2)(iv)(B) of this definition before the Board-regulated institution advances funds (other than the advance of a nominal sum made in order to secure the Board-regulated institution's lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the HVCRE exposure has been reclassified by the Board-regulated institution as a non-HVCRE exposure under paragraph (6) of this definition;

(3) An HVCRE exposure does not include any loan made prior to January 1, 2015;

(4) An HVCRE exposure does not include a credit facility reclassified as a non-HVCRE exposure under paragraph (6) of this definition.

(5) *Value of contributed real property.* For the purposes of this definition of HVCRE exposure, the value of any real property contributed by a borrower as a capital contribution is the appraised value of the property as determined under standards prescribed pursuant to section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (*12 U.S.C. 3339*), in connection with the extension of the credit facility or loan to such borrower.

(6) *Reclassification as a non-HVCRE exposure.* For purposes of this definition of HVCRE exposure and with respect to a credit facility and a Board-regulated institution, a Board-regulated institution may reclassify an HVCRE exposure as a non-HVCRE exposure upon—

(i) The substantial completion of the development or construction of the real property being financed by the credit facility; and

(ii) Cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property, in accordance with the Board-regulated institution's applicable loan underwriting criteria for permanent financings.

(7) For purposes of this definition, credit facilities that do not finance the construction of one- to four-family residential structures, but instead solely finance improvements such as the laying of sewers, water pipes, and similar improvements to land, do not qualify for the one- to four-family residential properties exclusion in paragraph 2(i)(A).

* * * * *

Federal Deposit Insurance Corporation

For the reasons set out in the Supplementary Information, the FDIC proposes to amend 12 CFR part 324 as follows.

PART 324—CAPITAL ADEQUACY OF FDIC–SUPERVISED INSTITUTIONS

Subpart A—General Provisions

■ 5. 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).

■ 6. Section 324.2 is amended by revising the definition of a ''high volatility commercial real estate (HVCRE) exposure'' as follows:

§ 324.2 Definitions.

* * * * *

High volatility commercial real estate (HVCRE) exposure means:

(1) A credit facility secured by land or improved real property that, prior to being reclassified by the FDIC-supervised institution as a non-HVCRE exposure pursuant to paragraph (6) of this definition—

(i) Primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

(ii) Has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

(iii) Is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility; provided that:

(2) An HVCRE exposure does not include a credit facility financing—

(i) The acquisition, development, or construction of properties that are—

(A) One- to four-family residential properties;

(B) Real property that would qualify as an investment in community development; or

(C) Agricultural land;

(ii) The acquisition or refinance of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the FDIC-supervised institution's applicable loan underwriting criteria for permanent financings;

(iii) Improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the FDIC-supervised institution's applicable loan underwriting criteria for permanent financings; or

(iv) Commercial real property projects in which—

(A) The loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the FDIC;

(B) The borrower has contributed capital of at least 15 percent of the real property's appraised, 'as completed' value to the project in the form of—

(*1*) Cash;

(*2*) Unencumbered readily marketable assets;

(*3*) Paid development expenses out-of-pocket; or

(*4*) Contributed real property or improvements; and

(C) The borrower contributed the minimum amount of capital described under paragraph (2)(iv)(B) of this definition before the FDIC-supervised institution advances funds (other than the advance of a nominal sum made in order to secure the FDIC-supervised institution's lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the HVCRE exposure has been reclassified by the FDIC-supervised institution as a non-HVCRE exposure under paragraph (6) of this definition;

(3) An HVCRE exposure does not include any loan made prior to January 1, 2015;

(4) An HVCRE exposure does not include a credit facility reclassified as a non-HVCRE exposure under paragraph (6) of this definition.

(5) Value Of contributed real property.—For the purposes of this definition of HVCRE exposure, the value of any real property contributed by a borrower as a capital contribution is the appraised value of the property as determined under standards prescribed pursuant to section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339), in connection with the extension of the credit facility or loan to such borrower.

(6) Reclassification as a non-HVCRE exposure.—For purposes of this definition of HVCRE exposure and with respect to a credit facility and an FDIC-supervised institution, an FDIC-supervised institution may reclassify an HVCRE exposure as a non-HVCRE exposure upon—

(i) The substantial completion of the development or construction of the real property being financed by the credit facility; and

(ii) Cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property, in accordance with the FDIC-supervised institution's applicable loan underwriting criteria for permanent financings.

(7) For purposes of this definition, credit facilities that do not finance the construction of one- to four-family residential structures, but instead solely finance improvements such as the laying of sewers, water pipes, and similar improvements to land, do not qualify for the one- to four-family residential properties exclusion in paragraph 2(i)(A).

* * * * *

Dated: June 10, 2019.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, July 11, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on June 7, 2019.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2019–15332 Filed 7–22–19; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0494; Product Identifier 2019–NM–051–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787 series airplanes. This proposed AD was prompted by reports that the nose landing gear (NLG) retracted while the airplane was on the ground with weight on wheels, due to the installation of a NLG downlock pin in an incorrect location. This proposed AD would require installing an insert to prevent installation of the pin in the incorrect location. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 6, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0494.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0494; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3528; email: *allen.rauschendorfer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0494; Product Identifier 2019–NM–051–AD'' at the beginning of your comments. The agency specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The agency will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

In March of 2018, the FAA received a report indicating that the NLG on a Boeing Model 787–8 retracted on the ground, with weight on the airplane's wheels, while undergoing maintenance testing. Although no maintenance personnel were injured, the incident resulted in major structural damage to the forward fuselage of the airplane. The NLG retraction occurred due to the NLG downlock pin being installed in an incorrect location: The apex pin inner bore of the NLG lock link assembly, which is adjacent to the correct location for the NLG downlock pin. A similar retraction occurred in March of 2016 on a Boeing Model 787–8 airplane with passengers aboard, resulting in substantial damage to the aircraft and minor injuries to passengers. In addition, we received a safety report from an operator's maintenance technician arising from the March 2018 incident that described the risk of an inadvertent NLG retraction due to accidentally installing the NLG downlock pin in the apex pin inner bore of the NLG lock link assembly. We considered the reports of NLG retraction and the safety report in our risk assessment. Accidentally installing the NLG downlock pin in the apex pin inner bore of the NLG lock link assembly, if not addressed, could result in the NLG retracting on the ground, possibly causing serious injuries to personnel and passengers and substantial damage to the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019. The service information describes procedures for installing an insert into the apex pin inner bore of the NLG lock link assembly to prevent the NLG downlock pin from being inserted in the incorrect location.

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

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0494.

Costs of Compliance

The FAA estimates that this proposed AD would affect 73 airplanes of U.S. registry. The agency estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install insert	2 work-hours × $85 per hour = $170	$1,820	$1,990	$145,270

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2019–0494; Product Identifier 2019–NM–051–AD.

(a) Comments Due Date

The FAA must receive comments by September 6, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category, as identified in Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that the nose landing gear (NLG) retracted on the ground, with weight on the airplane's wheels, due to the incorrect installation of a NLG downlock pin in the apex pin inner bore of the NLG lock link assembly. The FAA is issuing this AD to address the NLG downlock pin being incorrectly installed in the apex pin inner bore of the NLG lock link assembly, which could result in the NLG retracting on the ground, possibly causing serious injuries to personnel and passengers and substantial damage to the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Service Bulletin B787–81205–SB320040–00, Issue 001, dated March 12, 2019, which is referred to in Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019.

(h) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where Boeing Requirements Bulletin B787–81205–SB320040–00 RB, Issue 001, dated March 12, 2019, uses the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB320040–00 RB,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact Allen Rauschendorfer, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3528; email: *allen.rauschendorfer@faa.gov.*

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

Issued in Des Moines, Washington, on July 11, 2019.

Suzanne Masterson,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–15519 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

[192A2100DD/AAKC001030/A0A501010.999900 253G]

RIN 1076–AF46

List of Courts of Indian Offenses; Future Publication of Updates

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise one section of our regulations to provide that the current list of areas in Indian Country with Courts of Indian Offenses (also known as CFR Courts) will be published and updated in the **Federal Register** and on the Bureau of Indian Affairs (BIA) website. Currently, that section of the Code of Federal Regulations, itself, lists the areas in Indian Country with CFR Courts, requiring a rulemaking each time a court is added or deleted. Allowing for publication in the **Federal Register**, in lieu of a rulemaking, will better keep Tribal members and the public updated on the current status of the Courts of Indian Offenses.

DATES: Comments are due by September 23, 2019.

ADDRESSES: You may send comments, identified by RIN number 1076–AF46 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: consultation@bia.gov.* Include RIN number 1076–AF46 in the subject line of the message.
- *Mail or Hand-Delivery/Courier:* Office of Regulatory Affairs & Collaborative Action—Indian Affairs (RACA), U.S. Department of the Interior, 1849 C Street NW, Mail Stop 4660, Washington, DC 20240.

Instructions: All submissions received must include the Regulatory Information Number (RIN) for this rulemaking (RIN 1076–AF46). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: Generally, Courts of Indian Offenses operate in those areas of Indian country where Tribes retain jurisdiction over Indians that is exclusive of State jurisdiction, but where Tribal courts have not been established to fully exercise that jurisdiction. The Code of Federal Regulations, at 25 CFR 11.100, currently lists each Tribe for which Courts of Indian Offenses have been established.

On occasion, a Court of Indian Offenses is established or re-established or, alternatively, a Court of Indian Offenses ceases operation because BIA and a Tribe enter into a contract or compact for the Tribe to provide judicial services or the Tribe establishes a court system that meets regulatory requirements. Each time one of these changes occurs, the list of Courts of Indian Offenses must be updated for public transparency. Because the list of Courts of Indian Offenses is directly in § 11.100, a rulemaking is required to change the list. During the time it takes to conduct a rulemaking, the list in the Code of Federal Regulations is not accurate.

To allow for more agile responses to status changes, this proposed rule would remove the list of CFR Courts from the regulations and instead require the BIA to publish the current list and any updates to the current list in the **Federal Register** and on its website. This proposed rule would enable BIA to keep the list of CFR Courts updated and accurate, improving transparency for Tribal members and the public who wish to know what areas in Indian Country have CFR Courts established. The proposed rule also revises § 11.104 to clarify that the list would no longer be published directly in § 11.100, but rather would be published in accordance with the directions in § 11.100 to publish in the **Federal Register** and on the BIA website.

A. Regulatory Planning and Review (E.O. 12866)

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

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

B. E.O. 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an E.O. 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not change current funding requirements and would not impose any economic effects on small governmental entities.

D. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Will not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

E. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

F. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

G. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient

federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

H. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

I. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have determined there are no substantial direct effects on Federally recognized Indian Tribes that will result from this rulemaking because BIA consults on an individual basis with each Tribe for which there is a change in the status of their CFR Court.

J. Paperwork Reduction Act

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* prohibits a Federal agency from conducting or sponsoring a collection of information that requires OMB approval, unless such approval has been obtained and the collection request displays a currently valid OMB control number. Nor is any person required to respond to an information collection request that has not complied with the PRA. There is no information collection requiring OMB approval associated with this proposed rule. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number.

K. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

L. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

M. Clarity of This Regulation

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

a. Be logically organized;

b. Use the active voice to address readers directly;

c. Use clear language rather than jargon;

d. Be divided into short sections and sentences; and

e. Use lists and tables wherever possible.

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

N. Public Availability 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.

List of Subjects in 25 CFR Part 11

Courts, Indians-law.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend 25 CFR part 11 as follows:

PART 11—COURTS OF INDIAN OFFENSES AND LAW AND ORDER CODE

■ 1. The authority for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 208, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

Subpart A—Application; Jurisdiction

■ 2. Revise § 11.100 to read as follows:

§ 11.100 Where are Courts of Indian Offenses established?

(a) A list of the areas in Indian Country where Courts of Indian Offenses are established is available on the Bureau of Indian Affairs website (*www.bia.gov*) and is published periodically in the **Federal Register**.

(b) The Director, Bureau of Indian Affairs, will maintain on the Bureau of Indian Affairs website (*www.bia.gov*) an updated list of the areas in Indian Country where Courts of Indian Offenses are established and, upon any change to the list, will publish notice of the change in the **Federal Register** with an updated complete list.

■ 3. Revise § 11.104(a) introductory text to read as follows:

§ 11.104 When does this part apply?

(a) The regulations in this part continue to apply to each area in Indian Country listed in accordance with § 11.100 until either:

* * * * *

Dated: June 25, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–15549 Filed 7–22–19; 8:45 am]

BILLING CODE 4337–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0007; FRL–9997–04–Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Intermountain Waste Oil Refinery Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is issuing a Notice of Intent to Delete Intermountain Waste Oil Refinery Superfund Site (Site) located in Bountiful City, Davis County,

Utah, 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 Utah, through the Utah Department of Environmental Quality (UDEQ), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by *August 22, 2019*.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2000–0007 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: waterman.erna@epa.gov*.
- *Mail:* Erna Waterman, Remedial Project Manager, U.S. EPA, Region 8, Mail Code 8SEM–RB, 1595 Wynkoop Street, Denver, CO 80202–1129.
- *Hand delivery:* U.S. EPA, Region 8 1595 Wynkoop Street, Mailcode: SEM–RB, Denver, CO 80202–1129. 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–2000–0007. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *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: Utah Department of Environmental Quality, 168 North 1950 West, Salt Lake City, UT 84116; Phone: (801–944–7641); Hours: M–Th: 9 a.m.–9 p.m.; Fri–Sat: 9:00 a.m.–5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Erna Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, Mailcode: SEM–RB, Denver, CO 80202, (303) 312–6762, email: *waterman.erna@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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III. Deletion Procedures
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I. Introduction

EPA Region 8 announces its intent to delete the Intermountain Waste Oil Refinery Superfund 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 sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Intermountain Waste Oil Refinery Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the 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 in not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without

application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State before developing this Notice of Intent to Delete.

(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, EPA has determined that no further response is appropriate.

(4) The State of Utah, through the UDEQ, has concurred with deletion of the Site from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, the Davis Clipper. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the site from the NPL.

(6) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments are received within the 30-day public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intended Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The two-acre Superfund Site Intermountain Waste Oil Refinery is located in the City of Bountiful, in Davis County, Utah. The site was originally part of a brick manufacturing facility that encompassed about 20 acres. In the 1950s, an asphalt business was operated at the site. In 1957, a trucking business that hauled various petroleum products to customers opened and continued operating for approximately 35 years before closing in May 1993. During the 1970s, an oil blending business operated on the property. The operation involved blending green bottoms, purportedly a fraction of crude oil with diesel fuel, which was sold for dust control at coal mines. Over the subsequent years, used oil was treated onsite and was sent to cement facilities for use as fuel in cement kilns. Aboveground storage tanks used in the operations had an unlined secondary surface impoundment. Waste sludge produced in the operations was reportedly disposed of in an offsite landfill, and wastewater that may have remained after the treatment process was boiled off at the site.

The site owners began dismantling the facility in 1993. Some of the waste was consolidated into a waste pile of approximately 100 cubic yards, located on the east portion of the site. The remainder of the site was covered with approximately 2 inches of gravel-type backfill. Due to unknown operations at the site, the groundwater became contaminated with several solvents, mainly trichloroethylene (TCE) and hydrocarbons. The source of the TCE was processes which occurred in the storage tank area or the laboratory equipment.

The Site consists of two Operable Units (OUs). OU1 addressed soils, subsurface soils, and potential onsite contaminant sources including tanks, drums, and containers. OU2 addressed contaminants found in the ground water, mainly TCE, that were above drinking water standards and the risk-based levels of concern. Investigations at the Site showed that groundwater and soils were contaminated with processing and disposal of waste products have resulted in contamination of soils and groundwater at the Site. The EPA proposed the site to the National Priorities List (NPL) as The Intermountain Waste Oil Refinery on 10/22/1999 (64 FR 56992) and listed the Site as final on in the NPL on 5/11/2000 (65 FR 30482). The EPA assigned the site CERCLIS ID UT0001277359.

The first removal action of the property occurred in August 2001. Potential sources of soil and/or groundwater contamination such as laboratory chemicals, tanks, drums, and sump contents, were removed. Additionally, an underground storage tank was removed during field work for the installation of OU2 groundwater monitoring wells.

Remedial Investigation and Feasibility Study (RI/FS)

A Baseline Human Health Risk Assessment (BHHRA), which also included a screening level ecological risk assessment, was completed for OU1. The BHHRA evaluated risks to potential workers and hypothetical future residents and determined that volatile organic compounds (VOCs) in soils could potentially accumulate inside a building and create an unacceptable risk. This risk was primarily due to 1,2,4-trimethylbenzene and 1,3,5-trimethylbenzene, with smaller contributions from naphthalene, hexane, and cis-1,2-dichloroethene in soil at some locations. There were no ecological concerns.

The OU2 BHHRA evaluated exposure pathways for contaminated groundwater at the Site for future or current onsite workers and future residents. The assessment looked at risks from the inhalation and ingestion of contaminated groundwater beneath the IWOR site. Trichloroethylene was the only contaminate of concern identified in groundwater by the risk assessment. Risks from exposure to contaminated groundwater were determined to be above a level of concern for non-cancer and cancer risks.

Selected Remedy

EPA issued a Record of Decision (ROD) for OU1, dated November 26, 2002, to address soils, subsurface soils, and potential onsite contaminant sources including tanks, drums, and containers. Remedial action objectives (RAOs) identified in the ROD include:

- Prevent exposure of workers and future residents from inhalation of contaminated vapors intruding from soil to indoor air. Non-cancer risks should be reduced to within or below a level of concern (HQ<1); and
- Remove potential sources of soil and/or groundwater contamination.

The remedy selected in the OU1 ROD consisted of two components.

- Establishment of land use controls that require buildings built, in whole or in part, on the property to have a vapor

mitigation system and require that soils excavated during the building or other construction activities will be managed appropriately; and

• Removal of an underground storage tank (UST).

EPA issued a ROD for OU2, on August 4, 2004, to address groundwater and proper disposal of containers in the garage. The RAOs identified in the ROD consisted of the following:

• Restore the aquifer to beneficial use (drinking water standards) within a reasonable time frame;

• Prevent exposure to contaminated ground water through ingestion of contaminated ground water, or inhalation of vapors during use; and

• Prevent the future contamination of ground water that is currently uncontaminated.

The drinking water standard of 5 μg/L for TCE was established in the OU2 ROD as the cleanup level for restoring the aquifer to beneficial use.

The components of the OU2 selected remedy consisted of multiple components.

• *Dual phase extraction (DPE) and treatment:* Where effective in removing contaminated vapors as well as contaminated ground water, DPE will be used. DPE involves pumping ground water and soil vapors from the same well. Where, or when, there are no significant contaminated soil vapors recovered through DPE, groundwater pump and treatment will be used.

• *Land Use Control, or Institutional Control:* The land use control will prevent the installation of a drinking water well on the property until drinking water standards are met in the ground water.

• *Monitoring:* A monitoring plan to evaluate the effectiveness of the remedy will be developed and implemented. The plan will likely include sampling at least four wells monthly for the first six months, and quarterly thereafter.

• *Treatment and Discharge:* The ground water that is extracted will be treated by a treatment system that uses granular activated carbon to remove the contaminants. The treated water will be discharged to a storm water drain or other approved discharge point.

• *Disposal of containers:* There are about 25 one to five-gallon containers currently stored in the garage. A number of the containers contain lead-based paint, and most would be classified as a hazardous waste for disposal purposes. Proper disposal now will prevent any potential future risks from mismanagement of these containers.

Response Actions

UDEQ and EPA have both led different aspects of the remediation work, as defined in a cooperative agreement between EPA and UDEQ. Remediation work was conducted in three removal actions: 1. Removal action for property redevelopment in 2001, 2. DPE groundwater remediation from 2004–2006, and 3. the solar powered MicroBlower™ at monitoring well MW–07 to remove TCE from the vadose zone from 2013–2017.

In June 2004, a Dual Phase Extraction (DPE) system was installed on wells as part of a treatability study that was completed during the RI for OU2. The DPE system was shut down in February 2006 after groundwater goals were reached. Groundwater data showed TCE concentrations were below drinking water standards for a period of approximately 18 months. The system was dismantled and removed from the Site in October 2006 and semiannual rebound monitoring and sampling began. From October 2007 to May 2013, TCE concentrations in groundwater periodically exceeded the cleanup goal and drinking water standard of 5 μg/L in four monitoring wells. Based on these exceedances and the findings of a streamlined remediation system evaluation, EPA reinitiated vapor extraction in March 2013 by installing a solar powered MicroBlower™ at monitoring well MW–07 to remove TCE from the vadose zone. The goal of the solar powered extraction system was to remove the residual source of groundwater contamination. Sample results show TCE concentrations in groundwater declined during the operation of the solar panel extraction system.

Institutional Controls

Institutional controls (ICs) were required for both OU1 and OU2 remedies. For OU1, an Environmental Notice and Institutional Control (IC) to require buildings on the IWOR property to have vapor mitigation systems was filed with the Davis County Clerk and Recorder's Office on September 23, 2003. The State of Utah Department of Environmental Quality has the authority to enforce this IC. In 2007, the site was sold to Bountiful Irrigation for redevelopment. The garage, lab, and house were demolished, and the site was graded and all remaining debris from the previous owners was removed. A new office building and garage were constructed, and the site continues to be used as a commercial property for this irrigation business. The office building and garage constructed on the site have active sub-slab vapor mitigation systems.

The IC for OU2 to prevent the installation of a drinking water well on the property until drinking water standards are met in the ground water was filed on July 8, 2005 by the Davis County Clerk and Recorder's Office. The State of Utah Department of Environmental Quality has the authority to enforce this IC.

Operation and Maintenance

As noted, the OU1 ROD required the establishment of ICs to prevent exposure to contaminated materials and to require State review of future changes to land use. ICs that support commercial use were adopted by the property owner and the City of Bountiful. The 2013 Operations and Maintenance (O&M) Plan consists of the groundwater monitoring and sampling.

The O&M Plan states that once TCE concentrations have been below 5 μg/L for two consecutive monitoring and sampling events, the project team may elect to turn off the solar powered vapor extraction system and perform quarterly rebound monitoring. If over a period of two years, no exceedances of 5 μg/L are observed, then site closure can proceed. As a result of abnormally dry and drought conditions, rebound sampling was not completed on a quarterly schedule. However, groundwater samples were collected in December 2015, April 2016, and February 2018, and showed TCE concentrations were below the cleanup goal and drinking water standard of 5 μg/L for TCE. The solar powered vapor extraction system, installed at monitoring well MW–07, was shut down and removed from the Site in January 2017. The Final Close Out Report for the IWOR Site was signed on July 1, 2019.

Five-Year Review

Statutory Five-Year Reviews (FYR) of the site are required because hazardous substances remain on-site above levels which allow for unlimited use and unrestricted exposure. Three FYRs were conducted in 2008, 2013 and 2018. The 2018 FYR found the remedy at the Site to be protective of human health and the environment, with no issues or recommendations. The next five-year review is scheduled to be completed by September 2023.

Community Involvement

Community involvement activities at the Site initially included establishing a local presence by meeting with local property owners and concerned citizens. Outreach efforts included community interviews, fact sheets,

letters, flyers, door-to-door visits, public meetings, neighborhood meetings, public comment periods and website updates. The most recent interviews were conducted in the spring 2017 and 2018 for the 2018 FYR. The EPA's Community Involvement criteria associated with 40 CFR 300.425(e)(4) requires EPA to conduct interviews and/or gather community input.

The Site is fully developed for commercial land-use. The successful revitalization of this Site is sustainable, provides valuable reuse, and elevates the quality of life with revitalization for years to come.

Determination That the Site Meets the Criteria for Deletion

The implemented Site-wide remedy achieves the RAOs specified in the OU1 and OU2 RODs for all pathways of exposure. The selected remedy is consistent with CERCLA, the NCP, and EPA policy and guidance. No further Superfund responses are needed to protect human health and the environment at the Site.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Utah, has determined that all required response actions have been implemented and no further response action by responsible parties is appropriate.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, 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: July 15, 2019.

Gregory E. Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2019–15662 Filed 7–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1990–0011; FRL–9997–03–Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Mystery Bridge Rd./U.S. Highway 20 Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is issuing a Notice of Intent to Delete the Mystery Bridge Rd./U.S. Highway 20 Superfund Site (Site) located in Evansville, WY, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to 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 Wyoming, through the Wyoming Department of Environmental Quality (WDEQ), have determined that all appropriate response actions under CERCLA, [other than maintenance of institutional controls and five-year reviews], have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 22, 2019.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1990–0011, 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:* Andrew Schmidt (*schmidt.andrew@epa.gov*).
- *Mail:* Andrew Schmidt, Remedial Project Manager, 8SEM–RB–SA, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202.
- *Hand delivery:* Andrew Schmidt, Remedial Project Manager, 8SEM–RB–SA, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1990–0011. 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 EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *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: U.S. EPA Region 8, Superfund Records Center and Technical Library, 1595 Wynkoop Street, Denver, CO 80202. Viewing hours: 8 a.m. to 4 p.m., Monday through Thursday, excluding holidays; Contact: Andrew Schmidt; (303) 312–6283, email: *schmidt.andrew@epa.gov and* Natrona County Public Library, Reference Desk, 307 East 2nd Street, Casper, WY 82601–2593, (307) 577–7323, Hours: Monday through Thursday: 9 a.m. to 7 p.m., Friday and Saturday: 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Andrew Schmidt, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, SEM–R8–SA, 1595 Wynkoop St., Denver, CO 80211, (303) 312–6283, email: *schmidt.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
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I. Introduction

EPA Region 8 announces its intent to delete the Mystery Bridge Rd./U.S. Highway 20 Superfund 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 sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Mystery Bridge Rd./U.S. Highway 20 Superfund Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the 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. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with the State before developing this Notice of Intent to Delete.

(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, EPA has determined that no further response is appropriate;

(4) The State of Wyoming, through the WDEQ, has concurred with deletion of the Site, from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in the Casper Star-Tribune.

(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 public comment period on this document, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Intented Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Site is in Natrona County, Wyoming northeast of Casper, Wyoming and one mile east of Evansville. The Site is bordered on the north by the North Platte River, on the west by the Sinclair Refinery (formerly known as the Little America Refining Company or LARCO), on the south by U.S. Highway 20 and on the east by Mystery Bridge Road. The northern two thirds of the Site contain residential housing units built primarily between 1973 and 1983. The Tallgrass Energy Partners, LP facility (formerly owned by KN Energy and KM Upstream LLC and referred to as the former KMI Property) and the adjacent DOW/DSI property comprise the southern third of the Site. The site is underlain by two aquifers, a shallow alluvial aquifer and a deeper bedrock aquifer. Activities at the site impacted the shallow alluvial aquifer, which was historically utilized by residences downgradient for domestic water supply purposes.

Site investigations, initiated due to resident complaints of poor water and air quality, were completed in 1986 and 1987 and identified a benzene, toluene, ethylbenzene and xylenes (BTEX) plume originating from the former KMI Property and a volatile halogenated organic chemicals (VHOs) plume originating from the DOW/DSI property moving northeast towards the North Platte River. The Site was proposed for listing on the National Priorities List (NPL) June 24, 1988 (53 FR 23978), and was listed on the NPL on August 30, 1990 (55 FR 35502). The former KMI property was partially deleted from the NPL on August 29, 2017 (82 FR 29764). Potential releases at the Sinclair Refinery (formerly LARCO) facility are currently being addressed under a Resource Conservation and Recovery Act (RCRA) 3008(h) order.

KM Upstream LLC and its predecessors operated a natural gas fractionation, compression, cleaning, odorizing, and transmission facility at the Site beginning in 1965. During the plant start-up, an underground pipe burst, injecting 5,000 to 10,000 gallons of absorption oil into the subsurface. In addition, an earthen flare pit was initially used to collect spent material generated by the facility. Absorption oil, emulsions, anti-foulants, and anti-corrosive agents, crude oil condensate, liquids accumulated in the flare stack, potassium hydroxide treated waste, and lubrication oils and blowdown materials from plant equipment were all possibly collected in the flare pit. In 1984, a concrete-lined flare pit was constructed and put into operation. Leaks from the earthen flare pit, the initial absorption oil spill, and a catchment area that collected surface water run-off from the facility are all believed to have contributed to the BTEX soil and groundwater impacts.

The DOW/DSI facility conducted oil and gas production enhancement services starting in the 1950's. Contamination originating from the DOW/DSI facility is believed to have come from the truck wash water disposal system (believed to have contained chlorinated solvents) and the toluene storage area on the northern end of the facility.

EPA is the lead agency for the Site and WDEQ is the support agency. Pursuant to the 1991 Consent Decree, KN Energy, its successor KMI, and DOW/DSI have jointly conducted and funded the remediation work at the Site. The former KMI Property is in continued operation as mid-stream gas processing facility and is now owned and operated by Tallgrass Energy Partners.

Removal Actions

In August 1986, nearby residents complained of poor air and water quality. The Agency for Toxic Substances and Disease Registry (ATSDR) then issued an advisory after VHOs were detected in area drinking water wells. Studies determined that a contaminated groundwater plume from the nearby industrial facilities was responsible for the poor water quality.

Starting in 1987, EPA searched to identify potentially responsible parties (PRPs) for the contaminated groundwater. EPA also oversaw a removal action in January 1987 for immediate installation of 25 groundwater monitoring wells and alternative drinking water provisions for area residents until permanent alternatives could be established. By July 1987, EPA identified KMI and Dow/DSI as the companies responsible for generating the contaminated plumes emanating from the industrial area. By December 1987, KMI and Dow/DSI entered separate Administrative Orders on Consent (AOCs) to perform immediate removal actions to control the sources of contamination and inhibit further migration of the existing groundwater plumes into the residential subdivision. Each PRP was required to prepare an Engineering Evaluation/Cost Analysis (EE/CA) of its property to document the extent and nature of the contaminants present and to support proposals of expedited removal actions.

EPA's initial response actions also included extending a water transmission line from the Town of Evansville and connecting residents after detecting elevated levels of contaminants in drinking water wells. In addition, the Evansville water treatment plant received a new water intake and related upgrades. This work was completed in January 1989.

KMI Property

An investigation was conducted as part of the EE/CA for removal actions at the KMI property. The investigation included a soil vapor survey and borings to collect soil and groundwater samples. The soil vapor survey was conducted near the flare pit and soil and groundwater samples were also collected. The investigation lead to the discovery of impacted soil, groundwater, and light non-aqueous phase liquids (LNAPLs) in the subsurface.

The EE/CA prepared by KMI evaluated removal technologies and recommended a removal action. KMI began the recommended removal action in November 1989. The removal action consisted of groundwater pump and treat (PAT) and soil vapor extraction (SVE) systems to remove BTEX contaminants in three phases: LNAPL, groundwater, and soil vapor. The SVE system extracted vapor phase hydrocarbons from the unsaturated interval between the water table and the ground surface. The PAT system pumped groundwater to the surface where volatile hydrocarbons were removed by air stripping. LNAPL, when present, was removed from the groundwater extraction wells when the PAT system was in operation.

The removal actions on the KMI property were also selected as part of the OU1 remedy in the Record of Decision (ROD); thus, operation of the PAT and SVE systems continued into the remedial phase. The completion of removal activities for the KMI parcel, including confirmation sampling data and QA/QC activities are documented in the *OU2 Phase I Report, KN Energy Gas Compressor Station,* dated June 27, 1995.

DOW/DSI Property

In accordance with the AOC, DOW/DSI prepared an EE/CA report to document the nature and extent of the releases of contaminants, and to support proposals of expedited removal actions to control migration of contaminants and eliminate sources of contaminants beneath and adjacent to the property. As a result of the investigative activities conducted to support the EE/CA at the DOW/DSI property, several volatile halogenated organic (VHO) soil contaminants were identified in the groundwater and soil near the abandoned chlorinated gravel leach sump area.

The EE/CA prepared by DOW/DSI evaluated removal technologies and recommended a removal action. Beginning in late 1987 and continuing through part of 1988, the removal action was conducted by DOW/DSI. The removal action consisted of removals of a buried wash water disposal system, an empty and out-of-service underground storage tank (UST), and approximately 440 cubic yards of soil and debris from an older abandoned sump area. The excavations were backfilled with clean sand and gravel. In addition, two SVE systems were installed on the property to remove volatile halogenated organic (VHO) chemicals from the abandoned sump area and aromatic hydrocarbons (toluene, xylenes and ethylbenzene) from the former toluene storage area.

Confirmatory subsurface soil sampling prior to shutdown of the SVE systems in 1988 showed that the SVE systems had lowered in-situ

concentrations of soil contaminants below the Soil Action Levels (SALs) developed by EPA for the Site in support of the expedited removal actions. The completion of removal activities for the DOW/DSI parcel, including confirmation sampling data and QA/QC activities are documented in the *Phase I Summary Report for the DSI Property under OU2 of the Brookhurst/Mystery Bridge Superfund Site,* dated February 22, 1994.

Remedial Actions

In December 1987, the AOC signed by DOW/DSI and KMI also required the two PRPs to perform a Remedial Investigation/Feasibility Study (RI/FS) of the Brookhurst Subdivision, which is located north and east of the KMI and DOW/DSI properties and hydrologically downgradient. The RI/FS report, which was completed in June 1990, concluded that two plumes of contaminated groundwater originated in the industrial area south of the subdivision and were migrating through the subdivision in a northeast direction. The first of these plumes was contaminated with VHO compounds (referred to as the VHO plume) and extended from the DOW/DSI property to the North Platte River. The second plume was contaminated with BTEX compounds (referred to as the BTEX plume) and extended from the KMI property to the adjacent Burlington Northern Rail Road property and possibly into the subdivision directly north of the KMI property. In addition, LNAPL originating at the KMI property and extending slightly into the subdivision, was found floating on the groundwater. The RI/FS suggested that VHO and BTEX plumes were not commingled in the area downgradient from the DOW/DSI and KMI facilities.

As part of the RI/FS, a Baseline Risk Assessment (BRA) was conducted in 1989. The BRA assessed carcinogenic risks and the potential for non-cancer health effects of eleven chemicals resulting from direct ingestion of contaminated groundwater under residential homes. Risks were also calculated for the hypothetical scenario where the DOW/DSI and KMI facilities were redeveloped for residential use. The BRA concluded that ecological risks due to the releases from the industrial areas were not expected to be significant, but that human health cancer risks presented by the VHO and BTEX plumes in alluvial groundwater under the residential scenario were unacceptable. Human health non-cancer risks due to the VHO and BTEX plumes were determined to be below a level of concern.

The Site was divided into two OUs, OU1 was designated to address contaminated groundwater, and OU2 was designated to address contaminant source areas on the industrial properties. The creation of the two OUs was done to ensure that the principle threat to human health and the environment, groundwater (OU1), was dealt with immediately, and to allow further assessment of the soil source areas to ensure adequate cleanup.

The OU1 ROD was signed on September 24, 1990. The remedial action objectives (RAOs) were to: Prevent ingestion of water containing trans-1,2 dichloroethylene (DCE), 1,1,1 trichloroethane (TCA), trichloroethylene (TCE), tetrachloroethylene (PCE), benzene, toluene, ethylbenzene, or xylene at concentrations that either a) exceed MCLs or proposed MCLs, or b) present a total carcinogenic risk greater than $1 \times 10^{-4} - 1 \times 10^{-6}$; and restore the alluvial aquifer to concentrations that both a) meet the MCLs or proposed MCLs for trans-1,2 DCE, 1,1.1 TCA, TCE, PCE, benzene, toluene, ethylbenzene, and xylene, and b) present a total carcinogenic risk less than $1 \times 10^{-4} - 1 \times 10^{-6}$.

The agency selected a combination of alternatives to address the VHO plume and the BTEX plume. Common elements included source area groundwater treatment, soil removal and soil vapor extraction, monitoring of groundwater, and implementation of institutional controls.

KMI Property (BTEX Plume)

The selected remedy included continued operation of the KMI removal action. Specifically, the selected remedy included extraction of ground water with concentrations of BTEX compounds above MCLs or proposed MCLs throughout the plume; treatment of contaminated groundwater with an on-site air stripping facility; and reinjection of treated water into the aquifer to provide additional hydraulic control of the BTEX plume and to minimize any potential impact from the BTEX remediation efforts on the RCRA and VHO plumes.

DOW/DSI Property (VHO Plume)

The selected remedy included continued operation and enhancements to the DOW/DSI removal actions. The remedy included extraction of groundwater with concentrations of VHOs above MCLs or proposed MCLs in the upgradient portion of the plume (*i.e.,* on and/or near the DOW/DSI facility); treatment of contaminated groundwater with an on-site air stripping facility; reinjection of treated water into the aquifer to provide additional hydraulic containment of the upgradient portion of the VHO plume being extracted, minimize any impact from the VHO remediation efforts on the RCRA plume and BTEX plume, and enhance the natural attenuation process in the downgradient portions of the VHO plume; and reliance on natural processes for reduction of VHO levels in downgradient portions of the VHO plume.

The OU2 ROD was signed on September 30, 2010 and determined that removal actions taken at each parcel treated or excavated all soils exceeding industrial use standards. The soils at these properties are acceptable for industrial uses. The remedy selected for OU2 is institutional controls to limit the use of KMI and DOW/DSI parcels to industrial use, to govern the handling of excavated soils on each parcel and to restrict groundwater use.

Remedy Implementation

Following the OU1 ROD, a Consent Decree (CD) was signed with both DOW/DSI and KMI in October 1991, in which the parties agreed to implement the OU1 ROD remedy.

Requirements for the KMI Industries BTEX plume remedial design (RD) included groundwater monitoring to determine whether additional groundwater extraction or monitoring points downgradient of the KMI facility were needed. During the RD, it was determined that contamination above MCLs had not migrated beyond the facility boundary and no system expansion was needed. Since no expansion was needed, no addition remedial construction was performed.

Requirements for the DOW/DSI VHO plume included construction of a groundwater extraction and treatment system. The system installation was completed in August 1993 and included three extraction wells, a water treatment unit, and an infiltration gallery.

In conjunction with the OU2 ROD, a special warranty deed was recorded for the KMI property, and a restrictive covenant was recorded for the DOW/DSI property in Natrona County in September 2010. Both the KMI warranty deed and the DOW/DSI restrictive covenant limit use of the properties to industrial use, govern the management of excavated soils on each property, prevent the use of groundwater on each property for any use other than sampling and monitoring, and ensure that no use of the properties will jeopardize the selected remedies.

Attainment of Cleanup Levels

KMI Property

The October 1991 CD for remedial design and remedial action entered by the Court required the following groundwater performance standards for the KMI property:

1. Remediate groundwater so that concentrations shall not exceed MCLs and proposed MCLs, as set forth in the ROD for BTEX.

2. The area of attainment shall include the entire BTEX plume, including those areas of the plume inside and outside the KMI facility.

Concentrations of ethylbenzene, toluene, and xylenes were not historically measured above the MCLs. As a result, the groundwater remediation evaluation focused on benzene as the indicator contaminant of concern.

A KMI Groundwater Monitoring Plan (GWMP) was developed in 1993 to evaluate the effectiveness of the Remedial Action (RA), to evaluate groundwater post-RA and determine compliance with the performance standards. Specifically, the KMI GWMP established that following shut down of the remediation system and after 12 months of groundwater sampling with results below the MCL, post-RA monitoring would begin.

The KMI remediation system operated continuously between November 1989 and August 1996 when EPA approved KMI's request to cease active remediation. The pre-certification inspection was completed on July 16, 1997, and approval of Remedial Action Completion was provided on August 20, 1997. After active treatment was shut down, attainment monitoring was conducted to evaluate post remediation conditions. Achievement of RAOs under post-RA monitoring was determined to have been met after a minimum of eight quarterly sampling events were conducted in which, for each well, the 90 percent one-tailed upper confidence limit (UCL90) concentrations for benzene, ethylbenzene, toluene and total xylenes were below the MCLs for each chemical. Compliance with RAOs for the KMI plume was achieved in November 2009. The completion of remedial activities, including statistical analyses of groundwater data were documented in *The Completion Report for Groundwater Remediation Activities at the Casper Compressor Station* letter report dated June 22, 2010, and the *Summary of the Previous Eight Quarters of Post Remedial Action Groundwater Monitoring at the Casper Compressor Station, Technical Memorandum,* dated February 12, 2010.

Because the KMI parcel met RAOs for the source area and in groundwater, and because the necessary institutional controls were in place to prevent unacceptable exposure to site contaminants, the KMI property was partially deleted from the NPL on August 29, 2017.

DOW/DSI Property

The October 1991 CD for remedial design and remedial action required the following performance standards for the DOW/DSI parcel:

1. Remediate groundwater so that concentrations shall not exceed MCLs and proposed MCLs, as set forth in the ROD for VHOs.

2. The area of attainment shall include the entire VHO plume, including those areas of the plume inside and outside the DOW/DSI facility.

Similar to the KMI property, a Groundwater Monitoring Plan (GWMP) was developed in 1993 to evaluate the effectiveness of the Remedial Action (RA) and to evaluate groundwater post-RA and determine compliance with the performance standards. In accordance with post-RA groundwater monitoring requirements, RAOs would not be achieved until the 85 percent upper confidence limit (UCL85) of the arithmetic mean for four consecutive quarters of groundwater monitoring data did not exceed the remedial performance goals. The test would be performed for each monitoring well in the contaminant plume.

The DOW/DSI remediation system operated continuously between November 1993 and April 2001 when EPA approved DOW/DSI's request to cease active remediation. The request was based on the appearance of a temporary petroleum sheen entering the groundwater treatment equipment and measurable light non-aqueous phase liquid (LNAPL) near the north boundary of the DOW/DSI property, which the treatment system was not designed to handle. The observance of LNAPL in some of the wells was temporary and in subsequent sampling events was not observed.

On September 18, 2015, DOW/DSI submitted a letter detailing achievement of RAOs for the VHO plume based on requirements detailed in the 1993 DOW/DSI GWMP. Due to the age of the document and new guidance, EPA asked DOW/DSI to evaluate groundwater data using a more stringent statistical test. In October 18, 2017, DOW/DSI submitted a report detailing achievement of RAOs for the VHO plume based on using a more stringent 95% upper confidence level on the mean and using a minimum of eight data points. Completion of the remedial action was documented in the *Completion of Remedial Action and Completion of Work Report, Mystery Bridge Rd./US Highway 20 Superfund Site Consent Decree for Remedial Design and Remedial Action (OU1) and Administrative Order for Removal Action on Consent (OU2),* dated October 18, 2017.

Additional sampling was conducted in 2018 to confirm conclusions made in the 2017 Completion of Remedial Action and Completion of Work Report. Sampling results confirmed that concentrations of dissolved phase VHOs were below MCLs in the wells sampled. Results of additional confirmation sampling are documented in the *Revised 2018 Well Redevelopment and Groundwater Sampling Report, Mystery Bridge Rd/US Highway 20 Superfund Site Consent Decree for Remedial Design and Remedial Action (OU1),* dated September 28, 2018. The *Completion of Remedial Action and Completion of Work Report, Mystery Bridge Rd./US Highway 20 Superfund Site Consent Decree for Remedial Design and Remedial Action (OU1) and Administrative Order for Removal Action on Consent (OU2),* was subsequently updated on April 5, 2019.

Operation and Maintenance

No operation or maintenance is required for the Site; however, the effectiveness and presence of the environmental covenants will be evaluated every five years as part of the Five-Year Review process.

Five-Year Review

Five Year Review Reports (FYR) are required for the Mystery Bridge Site. FYRs are required because hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure (UU/UE). The next FYR is due five years from the signing of the July 2019 FYR.

The last (5th) FYR was completed in July 2019. The 5th FYR concluded that the remedies at OU1 and OU2 are protective of human health and the environment, and there were no Issues or Recommendations noted. The FYR noted that Institutional Controls (ICs) are in place restricting the use of drinking water beneath the industrial properties, governing the management of soils on each of properties, and limiting future development to industrial use.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket, which the EPA is relying on for the proposed deletion from the NPL, are available to the public in the information repositories, and a notice of availability of the Notice of Intent to Delete has been published in the Casper Star-Tribune to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

Determination That the Site Meets the Criteria for Deletion in the NCP

The EPA and the State have followed procedures detailed in 40 CFR 300.425(e) in order to propose deletion of this Site from the NPL. The Site has achieved all Remedial Action Objectives specified in the ROD for both soil and groundwater, and all RAOs are consistent with EPA policy and guidance. EPA in consultation with the State of Wyoming has determined that no further Superfund response action is necessary in order to protect human health and the environment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, 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: July 15, 2019.

Gregory E. Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2019–15658 Filed 7–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9996–97–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the New Brighton/Arden Hills/Twin Cities Army Ammunition Plant (TCAAP) Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notification of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 is issuing a Notice of Intent to Delete all soil and five aquatic sites in Operable Unit 2 (OU2) of the New Brighton/Arden Hills/TCAAP Superfund Site in Minnesota 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 Minnesota, through the Minnesota Pollution Control Agency (MPCA), have determined that all appropriate response actions identified for soil and these five aquatic sites in OU2 under CERCLA, other than operation and maintenance, monitoring and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 22, 2019.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1983–0002, by mail to Randolph Cano, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5 (ST–6J), 77 West Jackson Boulevard, Chicago, IL 60604. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the ''Rules and Regulations'' section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Randolph Cano, NPL Deletion Coordinator, U.S. Environmental Protection Agency Region 5 (ST–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6036, or via email at *cano.randolph@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Partial Deletion of the New Brighton/Arden Hills/TCAAP Superfund Site without prior Notice of Intent for Partial Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Partial Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this partial deletion action, we will not take further action on this Notice of Intent for Partial Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice of Partial Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Partial Deletion based on this Notice of Intent for Partial Deletion. We will not institute a second comment period on this Notice of Intent for Partial Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Partial Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

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: July 8, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2019–15632 Filed 7–22–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 25 and 27

[GN Docket No. 18–122; RM–11791; RM–11778; DA 19–678]

Wireless Telecommunications Bureau, International Bureau, Office of Engineering and Technology, and Office of Economics and Analytics Seek Focused Additional Comment in 3.7–4.2 GHz Band Proceeding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we invite interested parties to supplement the record to address issues raised by commenters in response to the Commission's July 2018 Notice of Proposed Rulemaking Specifically, among other issues, the Bureaus and Offices seek comment on proposed auction-based approaches, other transition mechanisms to introduce new

flexible-use licensing in the band, appropriate repurposing methodologies, Fixed Satellite Service earth station protection criteria, and technical rules, as well as specifically seeking additional comment on the recent filings by: ACA Connects—America's Communications Association (ACA Connects), the Competitive Carriers Association (CCA), Charter Communications, Inc. (Charter); AT&T; and the Wireless internet Service Providers Association (WISPA), Google, and Microsoft.

DATES: Comments are due on or before August 7, 2019; reply comments on or before August 14, 2019.

ADDRESSES: You may submit comments, identified by GN Docket No. 18–122, by any of the following methods:

• *Federal Communications Commission's website: https://www.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov,* phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Matthew Pearl of the Wireless Telecommunications Bureau, at *Matthew.Pearl@fcc.gov* or (202)418–2607. For information regarding Initial Paperwork Reduction Act, contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 19–678, (WTB, IB, OET, OEA July 19, 2019), GN Docket No. 18–122, RM–11791, RM–11778. The complete text of this document, as well as comments, reply comments, and *ex parte* submissions, is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is available on the Commission's website at *http://wireless.fcc.gov,* or by using the search function on the ECFS web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and replies on or before the dates indicated on the first page of this document. Comments and replies may be filed using the Commission's Electronic Comment Filing System (ECFS).

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing ECFS: *https://www.fcc.gov/ecfs/.* Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, GN Docket No. 18–122.

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

○ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 844–432–2275 (videophone), or 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Ex Parte Rules

Pursuant to section 1.1200(a) of the Commission's rules, this document 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). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

1. By this document, the Wireless Telecommunications Bureau, International Bureau, Office of Engineering and Technology, and Office of Economics and Analytics (Bureaus and Offices) invite interested parties to supplement the record to address issues raised by commenters in response to the Commission's July 2018 *Notice of Proposed Rulemaking* in GN Docket No. 18–122 (33 FCC Rcd 6915) (*Notice*). In the *document,* the Commission sought comment on several approaches, including auction-based approaches, for making some or all of the 3.7–4.2 GHz band (C-Band) available for terrestrial, flexible use. The Commission also sought comment on other issues essential to the introduction of new terrestrial wireless services in the band, including incumbent protection criteria, technical and licensing rules, and appropriate methodologies for transitioning or protecting existing Fixed Satellite Service and Fixed Service operators in the band.

2. In response to the document, commenters proposed auction-based approaches and other transition mechanisms to introduce new flexible-use licensing in the band. Commenters also espoused different views on appropriate repurposing methodologies, Fixed Satellite Service earth station protection criteria, technical rules, and other issues raised in the *document.* The Bureaus and Offices seek additional comment on the recent filings by: (1) ACA Connects—America's Communications Association (ACA Connects), the Competitive Carriers Association (CCA), Charter Communications, Inc. (Charter) (collectively, ACA Connects Coalition); (2) AT&T; and (3) the Wireless internet Service Providers Association (WISPA), Google, and Microsoft.

3. The ACA Connects Coalition, which collectively represents both incumbent C-band earth station users and wireless providers that seek to use this spectrum to provide 5G services, recently submitted a joint proposal for repurposing a large portion of the C-band for 5G use. Their proposal consists of three key elements that would make 370 megahertz of C-band spectrum available for flexible wireless use on a nationwide basis: (1) A Commission-driven auction that would award new terrestrial licenses and assign obligations for transition costs; (2) a plan to transition certain Fixed Satellite Service earth station operators to fiber; and (3) a plan for satellite operators to repack remaining earth station users to the upper portion of the band.

4. Implementing such a proposal would entail a multi-step, Commission-driven transition process. First, the Commission would conduct an auction to award new flexible-use licenses—this could be a traditional auction, such as an auction of overlay license rights, or potentially an incentive auction. Under such an approach, bidders acquiring new terrestrial licenses through the auction would be required by rule to contribute to a fund that would cover the costs of the fiber transition, reimburse satellite operators and their customers, and further compensate operators and users. Incumbent earth stations would be mandatorily relocated and repacked.

5. The remaining elements of the ACA Connects Coalition proposal involve using the common pool of funds for a combination of transitioning certain earth stations to fiber, repacking remaining earth station users to the upper portion of the band, and providing compensation to satellite providers. Video programmers and multichannel video programming distributors (MVPDs) would transition the delivery of video programming to MVPDs from C-band Fixed Satellite Service use to terrestrial fiber delivery. Simultaneous with the MVPD transition, satellite operators would repack services used by non-MVPD earth station users, such as radio and television broadcasters, to the upper portion of the C-band, and resources would be made available to protect these remaining C-band customers from harmful interference by out-of-band 5G emissions, using interference prevention measures such as installing antenna filters, repointing antennas, and changing antennas' frequencies or polarization. The common pool of funds would be used to further compensate satellite operators for lost revenue resulting from the transition to fiber. In the *document,* the Commission sought comment on a similar hybrid approach to transition the band, whereby satellite operators would relinquish their rights to a certain amount of spectrum that would then be made available for terrestrial use nationwide, and additional spectrum could be made available on a geographic basis in areas where it is cost-efficient to transition earth stations to other forms of transmission, such as fiber. The Commission noted that fiber is most prevalent in urban areas, and sought comment on whether it would be feasible to transition certain regions based on the existence of fiber, and if so, how such a transition could be accomplished. The Bureaus and Offices seek comment on each of the elements of the ACA Connects Coalition proposal, both individually and as a package, and how each element could further the Commission's goal of maximizing the terrestrial use of this spectrum while protecting incumbent earth station users.

6. The Bureaus and Offices also seek comment on the viability of variants on the ACA Connects Coalition approach. For example, the Bureaus and Offices seek comment on mandatory relocation and repacking requirements that would use fiber delivery (potentially redundant fiber delivery) but maintain the C-band delivery of MVPD video programming via non-urban ''super'' head-ends. How much spectrum could be cleared—nationwide or regionally—using this approach? What transport facilities would be required to transmit video content from consolidated earth station receive sites (*i.e.,* satellite dish farms) to endpoints closer to existing receive-only earth stations or would the data centers just bypass satellite dish farms? How would the number and location of those consolidated receive sites be determined and who would own and operate those sites? How would sufficient network reliability be achieved? Is complete network redundancy necessary or can required reliability levels be achieved through other means? Should winning bidders have the option to build the redundant fiber themselves (or agree amongst themselves on who should build the redundant fiber) rather than contribute to a pool? The Bureaus and Offices seek comment on the likely costs of constructing and maintaining fiber networks and interconnecting the head-ends to ensure fiber delivery to the locations of existing earth stations. To what extent is fiber readily available to all affected end users? How and to what extent should the costs of the fiber transition be addressed? How could the Commission best align the incentives of those building any fiber delivery routes with those required to pay for such routes? More broadly, what if any rights to mandatorily relocate and repack existing earth stations should accrue to any new terrestrial licensees? What obligations should redound with such rights—for example, what costs must be covered by any such licensees (and particularly are a lost opportunity to receive revenues a valid cost for these purposes)? The Bureaus and Offices also seek comment on how long it would take to implement this transition.

7. In addition, the Bureaus and Offices seek comment on appropriate characteristics of the licenses that could be offered at auction to promote a transition and accomplish the type of

geographic clearing and fiber transition described in the ACA Connects Coalition Proposal or through centralized earth station receive sites. Would these approaches work better with particular license parameters (*i.e.,* larger geographic license areas) and service rules that differ from those proposed in the *document*? The Bureaus and Offices also seek comment on how the Commission's approaches during the AWS–3 and 800 MHz transitions might inform this proceeding. For example, should the Commission designate a Transition Administrator or require the creation of a clearinghouse to facilitate the sharing of the costs for mandatory relocation and repacking? The Bureaus and Offices seek comment on these and any other relevant issues in the record.

8. On May 23, 2019, AT&T submitted comments responding to the C-Band Alliance's proposed technical criteria for operations in the band, particularly with respect to co-existence with incumbent Fixed Satellite Service earth stations. AT&T asserts that the C-Band Alliance's proposed technical criteria would constrain 5G deployment, and it proposes an alternate band plan to address its concerns. AT&T recommends dividing the 3.7–4.2 GHz band into three segments: (1) A largely unrestricted mobile terrestrial 5G segment in the bottom of the band (''Unrestricted Licenses''); (2) ''Adjacent Licenses'' in the middle of the band that would have to coordinate with or mitigate impact on Fixed Satellite Service; and (3) remaining Fixed Satellite Service spectrum in the top of the band. Unrestricted Licenses could operate using full power and would not be obligated to coordinate with Fixed Satellite Service earth stations; Adjacent Licenses would operate using lower power or subject to other limitations, or would be obligated to coordinate with nearby Fixed Satellite Service earth stations. AT&T also describes a number of technical issues that would benefit from further analysis in the record, including technical criteria necessary to determine appropriate protection thresholds for in-band and adjacent band Fixed Satellite Service earth stations, receiver filter performance, the ongoing operational needs of Fixed Satellite Service earth stations in the band, and out-of-band emission limits for terrestrial wireless devices.

9. On July 15, 2019, WISPA, Google, and Microsoft filed a study conducted by Reed Engineering, which analyzed Fixed Satellite Service and fixed wireless point-to-multipoint co-channel coexistence in the 3.7–4.2 GHz band. Among other conclusions, the Reed Study suggests that exclusion zones of about 10 kilometers are sufficient to protect most Fixed Satellite Service earth stations from harmful interference caused by properly-engineered co-channel point-to-multipoint broadband systems. The propagation model used in the study relied on Fixed Satellite Service earth station characteristics that require them to point upwards towards the geostationary satellite arc. Thus, the earth stations are specifically designed to mitigate their response to signals arriving from the horizon, such as terrestrial point-to-multipoint links. Additionally, the study relied on the directional nature of fixed service antennas and clutter to assume reduced emissions at earth stations.

10. The Bureaus and Offices seek comment on the technical issues raised by the ACA Connects Coalition proposal, AT&T's proposal, and the Reed Study, and on the questions raised therein. Specifically, what are the appropriate interference thresholds and protection criteria, how should they be modeled, and under what deployment assumptions? That is, how should protection criteria be calculated and implemented to achieve both in-band and adjacent band Fixed Satellite Service protections through coordination or other protection mechanisms? Should these criteria differ for telemetry, tracking, and command earth stations? Given the needs of next-generation wireless networks and the need to ensure continuity of service for current users of Fixed Satellite Service earth stations, what are the appropriate technical parameters for terrestrial base stations and end user devices in the band, including transmit power limits and out-of-band emission limits? The Bureaus and Offices also seek comment on suggestions by the ACA Connects Coalition, AT&T, and the Reed Study on ways to increase efficient shared use of the C-band through validation of earth station filters, protection zones around stations, analysis of the relevant parameters of earth stations for protection (*e.g.,* elevation angles, range of pointing angles, and frequencies that are used), and other technical matters. For example, which filters are actually realizable and available to achieve the sharing goals of the various proposals? Is it possible to achieve the short-term sharing goals of the proposals given the need to retrofit multiple types of Fixed Satellite Service earth station front-end elements (*e.g.,* Low Noise Block downconverter/filter) and the susceptibility of Fixed Satellite Service receivers to Passive Intermodulation?

11. The Bureaus and Offices also seek comment on appropriate parameters to manage co-existence of terrestrial stations with earth stations during any band transition where differing amounts of spectrum might be cleared during different time periods for nearby geographic areas. For example, ACA Connects suggests creating a zone where mobile handsets may have operating restrictions and another zone where base station power flux density would be limited. AT&T suggests that either lower power terrestrial stations or coordination procedures could be used to manage terrestrial operations on spectrum adjacent to fixed satellite service operations. Under either of these proposals, what technical parameters regarding power levels, power flux density levels, and coordination procedures are appropriate to achieve co and adjacent band operation during and after any transition period? The Bureaus and Offices also seek additional quantitative analysis and over-the-air field test results to strengthen the record on the service impact of specific interference levels, with results that can be independently reproduced by third parties.

12. Over the past year, a robust and diverse record has been developed in this proceeding, providing new insights into the issues raised in the *document.* To ensure that the Commission has the information it needs to complete its deliberations, the Bureaus and Offices seek comment on the specific questions raised above. To that end, all commenters are encouraged to provide detailed proposals, including technical assessments, cost benefit analyses, and projected timelines to support their positions.

Federal Communications Commission.

Amy Brett,

Associate Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 2019–15749 Filed 7–22–19; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 84, No. 141

Tuesday, July 23, 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 COMMERCE

International Trade Administration

[A–570–922, A–583–842, C–570–923]

Raw Flexible Magnets From the People's Republic of China and Taiwan: Continuation of Antidumping Duty Orders and Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) orders on raw flexible magnets from the People's Republic of China (China) and Taiwan, and revocation of the countervailing duty (CVD) order on raw flexible magnets from China would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD orders and the CVD order.

DATES: Applicable July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Joshua Poole, AD/CVD Operations, Office I (AD), and Kristen Johnson, AD/CVD Operations, Office III (CVD), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1293 and (202) 482–4793, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 17, 2008, Commerce published in the **Federal Register** the AD orders on raw flexible magnets from China and Taiwan and the CVD order on raw flexible magnets from China.[1] On January 2, 2019, the ITC instituted its review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On February 5, 2019, Commerce published the initiation of the second sunset reviews of the *Orders,* pursuant to section 751(c) of the Act.[3] On February 8, 2019, Commerce received timely notices of intent to participate in these sunset reviews from Magnum Magnetics Corporation (Magnum) within the deadline specified in 19 CFR 351.218(d)(1)(i).[4] Magnum, a domestic producer of the subject merchandise, claimed interested party status under section 771(9)(C) of the Act.[5] On March 7, 2019, Commerce received complete and adequate substantive responses from Magnum within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[6] Commerce received no substantive response from respondent interested parties. Pursuant to section 751(c)(3)(B) of the Act, Commerce conducted expedited (120-day) sunset reviews of the *Orders.*[7] On June 5, 2019, the ITC published its notice to conduct an expedited five-year review of the *Orders.*[8]

As a result of its reviews, Commerce determined, pursuant to sections 751(c)(1) and 752(b) and (c) of the Act, that revocation of the *Orders* on raw flexible magnets from China and Taiwan would likely lead to continuation or recurrence of dumping and countervailable subsidies. Commerce, therefore, notified the ITC of the magnitude of the margins of dumping and net countervailable subsidy rates likely to prevail should these *Orders* be revoked, in accordance with sections 752(b)(3) and (c)(3) of the Act.[9]

On July 17, 2019, the ITC published its determination that revocation of the *Orders* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to sections 751(c) and 752(a) of the Act.[10]

Scope of the Orders

The products covered by the orders are certain flexible magnets regardless of shape,[11] color, or packaging.[12] Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of the orders are printed flexible magnets, defined as flexible magnets

[1] *See Antidumping Duty Order: Raw Flexible Magnets from the People's Republic of China,* 73 FR 53847 (September 17, 2008); *see also Antidumping Duty Order: Raw Flexible Magnets from Taiwan,* 73 FR 53848 (September 17, 2008); and *Raw Flexible Magnets from the People's Republic of China: Countervailing Duty Order,* 73 FR 53849 (September 17, 2008) (collectively, *Orders*).

[2] *See Raw Flexible Magnets from China and Taiwan; Institution of Five-Year Reviews,* 84 FR 8 (January 2, 2019).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 1705 (February 5, 2019).

[4] *See* Letter from Magnum, ''Five-Year Review of Raw Flexible Magnets from China and Taiwan: Notice of Intent to Participate,'' dated February 8, 2019.

[5] *Id.*

[6] *See* Letter from Magnum, ''Five-Year (''Sunset'') Review of the Antidumping Duty and Countervailing Duty Orders on Raw Flexible Magnets from China and Taiwan: Domestic Industry Substantive Response,'' dated March 7, 2019.

[7] *See Raw Flexible Magnets from the People's Republic of China and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 84 FR 26400 (June 6, 2019); *see also Raw Flexible Magnets from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order,* 84 FR 26403 (June 6, 2019) (collectively, *Sunset Final Results*).

[8] *See Raw Flexible Magnets from China and Taiwan; Scheduling of Expedited Five-Year Reviews,* 84 FR 26156 (June 5, 2019).

[9] *See Sunset Final Results.*

[10] *See Raw Flexible Magnets from China and Taiwan; Determination,* 84 FR 34199 (July 17, 2019); *see also Raw Flexible Magnets from China and Taiwan:* Investigation Nos. 701–TA–452 and 731–TA–1129–1130 (Second Review), USITC Publication 4921 (July 2019).

[11] The term ''shape'' includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

[12] Packaging includes retail or specialty packaging such as digital printer cartridges.

(including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: A trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.,* ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of the orders. The products subject to the orders are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of the orders is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of these *Orders* on raw flexible magnets from China and Taiwan. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of these *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year (sunset) reviews of these *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return, destruction, or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: July 17, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–15618 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 2, 2019, The Department of Commerce (Commerce) published a notice of initiation of an administrative review of the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (China). Based on the timely withdrawal of the requests for review of certain companies, we are now rescinding this administrative review for the period February 1, 2018, through January 31, 2019, with respect to 198 companies.

DATES: Applicable July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Dennis McClure, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 2009, Commerce published in the **Federal Register** the antidumping duty order on small diameter graphite electrodes from China.[1] On February 8, 2019, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on small diameter graphite electrodes from China for the period of review February 1, 2018, through January 31, 2019.[2]

On February 28, 2019, Tokai Carbon GE LLC (the petitioner)[3] requested an administrative review of the order for 199 producers and/or exporters of the subject merchandise.[4] On May 2, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the order on small diameter graphite electrodes from China with respect to 199 companies.[5] On July 11, 2019, the petitioner withdrew its request for an administrative review of 198 out of the 199 companies listed in its review request.[6] See the *Initiation Notice* for the full list of companies for which Commerce initiated a review.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, the petitioner timely withdrew its review request, in part, by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order for the companies for which the petitioner withdrew its review request. Therefore, we are rescinding the administrative review of the antidumping duty order

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[1] *See Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 8775 (February 26, 2009).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 2816 (February 8, 2019).

[3] Formerly, SGL Carbon LLC and Superior Graphite Co.

[4] *See* the petitioner's submission, ''Small Diameter Graphite Electrodes from the People's Republic of China—Request for Initiation of Antidumping Administrative Review,'' dated February 28, 2019.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 18777 (May 2, 2019) (*Initiation Notice*).

[6] *See* the petitioner's submission, ''Small Diameter Graphite Electrodes from the People's Republic of China—Petitioner's Withdrawal of Certain Requests for Review,'' dated July 11, 2019. The petitioner withdrew its review request with respect to all companies except for Fushun Jinly Petrochemical Carbon Co., Ltd.

on small diameter graphite electrodes from China for the period February 1, 2018, through January 31, 2019, with respect to the 198 companies for which all review requests were withdrawn. The review will continue with respect to the remaining company, Fushun Jinly Petrochemical Carbon Co., Ltd. (*aka* Fushun Jinli Petrochemical Carbon Co., Ltd.).

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We intend to issue and publish this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: July 17, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–15617 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–876]

Welded Line Pipe From the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty order on welded line pipe (WLP) from the Republic of Korea (Korea) to correct two ministerial errors. Correction of these errors results in revised margins for SeAH Steel Corporation (SeAH) and the companies not selected for individual examination. The amended final dumping margins are listed below in the section entitled, ''Amended Final Results of the Review.''

DATES: Applicable July 23, 2019.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Joshua Tucker, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–2044, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 2019, Commerce published the *Final Results* of the 2016–2017 administrative review of WLP from Korea in the **Federal Register**.[1] Subsequently, on June 17, 2019, SeAH and NEXTEEL Co., Ltd. (NEXTEEL), the two companies selected for individual examination in this administrative review, submitted comments alleging ministerial errors in Commerce's *Final Results.*[2]

Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.''[3] With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review. . . .''

Ministerial Errors

Commerce made two inadvertent errors within the meaning of section 735(e) of the Act and 19 CFR 351.224(f) with respect to the application of the particular market situation (PMS) adjustment rate to SeAH's hot-rolled coil (HRC) costs, and the application of general and administrative (G&A) and financial expenses to SeAH's further manufactured sales. Specifically, we determine that we erred: (1) In applying the PMS adjustment rate without adjusting it to account for the percentage of HRC consumed relative to the total raw materials; and (2) in double counting the G&A and financial expenses for further manufactured sales. Accordingly, we determine, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), that we made unintentional ministerial errors in the *Final Results.* Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Results* to reflect the correction of these errors. In addition, we determine that NEXTEEL's alleged ministerial errors reflect our intended methodology and, thus, are not ministerial errors. Moreover, because the review-specific average rate applicable to companies in this administrative review not selected for individual examination was based, in part, on SeAH's weighted-average dumping margin, we are revising the review-specific average rate. For a detailed discussion of the ministerial error allegations, as well as Commerce's analysis, *see* Ministerial Error Memorandum.[4]

Amended Final Results of the Review

As a result of correcting the ministerial errors described above, we determine that the weighted-average dumping margins for the firms listed below exist for the period December 1, 2016 through November 30, 2017:

[1] *See Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017,* 84 FR 27762 (June 14, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See* SeAH's Letter, ''Administrative Review of the Antidumping Order on Welded Line Pipe from Korea—Comments on Ministerial Errors in Final Determination,'' dated June 17, 2019. *See also* NEXTEEL's Letter, ''Welded Line Pipe from the Republic of Korea: Ministerial Error Comments,'' dated June 17, 2019.

[3] *See* 19 CFR 351.224(f).

[4] *See* Memorandum, ''Welded Line Pipe from Korea: 2016–2017 Antidumping Duty Administrative Review—Ministerial Error Allegations,'' dated concurrently with, and hereby adopted by, this notice (Ministerial Error Memorandum).

Exporter/producer	Weighted-average dumping margin (percent)
NEXTEEL Co., Ltd	38.87
SeAH Steel Corporation	22.70

Review-Specific Average Rate Applicable to the Following Companies: [5]

Exporter/producer	Weighted-average dumping margin (percent)
AJU Besteel Co., Ltd	29.89
BDP International, Inc	29.89
Daewoo International Corporation	29.89
Dongbu Incheon Steel Co	29.89
Dongbu Steel Co., Ltd	29.89
Dongkuk Steel Mill	29.89
Dong Yang Steel Pipe	29.89
EEW Korea Co, Ltd	29.89
Husteel Co., Ltd	29.89
Hyundai RB Co. Ltd	29.89
Hyundai Steel Company/Hyundai HYSCO	29.89
Kelly Pipe Co., LLC	29.89
Keonwood Metals Co., Ltd	29.89
Kolon Global Corp	29.89
Korea Cast Iron Pipe Ind. Co., Ltd	29.89
Kurvers Piping Italy S.R.L	29.89
Miju Steel MFG Co., Ltd	29.89
MSTEEL Co., Ltd	29.89
Poongsan Valinox (Valtimet Division)	29.89
POSCO	29.89
POSCO Daewoo	29.89
R&R Trading Co. Ltd	29.89
Sam Kang M&T Co., Ltd	29.89
Sin Sung Metal Co., Ltd	29.89
SK Networks	29.89
Soon-Hong Trading Company	29.89
Steel Flower Co., Ltd	29.89
TGS Pipe	29.89
Tokyo Engineering Korea Ltd	29.89

Disclosure

We intend to disclose the calculations performed for these amended final results within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Antidumping Duty Assessment

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review.

Pursuant to 19 CFR 351.212(b)(1), NEXTEEL reported the entered value of its U.S. sales such that we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. SeAH did not report actual entered value for all of its U.S. sales such that we calculated entered value and determined the importer-specific *ad valorem* assessment rates as described above for NEXTEEL. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies which were not selected for individual review, we will assign an assessment rate based on the average [6] of the cash deposit rates calculated for NEXTEEL and SeAH. The amended final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the amended final results of this review and for future deposits of estimated duties, where applicable.[7]

We intend to issue liquidation instructions to CBP 15 days after publication of these amended final results of this administrative review.

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 14, 2019, the date of publication date of the *Final Results* of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the amended final results, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies, including those for which Commerce may have determined had no shipments during the period of review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this or an earlier review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 4.38 percent established in the LTFV investigation.[8] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

[5] This rate is based on the weighted-average of the margins calculated for those companies selected for individual review using the publicly-ranged U.S. quantities. *See* Ministerial Error Memorandum, and Memorandum, ''Calculations for SeAH Steel Corporation for the Amended Final Results'' (which includes the calculation of the review-specific rate), dated concurrently with this notice.

[6] This rate was calculated as discussed in the footnote above.

[7] *See* section 751(a)(2)(C) of the Act.

[8] *See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders,* 80 FR 75056, 75057 (December 1, 2015).

Dated: July 16, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–15619 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH107

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 62 Assessment Webinar III for Gulf of Mexico gray triggerfish.

SUMMARY: The SEDAR 62 stock assessment process for Gulf of Mexico gray triggerfish will consist of an In-person Workshop, and a series of data and assessment webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 62 Assessment Webinar III will be held September 4, 2019, from 10 a.m. to 12 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the in-person workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 18, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–15599 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH106

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold a meeting of its Scientific and Statistical Committee (SSC), in Charleston, SC, to address issues relevant to the NOAA Fisheries' Marine Recreational Information Program (MRIP). See **SUPPLEMENTARY INFORMATION**.

DATES: The SSC meeting will be held from 1 p.m. to 5:30 p.m. on Monday, August 19, 2019; from 8:30 a.m. to 5:30 p.m. on Tuesday, August 20, 2019; and 8:30 a.m. to 3 p.m. on Wednesday, August 21, 2019.

ADDRESSES:

Meeting address: The meeting will be held at the Town & Country Inn and Suites, 2008 Savannah Hwy., Charleston, SC 29407; phone: (800) 334–6660 or (843) 571–1000; fax: (843) 766–9444.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The following agenda items will be addressed by the SSC during the meeting:

1. Review and describe the sources of disparity between the Coastal Household Telephone Survey (CHTS) and the Fishing Effort Survey (FES) estimates of recreational effort used in the MRIP for SAFMC managed stocks, considering the impacts of the effort

survey change and NOAA Fisheries' Southeast Fishery Science Center (SEFSC) post-processing.

a. Describe for a set of SAFMC managed species currently in the Southeast Data, Assessment, and Review (SEDAR) stock assessment process (Red Porgy, Greater Amberjack, King Mackerel, Golden Tilefish, and Gag) how the sources of disparity between CHTS and FES affect the FES catch estimate time series, with attention on trends, uncertainty, and potential outliers.

b. Review SEFSC post-survey processing and determine what portion of the difference in catch estimates is due to: (1) The change from CHTS to FES versus (2) the post-survey processing of the data by the SEFSC.

c. Identify a set of critical factors (*e.g.,* spatial/temporal coverage of the data that were used in analysis for extrapolation, decision to exclude outlier/abnormal data points, error structures/statistical distributions used in analyses, etc.) most likely to contribute to CHTS/FES disparities for species managed by the SAFMC.

i. Describe how the sources of disparity and data issues identified for the 5 species examined above may affect estimates for other SAFMC species.

ii. Review recreational catch estimates for species currently being assessed (Golden Tilefish, Greater Amberjack, Red Porgy).

2. Establish approaches for the use of FES estimates for unassessed species.

The SSC will provide guidance to staff and recommendations for SAFMC consideration as necessary. The meeting is open to the public and will also be available via webinar as it occurs. Webinar registration is required. Information regarding webinar registration will be posted to the SAFMC website at: *http://safmc.net/safmc-meetings/scientific-and-statistical-committee-meetings/* as it becomes available. The meeting agenda, briefing book materials, and online comment form will be posted to the website two weeks prior to the meeting. Written comment on SSC agenda topics is to be distributed to the Committee through the SAFMC office, similar to all other briefing materials. Written comment to be considered by the SSC shall be provided to the SAFMC office no later than one week prior to an SSC meeting. For this meeting, the deadline for submission of written comment is 12 p.m., Monday, August 12, 2019.

Multiple opportunities for comment on agenda items will be provided during the SSC meeting. Open comment periods will be provided at the start of the meeting and near the conclusion. Those interested in providing comment should indicate such in the manner requested by the SSC Chair, who will then recognize individuals to provide comment.

Although non-emergency issues not contained in the meeting agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 18, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–15598 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Rookery Bay National Estuarine Research Reserve

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting and request for public comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting and is soliciting comment for the performance evaluation of the Rookery Bay National Estuarine Research Reserve.

DATES: *Rookery Bay National Estuarine Research Reserve Evaluation:* The public meeting will be held on Wednesday September 25, 2019, and written comments must be received on or before Friday, October 4, 2019.

For the specific date, time, and location of the public meetings, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit comments on the reserve by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Naples, Florida for the Rookery Bay Reserve. For the specific location, see **SUPPLEMENTARY INFORMATION**.

Written Comments: Please direct written comments to Ralph Cantral, Evaluator, NOAA Office for Coastal Management, 2234 S Hobson Avenue, Charleston, South Carolina or via email to *Ralph.Cantral@noaa.gov.* Comments that the Office for Coastal Management receives are considered part of the public record and may be publicly accessible. Any personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender may also be publicly accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Evaluator, NOAA Office for Coastal Management, 2234 S Hobson Avenue, Charleston, South Carolina via email to *Ralph.Cantral@noaa.gov,* or by phone at (843) 740–1143. Copies of the previous evaluation findings, Management Plan, and Site Profile may be viewed and downloaded on the internet at *http://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter and most recent performance report may be obtained upon request by contacting Mr. Cantral via the contact information provided above.

SUPPLEMENTARY INFORMATION: Sections 312 and 315 of the Coastal Zone Management Act (CZMA) require NOAA to conduct periodic evaluations of federally-approved National Estuarine Research Reserves. The process includes a public meeting, consideration of written public comments, and consultations with interested Federal, state, and local agencies and members of the public. For the evaluation of National Estuarine Research Reserves, NOAA will consider the extent to which the state has met the national objectives, adhered to its management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the Coastal Zone Management Act. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

You may participate and submit oral comments at the public meeting scheduled as follows:

Date: Wednesday, September 25, 2019.

Time: 5:00 p.m., local time.

Location: Rookery Bay Environmental Learning Center, 300 Tower Road, Naples, Florida 34113.

Written comments must be received on or before Friday, October 4, 2019.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2019–15564 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: West Coast Region U.S. Pacific Highly Migratory Species Logbook Family of Forms.

OMB Control Number: 0648–0223.

Form Number(s): NOAA Form 88–197.

Type of Request: Regular submission (extension of a currently approved collection.

Number of Respondents: 1,700.

Average Hours per Response: 1 hour.

Burden Hours: 3,400.

Needs and Uses: Under the Fishery Management Plan for United States (U.S.) West Coast Fisheries for Highly Migratory Species (HMS) U.S. fishermen, participating in the Pacific hook-and-line (also known as the albacore troll and poll-and-line), coastal purse seine (vessels less than 400 st carrying capacity), large-mesh drift gillnet, and swordfish harpoon fisheries, are required to obtain a Highly Migratory Species (HMS) permit. Permit holders are also required to complete and submit logbooks documenting their daily fishing activities, including catch and effort for each fishing trip. Logbook forms must be completed within 24 hours of the completion of each fishing day and submitted to the Southwest Fisheries Science Center (SWFSC) within 30 days of the end of each trip. Federal regulations allow the use of state logbooks to fulfill this requirement, for example, California has fulfilled this requirement to date for HMS fisheries. These data and associated analyses help the SWFSC provide critical HMS fisheries information to researchers, fisheries managers, and the needed management advice to the U.S. in its negotiations with foreign fishing nations that fish for HMS.

At the November 2018 Pacific Fisheries Management Council meeting, the California Department of Fish and Wildlife submitted an informational report outlining proposed regulations to repeal the state logbook requirements for swordfish harpoon and large-mesh drift gillnet. In December 2018, the California Fish and Wildlife Commission adopted an amendment to the California Code of Regulations (CCR) to eliminate the use of California logbooks for these gear types. These regulations are expected to become effective on April 1, 2019.

As a result, NMFS has developed Federal logbooks to replace the California logbooks. In addition, the SWFSC developed a purse seine logbook for vessels under 400 st (362.8 mt) carrying capacity. This will replace their use of the Inter-American Tropical Tuna Commission (IATTC) Seiner Record and Bridge Log designed for purse seine vessels over 400 st (362.8 mt) carrying capacity.

The SWFSC and representatives from each of the fisheries have reviewed the Federal logbooks. Representatives were chosen based on their experience with State logbooks and specific gear-types. The information collected from the public will remain consistent and information currently collected from California Fish and Wildlife logbooks. There will be no additional burden to the public.

Affected Public: Business or other for-profit.

Frequency: Submission is required for each HMS fishing trip.

Respondent's Obligation: Keep an accurate and complete record of catch, effort, and other data on report forms. The original logbook form for each day of the fishing trip must be submitted to the Southwest Fisheries Science Center within 30 days of each landing of HMS.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–15584 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Management Plan for National Estuarine Research Reserve Program

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public comment period for the Wells National Estuarine Research Reserve management plan revision.

SUMMARY: Notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty (30) day public comment period for the revised management plan for Wells National Estuarine Research Reserve management plan revision.

ADDRESSES: You may submit comments on the draft management plan by any of the following methods:

Written Comments: Please submit written comments to Paul Dest, Reserve Manager, Wells Reserve, 342 Laudholm Farms Road, Wells, Maine 04090, or email comments to *dest@wellsnerr.org.* Comments that the Office for Coastal Management receives are considered part of the public record and may be publicly accessible. Any personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender may also be publicly accessible. NOAA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: Adrianne Harrison at (603) 862–4272 or Erica Seiden at (240) 533–0781 of NOAA's National Ocean Service, Stewardship Division, Office for Coastal Management, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a state must update their management plan. The Wells Reserve revised plan will replace the plan previously approved in 2013.

The revised management plan outlines a strategic plan; administrative structure; research and monitoring, education, stewardship, wetland science and training programs of the reserve; resource protection and manipulation plans, restoration management plan; public access and visitor use plan; considerations for future land acquisition; and facility development to support reserve operations.

The Wells Reserve takes an integrated approach to management, linking research, education, coastal training, and resource management functions. The reserve has outlined how it will manage administration and its core programs, providing detailed actions that will enable it to accomplish specific goals and objectives. Since the last management plan, the reserve has implemented its core and system-wide programs; secured science, education, and conservation grants to serve southern Maine communities; made significant repairs and improvements to buildings including installed solar arrays to generate electricity and renovated the water tower; designed and installed climate change exhibit components in Visitor Center; added a fully accessible trail at Wells Harbor; restored riverine and fisheries habitats in southern Maine watersheds; and helped partners acquire priority conservation lands.

There will be no boundary change with the approval of the revised management plan. The management plan will serve as the guiding document for the 2,250-acre Wells Reserve.

NOAA's Office Coastal Management will be conducting an environmental analysis in accordance with the National Environmental Policy Act on the proposed approval of the Reserve's revised management plan. The public is invited to provide comment or information about any potential environmental impacts of the proposed action, and these comments will be used to inform the decision making.

View the Wells Reserve management plan revision on their website, at *https://www.wellsreserve.org/writable/files/DraftPlan19.pdf,* and provide comments to Paul Dest, *dest@wellsnerr.org.*

Nkolika Ndubisi,

Management and Program Analyst, National Ocean Service, National Oceanic and Atmospheric Administration.

Federal Domestic Assistance Catalog 11.420, Coastal Zone Management Program Administration.

[FR Doc. 2019–15565 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; "Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures"

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: United States Patent and Trademark Office, Commerce.

Title: Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

OMB Control Number: 0651–0024.

Form Number(s):

- PTO/SB/93.

Type of Request: Regular.

Number of Respondents: 28,850.

Estimated Time per Response: The USPTO estimates that it will take approximately 6 minutes (0.10 hours) to 6 hours to complete a single item in this collection. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

Burden Hours: 163,955 hours.

Cost Burden: $1,573,140.00.

Needs and Uses: Patent applications that contain nucleotide and/or amino acid sequence disclosures that fall within the definitions of 37 CFR 1.821(a) must include, as a separate part of the application disclosure, a copy of the sequence listing in accordance with the requirements in 37 CFR 1.821–1.825. Applicants may submit sequence listings for both U.S. and international patent applications. The USPTO uses the sequence listings during the examination process to determine the patentability of the associated patent application. The USPTO also uses the sequence listings to support publication of patent applications and issued patents. Sequence listings are searchable after publication.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Nicholas A. Fraser, email: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov.* Follow the instructions on the website to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include "0651–0024 information request" in the subject line of the message.
- *Mail:* Marcie Lovett, Chief, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before August 22, 2019 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Marcie Lovett,

Chief, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2019–15562 Filed 7–22–19; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0017, Market Surveys

AGENCY: Commodity Futures Trading Commission

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is announcing an opportunity for public comment on the proposed 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 collection of information and to allow 60 days for public comment. This notice solicits comments on market investigations.

DATES: Comments must be submitted on or before September 23, 2019.

ADDRESSES: You may submit comments, identified by "Market Surveys," Collection Number 3038–0017, 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. 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*.

FOR FURTHER INFORMATION CONTACT: Adam Charnisky, Market Analyst, Division of Market Oversight, Commodity Futures Trading Commission, (312) 596–0630; email: *acharnisky@cftc.gov,* and refer to OMB Control No. 3038–0017.

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 before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Market Surveys (OMB Control No. 3038–0017). This is a request for extension of a currently approved information collection.

Abstract: Under Commission Rule 21.02, upon call by the Commission, information must be furnished related to futures or options positions held or introduced by futures commission merchants, members of contract markets, introducing brokers, foreign brokers, and for options positions, by each reporting market. This rule is designed to assist the Commission in prevention of market manipulation and is promulgated pursuant to the Commission's rulemaking authority contained in section 8a of the Commodity Exchange Act, 7 U.S.C. 12a (2010).

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.

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: The respondent burden for this collection is estimated to be as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
21.02	100	Annually	100	1.75	175

Respondents/Affected Entities: Futures commission merchants, members of contract markets, introducing brokers, foreign brokers, contract markets.

Estimated number of respondents: 100.

Estimated total annual burden on respondents: 175 hours.

Frequency of collection: Annually.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 18, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–15615 Filed 7–22–19; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0084]

Agency Information Collection Activities; Comment Request; Application for Approval To Participate in Federal Student Aid Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0084. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments*

submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Approval to Participate in Federal Student Aid Programs.

OMB Control Number: 1845–0012.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 7,286.

Total Estimated Number of Annual Burden Hours: 24,352.

Abstract: Section 487(c) of the Higher Education Act of 1965, as amended (HEA) requires that the Secretary of Education prescribe regulations to ensure that any funds postsecondary institutions receive under the HEA are used solely for the purposes specified in, and in accordance with, the provision of the applicable programs. The Institutional Eligibility regulations govern the initial and continuing eligibility of postsecondary educational institutions participating in the student financial assistance program authorized by Title IV of the HEA. An institution must use this Application to apply for approval to be determined to be eligible and if the institution wishes, to participate; to expand its eligibility; or to continue to participate in the Title IV programs. An institution must also use the application to report certain required data as part of its recordkeeping requirements contained in the regulations under 34 CFR part 600 (Institutional Eligibility under the HEA). The Department uses the information reported on the Application in its determination of whether an institution meets the statutory and regulatory requirements.

Dated: July 17, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–15546 Filed 7–22–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education (NACIE); Meeting

AGENCY: U. S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda for an upcoming virtual, public meeting of the National Advisory Council on Indian Education (NACIE). Notice of the meeting is required by section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify members of the public who may be interested in participating online and/or by teleconference. This notice is being posted less than 15 days due to the need to secure funding and coordinate technology services for a virtual meeting.

DATES: The virtual NACIE meeting will be held online and by teleconference on July 26, 2019—12:00 p.m.–2:00 p.m. (EST).

ADDRESSES: There is no physical address for the virtual meeting, as it will be conducted online with teleconference capabilities. WebEx hyperlink: *https://doed.webex.com/NACIE.July.26.2019.*

To copy and paste hyperlink into browser: https://doed.webex.com/doed/j.php?MTID=maeff983434fd5eeb1edc055eaae0bdf3.

WebEx Access Code: 966 632 673.

WebEx Meeting Password: OIEWebex!

To join by telephone: Call-in toll-free number 1–888–858–2144; Call-in number 1–646–746–3008. Access Code for either telephone number:942 906 1.

FOR FURTHER INFORMATION CONTACT: Angeline Boulley, Director of the Office of Indian Education (OIE)/Designated Federal Official, Office of Elementary and Secondary Education (OESE), U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: 202–453–7042, Email: *Angeline.Boulley@ed.gov.*

SUPPLEMENTARY INFORMATION: Statutory Authority and Function: NACIE is authorized by § 6141 of the Elementary and Secondary Education Act of 1965. NACIE is established within the U.S. Department of Education to advise the Secretary of Education and the Secretary of Interior on the funding and administration (including the development of regulations, and administrative policies and practices) of any program over which the Secretary of Education has jurisdiction and includes Indian children or adults as participants or that may benefit Indian children or adults, including any program established under Title VII, Part A of the Elementary and Secondary Education Act. In addition, NACIE advises the Secretary of the Interior regarding these same Department of Education programs, and also, in accordance with section 5(a) of Executive Order 13592, advises the White House Initiative on American Indian and Alaskan Native Education. NACIE submits to the Congress each year a report on the activities of the Committee and include recommendations that are considered appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

Meeting Agenda: The purpose of the meeting is to convene NACIE to conduct the following business:

(1) Welcome and Introductions; (2) Review and Provide Feedback on NACIE 2019 Annual Report to Congress; (3) Approve NACIE 2019 Annual Report to Congress; (4) Review NACIE Meeting Calendar for 2019–2020, and; (5) Accept Public Comments.

All stakeholders and participants from the public must RSVP for the meeting to ensure they receive notice of

any updated information. Please RSVP via email to *Angeline.Boulley@ed.gov* no later than July 25, 2019. If you would like to provide public comment, please submit your request no later than July 25, 2019 to *Angeline.Boulley@ed.gov.* Speakers will have up to five (5) minutes to provide a comment. Members of the public interested in submitting written comments may do so via email at *Angeline.Boulley@ed.gov.* Comments should pertain to the work of NACIE and/or the Office of Indian Education.

Reasonable Accommodations: The virtual meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify Brandon Dent on 202–453–6450 or at *brandon.dent@ed.gov* no later than July 22, 2019. Although we will attempt to meet a request received after the request due date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to make arrangements.

Access to Records of the Meeting: The Department will post the official report of the meeting on the OESE website at: *http://www2.ed.gov/about/offices/list/oese/index.html?src=oc* 21 days after the meeting. Pursuant to the FACA, the public may also inspect NACIE materials at the Office of Indian Education, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, Monday–Friday, 8:30 a.m. to 5:00 p.m. Eastern Time or by emailing *Angeline.Boulley@ed.gov* or by calling Erica Outlaw at (202) 358–3144 to schedule an appointment.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: § 6141 of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act (ESSA) (20 U.S.C. 7471).

Frank Brogan,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2019–15547 Filed 7–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0079]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2019 and 2020 Long-Term Trend (LTT) Update 2

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 22, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0079. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2019 and 2020 Long-Term Trend (LTT) Update 2.

OMB Control Number: 1850–0928.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 642,087.

Total Estimated Number of Annual Burden Hours: 322,765.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information

organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts. The request to conduct NAEP 2019 and 2020 was approved in September 2018 with the latest update to the NAEP 2020 plan, consisting of the Long Term Trend (LTT) assessment to be conducted during the 2019–20 school year, approved in June 2019 (OMB# 1850–0928 v.10–15). The LTT assessments are based on nationally representative samples of 9-, 13-, and 17-year olds, and have been used by NAEP since the early 1970s to provide measures of students' educational progress over long time periods to allow for analyses of national trends in students' performance in mathematics and reading. NAEP 2019 data collection has been concluded. This request updates for the 2019–2020 LTT: (a) Communication materials, (b) instructions for entering student information, and (c) the SD and ELL section of the MyNAEP System, and provides for the 2019–2020 LTT: (d) The Spanish Bilingual Student Questionnaires translated from the approved in June 2019 (OMB# 1850–0928 v.15) English-language versions of the LTT Student Questionnaires.

Dated: July 17, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–15557 Filed 7–22–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD19–5–000]

Notice Reporting Costs for Other Federal Agencies' Administrative Annual Charges for Fiscal Year 2018; Billing Procedures for Annual Charges for the Costs of Other Federal Agencies for Administering Part I of the Federal Power Act

1. The Federal Energy Regulatory Commission (Commission) is required to determine the reasonableness of costs incurred by other Federal agencies (OFAs) [1] in connection with their participation in the Commission's proceedings under the Federal Power Act (FPA) Part I [2] when those agencies seek to include such costs in the administrative charges licensees must pay to reimburse the United States for the cost of administering Part I.[3] The Commission's *Order on Remand and Acting on Appeals of Annual Charge Bills* [4] determined which costs are eligible to be included in the administrative annual charges. This order also established a process whereby the Commission would annually request each OFA to submit cost data, using a form [5] specifically designed for this purpose. In addition, the order established requirements for detailed cost accounting reports and other documented analyses to explain the cost assumptions contained in the OFAs' submissions.

2. The Commission has completed its review of the forms and supporting documentation submitted by the U.S. Department of the Interior (Interior), the U.S. Department of Agriculture (Agriculture), and the U.S. Department of Commerce (Commerce) for fiscal year (FY) 2018. This notice reports the costs the Commission included in its administrative annual charges for FY 2019.

Scope of Eligible Costs

3. The basis for eligible costs that should be included in the OFAs' administrative annual charges is prescribed by the Office of Management and Budget's (OMB) Circular A–25—*User Charges* and the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards (SFFAS) Number 4—*Managerial Cost Accounting Concepts and Standards for the Federal Government.* Circular A–25 establishes Federal policy regarding fees assessed for government services and provides specific information on the scope and type of activities subject to user charges. SFFAS Number 4 provides a conceptual framework for federal agencies to determine the full costs of government goods and services.

4. Circular A–25 provides for user charges to be assessed against recipients of special benefits derived from federal activities beyond those received by the general public.[6] With regard to licensees, the special benefit derived from federal activities is the license to operate a hydropower project. The guidance provides for the assessment of sufficient user charges to recover the *full* costs of services associated with these special benefits.[7] SFFAS Number 4 defines full costs as the costs of resources consumed by a specific governmental unit that contribute directly or indirectly to a provided service.[8] Thus, pursuant to OMB requirements and authoritative accounting guidance, the Commission must base its OFA administrative annual charge on all direct and indirect costs incurred by agencies in administering Part I of the FPA. The special form the Commission designed for this purpose, the ''Other Federal Agency Cost Submission Form,'' captures the full range of costs recoverable under the FPA and the referenced accounting guidance.[9]

Commission Review of OFA Cost Submittals

5. The Commission received cost forms and other supporting documentation from the Departments of the Interior, Agriculture, and Commerce. The Commission completed a review of each OFA's cost submission forms and supporting reports. In its examination of the OFAs' cost data, the

[1] The OFAs include: The U.S. Department of the Interior (Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service, U.S. Fish and Wildlife Service, Office of the Solicitor, Office of Environmental Policy & Compliance, Office of Hearings and Appeals, and Office of Policy Analysis); the U.S. Department of Agriculture (U.S. Forest Service); the U.S. Department of Commerce (National Marine Fisheries Service); and the U.S. Army Corps of Engineers.

[2] 16 U.S.C. 791a–823d (2012).

[3] *See id.* 803(e)(1) and 42 U.S.C. 7178.

[4] 107 FERC 61,277, *order on reh'g,* 109 FERC 61,040 (2004).

[5] Other Federal Agency Cost Submission Form, *available at https://www.ferc.gov/docs-filing/forms.asp#ofa.*

[6] OMB Circular A–25 6.

[7] OMB Circular A–25 6.a.2.

[8] SFFAS Number 4 7.

[9] For the past few years, the form has excluded Other Direct Costs to avoid the possibility of confusion that occurred in earlier years as to whether costs were being entered twice as Other Direct Costs and Overhead.

Commission considered each agency's ability to demonstrate a system or process which effectively captured, isolated, and reported FPA Part I costs as required by the Other Federal Agency Cost Submission Form.

6. The Commission held a Technical Conference on March 28, 2019 to report its initial findings to licensees and OFAs. Representatives for several licensees and most of the OFAs attended the conference. Following the technical conference, a transcript was posted, and licensees had the opportunity to submit comments to the Commission regarding its initial review.

7. Idaho Falls Group (Idaho Falls) filed written comments,[10] stating its general support of the Commission's analysis but raising questions regarding certain various individual cost submissions. These issues are addressed in the Appendix to this notice.

8. After additional review, full consideration of the comments presented, and in accordance with the previously cited guidance, the Commission accepted as reasonable any costs reported via the cost submission forms that were clearly documented in the OFAs' accompanying reports and/or analyses. These documented costs will be included in the administrative annual charges for FY 2019.

Summary of Reported & Accepted Costs for Fiscal Year 2018

	Municipal		Non-Municipal		TOTAL	
	Reported	Accepted	Reported	Accepted	Reported	Accepted
Department of Interior						
Bureau of Indian Affairs	-	-	-	-	-	-
Bureau of Land Management	21,691	21,691	-	-	21,691	21,691
Bureau of Reclamation	609	609	21,430	21,430	22,039	22,039
National Park Service	331,673	331,673	473,467	473,467	805,141	805,141
U.S. Fish and Wildlife Service	321,933	321,933	1,167,397	1,167,397	1,489,330	1,489,330
Office of the Solicitor	-	-	-	-	-	-
Office of Environmental Policy & Compliance	31,703	31,703	75,462	75,462	107,166	107,166
Office of Hearings and Appeals	-	-	-	-	-	-
Department of Agriculture						
U.S. Forest Service	739,622	580,291	1,500,079	1,634,462	2,239,701	2,214,753
Department of Commerce						
National Marine Fisheries Service	901,844	1,020,974	868,617	645,811	1,770,461	1,666,785
TOTAL	**2,349,075**	**2,308,874**	**4,106,454**	**4,018,029**	**6,455,528**	**6,326,904**

Figure 1

9. Figure 1 summarizes the total reported costs incurred by Interior, Agriculture, and Commerce with respect to their participation in administering Part I of the FPA. Additionally, Figure 1 summarizes the reported costs that the Commission determined were clearly documented and accepted for inclusion in its FY 2019 administrative annual charges.

Summary Findings of Commission's Costs Review

10. As presented in Figure 1, the Commission has determined that $6,326,904 of the $6,455,528 in total reported costs were reasonable and clearly documented in the OFAs' accompanying reports and/or analyses. Based on this finding, 2% of the total reported cost was determined to be unreasonable. The Commission notes the most significant issue with the documentation provided by the OFAs was the lack of supporting documentation to substantiate costs reported on the ''Other Federal Agency Cost Submission Form.''

11. The cost reports that the Commission determined were clearly documented and supported could be traced to detailed cost-accounting reports, which reconciled to data provided from agency financial systems or other pertinent source documentation. A further breakdown of these costs is included in the Appendix to this notice, along with an explanation of how the Commission determined their reasonableness.

Points of Contact

12. If you have any questions regarding this notice, please contact Norman Richardson at (202) 502–6219 or Raven Rodriguez at (202) 502–6276.

Dated: July 17, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15580 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

[10] *See* Letter from Sharon L. White, Van Ness Feldman, to the Honorable Kimberly D. Bose, FERC, Docket No. AD19–5–000 (filed April 30, 2019).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2698–110]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Type of Application:* Temporary variance from reservoir level (Article 401) requirements to conduct spillway upgrade work.

b. *Project No:* 2698–110.

c. *Date Filed:* July 9, 2019.

d. *Applicant:* Duke Energy Carolinas, LLC (licensee).

e. *Name of Project:* East Fork Hydroelectric Project.

f. *Location:* The project is located on the East Fork of the Tuckasegee River in Jackson County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeff Lineberger, Director, Duke Energy Carolinas, LLC, 526 S Church Street, Mail Stop EC12Y, Charlotte, NC 28202, *Jeff.Lineberger@duke-energy.com.*

i. *FERC Contact:* Michael Calloway at 202–502–8041, or *michael.calloway@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2698–110.

k. *Description of Request:* The licensee is proposing to drawdown the Cedar Cliff Hydroelectric Development's reservoir 30 feet below normal pool for 25 months starting September 3, 2019, and ending by September 31, 2021 in order to complete auxiliary spillway upgrades for project safety purposes. The licensee's proposal states that auxiliary spillway will be removed, and that the spillway area will be modified by rock splitting and blasting to lower the sill to 2,305 ft above mean sea level to accommodate 6 Fusegates. This includes construction of a new access road to facilitate the construction activity. It is proposed that resulting spoil material will be placed in the reservoir per the requirements of the U.S. Army Corps of Engineers Section 404 individual permit and the Section 401 Water Quality Certification conditions from the North Carolina Division of Water Resource. The licensee is proposing to implement mitigation measures to protect Indiana bats and northern long-eared bats that were required by U.S. Fish and Wildlife Service. Furthermore, the licensee plans to close the public access boat ramp for the duration of the drawdown, and plans to repave the parking lot and remove sediment from the launch area during the closure.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling 202–502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call 202–502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS; PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the temporary variance in reservoir level and spillway replacement project 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. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: July 17, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–15581 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–1385–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: New GT&C Section—Indemnification at Stratton Ridge to be effective 9/1/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5101.
Comments Due: 5 p.m. ET 7/29/19.

Docket Numbers: RP19–1386–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Compliance filing X–130 Abandonment to be effective 7/8/2019.
Filed Date: 7/16/19.
Accession Number: 20190716–5065.
Comments Due: 5 p.m. ET 7/29/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15575 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–31–001.
Applicants: Oregon Clean Energy, LLC.
Description: Report Filing: Refund Report to be effective N/A.
Filed Date: 7/16/19.
Accession Number: 20190716–5058.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–709–004.
Applicants: Entergy Arkansas, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc., Entergy Louisiana, LLC.
Description: Tariff Amendment: Entergy OpCos Reactive Power Update to be effective 10/1/2015.
Filed Date: 7/15/19.
Accession Number: 20190715–5116.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1646–000.
Applicants: Performance Materials NA, Inc.
Description: Response to June 20, 2019 Deficiency Letter of Performance Materials NA, Inc.
Filed Date: 7/15/19.
Accession Number: 20190715–5146.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1661–001.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.
Description: Tariff Amendment: Dominion submits a response per FERC's 6/14/2019 Deficiency Letter to be effective 1/1/2020.
Filed Date: 7/15/19.
Accession Number: 20190715–5078.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1938–001.
Applicants: Florida Power & Light Company.
Description: Compliance filing: FPL Amendment to Order No. 845 Compliance Filing to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5133.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1940–001.
Applicants: Gulf Power Company.
Description: Compliance filing: Amendment to Order 845 Compliance Filing to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5105.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1947–001.
Applicants: Puget Sound Energy, Inc.
Description: Compliance filing: Response to Deficiency Letter to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5102.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1948–001.
Applicants: PacifiCorp.
Description: Compliance filing: OATT Order 845—Deficiency (6.13.19) to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5137.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1956–001.
Applicants: Cube Yadkin Transmission LLC.
Description: Compliance filing: Response to Deficiency Letter and Compliance Filing to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5071.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1957–001.
Applicants: Alabama Power Company.
Description: Compliance filing: Order Nos. 845 and 845–A Deficiency Compliance Filing to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5103.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–1961–002.
Applicants: GridLiance High Plains LLC.
Description: Compliance filing: Order No. 845 Compliance Filing—OATT—Attachment M to be effective 5/22/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5080.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2401–000.
Applicants: Wisconsin Electric Power Company.
Description: § 205(d) Rate Filing: Formula Rate Update Filing for 2018 Rate Year to be effective 9/14/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5077.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2402–000.
Applicants: West Penn Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: West Penn Power Company submits IA SA No. 5327 to be effective 9/13/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5079.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2403–000.
Applicants: International Transmission Company.
Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 9/14/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5104.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2404–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 5422; Queue No. AC1–158 to be effective 6/14/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5113.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2405–000.
Applicants: Porterhouse Wind (4) LLC.
Description: § 205(d) Rate Filing: Porterhouse Wind (4) LLC Change in Status to be effective 7/16/2019.
Filed Date: 7/15/19.
Accession Number: 20190715–5121.
Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: ER19–2406–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–07–16_SA 3328 Badger Hollow Solar Farm-ATC E&P (J870 J871) to be effective 6/24/2019.
Filed Date: 7/16/19.
Accession Number: 20190716–5048.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–2407–000.
Applicants: NGI-Kayenta II, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Tariff, Blanket Approval and Waivers to be effective 7/22/2019.
Filed Date: 7/16/19.
Accession Number: 20190716–5062.
Comments Due: 5 p.m. ET 8/6/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 16, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15576 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2398–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Hancock County Wind, LLC

This is a supplemental notice in the above-referenced proceeding of Hancock County Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 5, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 16, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15566 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2389–000]

Grazing Yak Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Grazing Yak Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 5, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 16, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15573 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN14–4–000]

Vitol Inc. and Federico Corteggiano; Updated Notice of Designation of Commission Staff as Non-Decisional

With respect to an order issued by the Commission on July 10, 2019, in the above-captioned docket, with the exceptions noted below, the staff of the Office of Enforcement are designated as non-decisional in deliberations by the Commission in this docket.[1] Accordingly, pursuant to 18 CFR 385.2202 (2018), they will not serve as advisors to the Commission or take part in the Commission's review of any offer of settlement. Likewise, as non-decisional staff, pursuant to 18 CFR 385.2201 (2018), they are prohibited from communicating with advisory staff concerning any deliberations in this docket.

Exceptions to this designation as non-decisional are:

Jeremy Medovoy

[1] *Vitol Inc. and Federico Corteggiano,* 168 FERC 61,013 (2019).

Mark Nagle
Jessica Wack
Ambrea Watts
Benjamin Jarrett
Alfred Jasins
Darice Xue
Joel Douglas
Michelle Norman

Dated: July 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15579 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–150–000.
Applicants: East Blackland Solar Project 1 LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of East Blackland Solar Project 1 LLC.
Filed Date: 7/17/19.
Accession Number: 20190717–5027.
Comments Due: 5 p.m. ET 8/7/19.

Docket Numbers: EG19–151–000.
Applicants: RE Maplewood LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of RE Maplewood LLC.
Filed Date: 7/17/19.
Accession Number: 20190717–5030.
Comments Due: 5 p.m. ET 8/7/19.

Docket Numbers: EG19–152–000.
Applicants: RE Maplewood 2 LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of RE Maplewood 2 LLC.
Filed Date: 7/17/19.
Accession Number: 20190717–5031.
Comments Due: 5 p.m. ET 8/7/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–2344–001.
Applicants: Headwaters Wind Farm LLC.
Description: Report Filing: Refund Report Filing to be effective N/A.
Filed Date: 7/16/19.
Accession Number: 20190716–5071.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–373–001.
Applicants: Paulding Wind Farm II LLC.
Description: Report Filing: Refund Report Filing to be effective N/A.
Filed Date: 7/16/19.
Accession Number: 20190716–5072.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–1357–000.
Applicants: GridLiance High Plains LLC.
Description: Motion to Intervene and Consolidate and Formal Challenge of Xcel Energy Services Inc. to March 15, 2019 Annual Informational filing by GridLiance High Plains, LLC.
Filed Date: 7/1/19.
Accession Number: 20190701–5344.
Comments Due: 5 p.m. ET 7/31/19.

Docket Numbers: ER19–1802–000.
Applicants: Portland General Electric Company.
Description: Response of Portland General Electric Company to June 25, 2019 Letter requesting additional information.
Filed Date: 7/16/19.
Accession Number: 20190716–5131.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–2029–001.
Applicants: Mankato Energy Center II, LLC.
Description: Tariff Amendment: Amendment to Mankato Energy Center II Reactive Supply Service Tariff Filing to be effective 6/1/2019.
Filed Date: 7/17/19.
Accession Number: 20190717–5058.
Comments Due: 5 p.m. ET 8/7/19.

Docket Numbers: ER19–2408–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Filing of Joint Use Agreement with MidAmerican to be effective 9/15/2019.
Filed Date: 7/16/19.
Accession Number: 20190716–5107.
Comments Due: 5 p.m. ET 8/6/19.

Docket Numbers: ER19–2409–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–07–17_SA 2414 ATC–DPC 2nd Rev T–T to be effective 7/15/2019.
Filed Date: 7/17/19.
Accession Number: 20190717–5049.
Comments Due: 5 p.m. ET 8/7/19.

Docket Numbers: ER19–2410–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–07–17_SA 3331 WPSC–ATC E&P (J886) to be effective 7/15/2019.
Filed Date: 7/17/19.
Accession Number: 20190717–5061.
Comments Due: 5 p.m. ET 8/7/19.

Docket Numbers: ER19–2411–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits 5 ECSAs, Service Agreement Nos. 5208, 5331, 5332, 5339, and 5392 to be effective 9/16/2019.
Filed Date: 7/17/19.
Accession Number: 20190717–5069.
Comments Due: 5 p.m. ET 8/7/19.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF19–1362–000.
Applicants: Orbit Bloom Energy, LLC.
Description: Application for Certification of Qualifying Cogeneration Facility Status of Orbit Bloom Energy, LLC.
Filed Date: 7/12/19.
Accession Number: 20190712–5210.
Comments Due: 5 p.m. ET 7/12/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15574 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2407–000]

NGI-Kayenta II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced NGI-Kayenta II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426,

in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 6, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 17, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15577 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status

Mesteno Windpower, LLC	EG19–90–000
Kawailoa Solar, LLC	EG19–91–000
Seymour Hills Wind Project, LLC	EG19–92–000
Wilkinson Solar LLC	EG19–93–000
Oberon Solar IA, LLC	EG19–94–000
Whitetower Holdings UK Ltd	FC19–4–000

Take notice that during the month of June 2019, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2018).

Dated: July 16, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–15572 Filed 7–22–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9997–02–OAR]

Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2019 Control Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has completed final calculations for the first round of allocations of allowances from the CSAPR new unit set-asides (NUSAs) for the 2019 control periods and has posted spreadsheets containing the calculations on EPA's website.

DATES: July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Kenon Smith at (202) 343–9164 or *smith.kenon@epa.gov* or Jason Kuhns at (202) 564–3236 or *kuhns.jason@epa.gov.*

SUPPLEMENTARY INFORMATION: Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO_X Annual), 97.511(b) and 97.512 (NO_X Ozone Season Group 1), 97.611(b) and 97.612 (SO_2 Group 1), 97.711(b) and 97.712 (SO_2 Group 2), and 97.811(b) and 97.812 (NO_X Ozone Season Group 2). Each NUSA allowance allocation process involves up to two rounds of allocations to eligible units, termed ''new'' units, followed by the allocation to ''existing'' units of any allowances not allocated to new units.

In a notice of data availability (NODA) published in the **Federal Register** on May 28, 2019 (84 FR 24506), EPA provided notice of preliminary calculations for the first-round 2019 NUSA allowance allocations and described the process for submitting any objections. The only objection EPA received in response to the May 28, 2019 NODA was subsequently withdrawn. This NODA concerns the final calculations for the first round of 2019 NUSA allocations, which are unchanged from the preliminary calculations.

The detailed unit-by-unit data and final allowance allocation calculations are set forth in Excel spreadsheets titled ''CSAPR_NUSA_2019_NOx_Annual_1st_Round_Final_Data'', ''CSAPR_NUSA_2019_NOx_OS_1st_Round_Final_Data'', and ''CSAPR_NUSA_2019_SO2_1st_Round_Final_Data'', available on EPA's website at *https://www.epa.gov/csapr/csapr-compliance-year-2019-nusa-nodas.*

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. EPA also notes that, under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b)).

Dated: July 15, 2019.

Reid P. Harvey,

Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2019–15654 Filed 7–22–19; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0307; Docket No. 2018–0001; Sequence No. 13]

Information Collections; GSA 3729 Wireless Telecommunications Company Application

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The data collection previously approved under OMB Control Number 3090–0307, GSA 3729 Wireless Telecommunications Company Application (GSA 3729) is no longer active and has been removed from GSA's website. The SF–299, Application for Transportation and Utility Systems and Facilities on Federal Lands, will be modified to incorporate the information contained in the GSA 3729 and should be used in its current format, until the revised form is approved for use.

DATES: *Applicability Date:* This notice applies to all applications received after the date of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Coneeney, Real Property Policy Division, GSA, by phone at 202–208–2956, or by email at *chris.coneeney@gsa.gov.* Please cite Notice of termination of GSA 3729 Wireless Telecommunications Company Application.

SUPPLEMENTARY INFORMATION: Federal agencies may no longer accept the GSA 3729 Wireless Telecommunications Company Application (GSA 3729), as the form expired on September 30, 2018. The SF–299 Application for Transportation and Utility Systems and Facilities on Federal Lands will be modified to include the information contained in the GSA 3729 and should be used in its current format to process any wireless telecommunications applications until the new form is approved for use. Agencies may continue to process the GSA 3729 application if it was received by the agency prior to the date of this notice.

Dated: June 3, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–15555 Filed 7–22–19; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0297; Docket No. 2019–0001; Sequence No. 12]

Submission for OMB Review; General Services Administration Acquisition Regulation; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance.

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 an extension of a previously approved information collection requirement regarding the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

DATES: Submit comments on or before August 22, 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:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0297'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. Attn: Ms. Mandell/IC 3090–0297, Generic Clearance.

Instructions: Please submit comments only and cite Information Collection 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, in all correspondence related to this collection. 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: Ms. Anahita Reilly, Office of Customer Experience, GSA, at 202–714–9421, or via email at *customer.experience@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

Such data uses require more rigorous designs that address: The target

population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study.

Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results. The Digital Government Strategy released by the White House in May, 2012 drives agencies to have a more customer-centric focus. Because of this, GSA anticipates an increase in requests to use this generic clearance, as the plan states that: A customer-centric principle charges us to do several things: Conduct research to understand the customer's business, needs and desires; ''make content more broadly available and accessible and present it through multiple channels in a program-and device-agnostic way; make content more accurate and understandable by maintaining plain language and content freshness standards; and offer easy paths for feedback to ensure we continually improve service delivery.

The customer-centric principle holds true whether our customers are internal (*e.g.,* the civilian and military federal workforce in both classified and unclassified environments) or external (*e.g.,* individual citizens, businesses, research organizations, and state, local, and tribal governments).''

B. Annual Reporting Burden

Respondents: 208,075.
Responses per Respondent: 1.
Total Annual Responses: 208,075.
Hours per response: 3.8385 minutes.
Total Burden hours: 13,289.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: 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. 3090–0297, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, in all correspondence.

Dated: July 16, 2019.

David A. Shive,

Chief Information Officer.

[FR Doc. 2019–15556 Filed 7–22–19; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Date: October 10–11, 2019.

Time: 8:00 a.m.–5:00 p.m., EDT.

Place: Embassy Suites, 1420 Stout Street, Denver, CO 80202.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Nina Turner, Ph.D., Scientific Review Officer, NIOSH, 1095 Willowdale Road, Morgantown, WV 26506, (304) 285–5976; *nturner@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15590 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Breast Cancer in Young Women (ACBCYW); Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Advisory Committee on Breast Cancer in Young Women (ACBCYW). This meeting is open to the public, limited only by room space, and audio web conference lines (80 audio and web conference lines available). The public is also welcome to listen to the meeting by accessing the call-in number, 1–800–857–4868, passcode, 1218986 (80 lines are available). The web conference access is *https://adobeconnect.cdc.gov/radjn2o1shbb/.*

Online Registration Required: All ACBCYW Meeting participants must register for the meeting online at least 7 business days in advance at *https://www.cdc.gov/cancer/breast/what_cdc_is_doing/conference.htm.* Please complete all the required fields before submitting your registration and submit no later than August 9, 2019. All visitors are required to present a valid form of picture identification issued by a state, federal or international government. As required by the Federal Property Management Regulations, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances.

DATES: The meeting will be held on August 19, 2019, 8:30 a.m. to 5:00 p.m., EDT and August 20, 2019, 8:30 a.m. to 12:00 Noon, EDT.

ADDRESSES: 4770 Buford Highway, Atlanta, Georgia 30341.

The teleconference access is 1–800–857–4868; passcode, 1218986. The web conference access is *https://adobeconnect.cdc.gov/radjn2o1shbb/.*

FOR FURTHER INFORMATION CONTACT: Temeika L. Fairley, Ph.D., Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 5770 Buford Hwy. NE, Mailstop K52, Atlanta, Georgia, 30341,

Telephone (770) 488–4518, Fax (770) 488–4760. Email: *acbcyw@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The committee provides advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; and the Director, CDC, regarding the formative research, development, implementation and evaluation of evidence-based activities designed to prevent breast cancer (particularly among those at heightened risk) and promote the early detection and support of young women who develop the disease. The advice provided by the Committee will assist in ensuring scientific quality, timeliness, utility, and dissemination of credible appropriate messages and resource materials.

Matters To Be Considered: The agenda will include discussions on current and emerging topics related to breast cancer in young women. These will include public health communication, breast cancer in young women digital and social media campaign, CDC updates, and updates from the field. Agenda items are subject to change as priorities dictate.

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15593 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)–RFA–IP20–001, Epidemiology, Prevention, and Treatment of Influenza and Other Respiratory Infections in Panama and Other Countries in the Americas.

Date: August 13, 2019.

Time: 10:00 a.m.–11:30 a.m., (EDT).

Place: Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Blvd., Atlanta, GA 30329.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329, (404) 718–8833, *gca5@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15587 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS). This meeting is open to the public; limited only by available seating. The meeting room accommodates approximately 78 people. Requests to make oral presentations should be submitted in writing to Gwen Mustaf, 301–458–4500, *glm4@cdc.gov,* or Sayeedha Uddin, *isx9@cdc.gov.* All requests must contain the name, address, telephone number, and organizational affiliation of the presenter. Written comments should not exceed five single-spaced typed pages in length and must be received by August 14, 2019.

DATES: The meeting will be held on September 5, 2019, 11:00 a.m.–5:30 p.m., EDT, and September 6, 2019, 8:30 a.m.–1:00 p.m., EDT.

ADDRESSES: NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Sayeedha Uddin, M.D., M.P.H., Executive Secretary, NCHS/CDC, Board of Scientific Counselors, 3311 Toledo Road, Room 2627, Hyattsville, Maryland 20782, telephone (301) 458–4303, email *isx9@cdc.gov.*

SUPPLEMENTARY INFORMATION: All visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-U.S. citizens, pre-approval is required (please contact Gwen Mustaf, 301–458–4500, *glm4@cdc.gov* or Sayeedha Uddin, *isx9@cdc.gov* at least 10 days in advance for requirements). All visitors are required to present a valid form of picture identification issued by a state, federal in international government. As required by the Federal Property Management Regulations, Title 41, Code of Federal Regulations, Subpart 101–20.301, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession of the causing to be present of firearms, explosives and other dangerous weapons and illegal substances.

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters To Be Considered: Day 1 meeting agenda includes welcome remarks and a Center update by NCHS leadership; update on Patient Centered Outcomes Research Trust Fund Drug Workgroup Report; update on Patient Centered Outcomes Research Trust Fund Projects; update on Evidence Based Policy Making; update on National Health Interview Survey Redesign. Day 2 meeting agenda

includes update on Maternal Mortality Data; report on NCHS Outreach Planning.

Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15588 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—PAR 18–812, NIOSH Member Conflict.

Date: October 29, 2019.

Time: 1:00 p.m.–4:00 p.m. EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Nina Turner, Ph.D., Scientific Reviewer Officer, Office of Extramural Programs, 1095 Willowdale Road, Morgantown, West Virginia 26506, (304) 285–5976, *nxt2@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15591 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), Subcommittee on Dose Reconstruction Review (SDRR), National Institute for Occupational Safety and Health (NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Subcommittee for Dose Reconstruction Reviews (SDRR) of the Advisory Board on Radiation and Worker Health (ABRWH). This meeting is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on September 12, 2019, 10:30 a.m. to 4:00 p.m. EDT.

ADDRESSES: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the passcode is 9933701.

FOR FURTHER INFORMATION CONTACT: Theodore Katz, MPA, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road NE, Mailstop E–20, Atlanta, Georgia 30329, Telephone (513) 533–6800, Toll Free 1 (800)CDC–INFO, Email *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered on February 12, 2018, pursuant to Executive Order 13708, and will terminate on September 30, 2019.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. SDRR was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters To Be Considered: The agenda will include discussions on the following dose reconstruction program quality management and assurance activities: A draft report on the current progress and findings of dose reconstruction reviews for the Secretary, HHS; Dose reconstruction cases under review from Sets 25 and 26, possibly including cases involving Albuquerque Operations Office, Ames Laboratory, Aliquippa Forge, Battelle Memorial Institute, General Steel Industries, Hanford, Hooker Electrochemical, Los Alamos National Laboratory, Mallinckrodt Chemical Company, Nuclear Metals Inc., Pacific Northwest National Laboratories, Oak Ridge facilities (Y–12, K–25, X–10), Paducah Gaseous Diffusion Plant, Pantex Plant,

Rocky Flats Plant, Sandia National Laboratory, Simonds Saw and Steel, West Valley Demonstration Project, W.R. Grace, and potentially other Department of Energy and Atomic Weapons Employers facilities.

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–15589 Filed 7–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; State Court Improvement Program (OMB # 0970–0307)

AGENCY: Children's Bureau Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the Court Improvement Program (CIP) Program Instruction, Strategic Plan Template, and Annual CIP Self-Assessment (OMB #0970–0307, expiration 8/31/2019). There are minimal updates to the form to reflect new legislation. The collections are necessary to continue operating the program in compliance with congressional reauthorization.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The proposed collection is a continuation of the current collection and comprised of two components: An application including a strategic plan that is due once every five years, and an annual self-assessment. The next annual self-assessment will be due June 30, 2020. The next five- year application will be due in 2021.

Respondents: We anticipate the highest state court of every state, Puerto Rico and the U.S. Virgin Islands to respond. All 52 jurisdictions currently participate in the program.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
5-year Application	52	1	92	4,784	N/A
Annual self-assessment	52	3	77	4,004	12,012

Estimated Total Annual Burden Hours: 4004 hours in 2020 and 2022; 8788 hours in 2021 (when both the self-assessment and the 5-year application are due within the year)

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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 within 60 days of this publication.

Authority: Sec. 50761, Pub. L. 115–123

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–15639 Filed 7–22–19; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Plan for Foster Care and Adoption Assistance—Title IV–E (OMB #0970–0433)

AGENCY: Children's Bureau, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting to revise the existing information collection Plan for Foster Care and Adoption Assistance (OMB #0970–0433) to include two new information collections specific to two new programs.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests,

emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION: Title IV–E of the Social Security Act (the Act) was amended by Public Law 115–123, which included the Family First Prevention Services Act (FFPSA). The FFPSA authorized new optional title IV–E funding for time-limited (one year) prevention services for mental health/substance abuse and in-home parent skill-based programs for: (1) A child who is a candidate for foster care (as defined in section 475(13) of the Act), (2) pregnant/parenting foster youth, and (3) the parents/kin caregivers of those children and youth (sections 471(e), 474(a)(6), and 475(13) of the Act). Title IV–E prevention services must be rated as promising, supported, or well-supported in accordance with HHS criteria and be approved by HHS (section 471(e)(4)(C) of the Act) as part of the Title IV–E Prevention Services Clearinghouse (section 476(d)(2) of the Act). A state or tribal title IV–E agency electing to participate in the program must submit a five-year title IV–E prevention program plan that meets the statutory requirements. (See Program Instructions ACYF–CB–PI–18–09 and ACYF–CB–PI–18–10 for more information.)

The FFPSA also amended Section 474(a)(7) of the Act to reimburse state and tribal IV–E agencies for a portion of the costs of operating kinship navigator programs that meet certain criteria. To qualify for funding under the title IV–E Kinship Navigator program, the program must meet the requirements of a kinship navigator program described in section 427(a)(1) of the Act. The kinship navigator program must also meet practice criteria of promising, supported, or well-supported in accordance with HHS criteria and be approved by HHS (section 471(e)(4)(C) of the Act). To begin participation in the title IV–E Kinship Navigator Program, a title IV–E agency must submit an attachment to its title IV–E plan that specifies the Kinship Navigator model it has chosen to implement, the date on which the provision of program services began or will begin, and that provides an assurance that the model meets the requirements of section 427(a)(1) of the Act as well as a brief narrative describing how the program will be operated. (Please see Program Instruction ACYF–CB–PI–18–11 for additional information.)

Respondents: State and tribal title IV–E agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Title IV–E prevention services plan	30	1	5	150
Attachment to Title IV–E plan for Kinship navigator program	45	1	1	45

Estimated Total Annual Burden Hours: 195.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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 within 60 days of this publication.

Authority: Title IV–E of the Social Security Act as amended by Public Law (Pub. L.) 115–123 enacted February 9, 2018.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–15603 Filed 7–22–19; 8:45 am]

BILLING CODE 4184–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0430]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Generic Clearance for Quick Turnaround Testing of Communication Effectiveness

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 (PRA).

DATES: Fax written comments on the collection of information by August 22, 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-New and title ''Generic Clearance for Quick Turnaround Testing of Communication Effectiveness.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *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.

Generic Clearance for Quick Turnaround Testing of Communication Effectiveness

OMB Control Number 0910–NEW

This notice announces the FDA information collection request to OMB for approval of a generic clearance that will allow FDA to use quick turnaround surveys, focus groups, and in-depth interviews collected from consumers and other stakeholders to communicate FDA issues of immediate and important public health significance. For example,

these methods of communication might be used when there is a foodborne illness outbreak, food recall, or other situation requiring expedited FDA food, dietary supplement, cosmetics, or animal food or feed communications. So that FDA may better protect the public health, the Agency needs quick turnaround information to help ensure its messaging has reached the target audience, has been effective, and, if needed, to update its communications during these events.

FDA will only submit individual collections for approval under this generic clearance if they meet the following conditions:

- The collections are voluntary;
- The collections are low burden for participants (based on considerations of total burden hours, total number of participants, or burden hours per participant) and are low cost for both the participants and the Federal Government;
- The collections are noncontroversial;
- Personally identifiable information (PII) is collected only to the extent necessary [1] and is not retained;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; [2] and
- Information gathered will yield qualitative findings; the collections will not be designed or used as though the results are generalizable to the population of study.

If these conditions are not met, FDA will submit an information collection request to OMB for approval through the normal PRA process.

To obtain approval for an individual collection that meets the conditions of this generic clearance, an abbreviated supporting statement will be submitted to OMB along with supporting documentation (*e.g.,* a copy of the survey, focus group moderator guide, or in-depth interviewing guide).

Individual collections will also undergo review by FDA senior leadership in the Center for Food Safety and Applied Nutrition, PRA specialists, and an institutional review board.

Respondents to this collection of information include a wide range of consumers and other FDA stakeholders such as producers and manufacturers who are regulated under FDA-regulated food and cosmetic products, dietary supplements, and animal food and feed.

In the **Federal Register** of April 2, 2019 (84 FR 12617), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received no comments.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Survey type	Number of respondents	Number of responses per respondent	Total annual responses	Average burden hours per response	Total hours
In-depth Interviews, Cognitive Interviews Screener	45	1	45	0.083 (5 minutes)	4
In-depth Interviews, Cognitive Interviews	9	1	9	1	9
In-depth Interviews Screener	900	1	900	0.083 (5 minutes)	75
In-depth Interviews	180	1	180	1	180
Survey Cognitive Interviews Screener	45	1	45	0.083 (5 minutes)	4
Survey Cognitive Interviews	9	1	9	1	9
Pretest survey screener	750	1	750	0.083 (5 minutes)	62.25
Pretest survey	150	1	150	0.25 (15 minutes)	38
Self-Administered Surveys—Study Screener	75,000	1	75,000	0.083 (5 minutes)	6,225
Self-Administered Surveys	15,000	1	15,000	0.25 (15 minutes)	3,750
Focus Group/Small Group, Cognitive Groups Screener.	180	1	180	0.083 (5 minutes)	15
Focus Group/Small Group, Cognitive Groups	60	1	60	1.5 (90 minutes)	90
Focus Group/Small Group Participant Screening	720	1	720	0.083 (5 minutes)	60
Focus Group/Small Group Discussion	240	1	240	1.5 (90 minutes)	360
Total					10,881.25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This is a new collection of information whose total estimated annual burden is 10,881.25 hours. Current estimates are based on both historical numbers of participants from past projects as well as estimates for projects to be conducted in the next 3 years. The number of participants to be included in each new individual survey will vary, depending on the nature of the compliance efforts and the target audience.

Dated: July 16, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15623 Filed 7–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0065]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration of Food Facilities

AGENCY: Food and Drug Administration, HHS.

[1] For example, collections that collect PII to provide remuneration for participants of focus groups, in-depth interviews, and cognitive laboratory studies will be submitted under this request. All privacy act requirements will be met.

[2] As defined in OMB and Agency Information Quality Guidelines, ''influential'' means that ''an agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.''

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 22, 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 0910–0502. 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.

Registration of Food Facilities

OMB Control Number 0910–0502—Extension

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) amended the Federal Food, Drug, and Cosmetic Act (FD&C Act), which, among other things, requires domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States to register with FDA. Sections 1.230 to 1.235 of our regulations (21 CFR 1.230 to 1.235) set forth the requirements for the registration of food facilities. Information provided to us under these regulations helps us to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support FDA enforcement activities and to screen imported food shipments.

Advance notice of imported food allows FDA, with the support of the Bureau of Customs and Border Protection, to target import inspections more effectively and help protect the nation's food supply against terrorist acts and other public health emergencies. If a facility is not registered or the registration for a facility is not updated when necessary, we may not be able to contact the facility and may not be able to target import inspections effectively in case of a known or potential threat to the food supply or other food-related emergency, putting consumers at risk of consuming hazardous food products that could cause serious adverse health consequences or death.

To assist respondents of the information collection we developed the following forms. Each facility that manufactures, processes, packs, or holds food for human or animal consumption in the United States must register with FDA using Form FDA 3537 entitled ''Food Facility Registration'' (§ 1.231), unless exempt under 21 CFR 1.226 from the requirement to register. To cancel a registration, respondents must use Form FDA 3537a entitled ''Cancellation of Food Facility Registration'' (§ 1.235). The terms ''Form FDA 3537'' and ''Form FDA 3537a'' refer to both the paper version of each form and the electronic system known as the Food Facility Registration Module, which is available at *https://www.access.fda.gov.* Beginning in January 2020, registrations, updates, and cancellations will be required to be submitted electronically. Domestic facilities are required to register whether or not food from the facility enters interstate commerce. Foreign facilities that manufacture, process, pack, or hold food also are required to register unless food from that facility undergoes further processing (including packaging) by another foreign facility outside the United States. However, if the further manufacturing/processing conducted by the subsequent facility consists of adding labeling or any similar activity of a de minimis nature, the former facility is required to register.

In addition to the initial registration requirements, a facility is required to submit timely updates within 60 days of a change to any required information on its registration form, using Form FDA 3537 (§ 1.234), and to cancel its registration when the facility ceases to operate or is sold to new owners or ceases to manufacture, process, pack, or hold food for consumption in the United States, using Form FDA 3537a (§ 1.235).

Registration is one of several tools under the Bioterrorism Act that enables us to act quickly in responding to a threatened or actual bioterrorist attack on the U.S. food supply or other food-related emergency. Further, in the event of an outbreak of foodborne illness, the information provided helps us determine the source and cause of the event and enables us to quickly notify food facilities that might be affected by an outbreak, terrorist attack, or other emergency. Finally, the registration requirements enable us to quickly identify and remove from commerce an article of food for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.

Description of Respondents: Respondents to this collection of information are owners, operators, or agents in charge of domestic or foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States.

In the **Federal Register** of April 19, 2019 (84 FR 16519), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received offering general support for the information collection.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; 21 CFR section	FDA form No.[2]	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
New domestic facility registration; 1.230–1.233.	3537	9,795	1	9,795	2.7	26,447
New foreign facility registration; 1.230–1.233.	3537	13,697	1	13,697	8.7	119,164
Updates; 1.234	3537	53,836	1	53,836	1.2	64,603
Cancellations; 1.235	3537a	6,390	1	6,390	1	6,390

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity; 21 CFR section	FDA form No.[2]	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Biennial renewals; 1.235	3537	97,883	1	97,883	0.38 (23 minutes)	37,196
3rd party registration verification.	3537	41,256	1	41,256	0.25 (15 minutes)	10,314
U.S. Agent verification	3537	57,070	1	57,070	0.25 (15 minutes)	14,268
Total						278,382

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Forms FDA 3537 and FDA 3537a refer to both the paper version of the form and the electronic system known as the Food Facility Registration Module, which is available at *https://www.access.fda.gov.*

These burden figures are based on currently available data and reflect an overall decrease to the information collection by 174,395 and 31,370 hours. The decrease results from the realization of burden associated with implementing measures on newly established electronic registration requirements.

Dated: July 17, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15636 Filed 7–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–4119]

Food Safety Modernization Act Third-Party Certification Program User Fee Rate for Fiscal Year 2020

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the fiscal year (FY) 2020 annual fee rate for recognized accreditation bodies and accredited certification bodies, and the fee rate for accreditation bodies applying to be recognized in the third-party certification program that is authorized by the Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the FDA Food Safety Modernization Act (FSMA). We are also announcing the fee rate for certification bodies that are applying to be directly accredited by FDA.

DATES: This fee is effective October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Donald Prater, Office of Food Policy and Response, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3202, Silver Spring, MD 20993, 301–348–3007.

SUPPLEMENTARY INFORMATION:

I. Background

Section 307 of FSMA (Pub. L. 111–153), Accreditation of Third-Party Auditors, amended the FD&C Act to create a new provision, section 808, under the same name. Section 808 of the FD&C Act (21 U.S.C. 384d) directs FDA to establish a program for accreditation of third-party certification bodies [1] conducting food safety audits and issuing food and facility certifications to eligible foreign entities (including registered foreign food facilities) that meet our applicable requirements. Under this provision, we established a system for FDA to recognize accreditation bodies to accredit certification bodies, except for limited circumstances in which we may directly accredit certification bodies to participate in the third-party certification program.

Section 808(c)(8) of the FD&C Act directs FDA to establish a reimbursement (user fee) program by which we assess fees and require reimbursement for the work FDA performs to establish and administer the third-party certification program under section 808 of the FD&C Act. The user fee program for the third-party certification program was established by a final rule entitled ''Amendments to Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and To Issue Certifications To Provide for the User Fee Program'' (81 FR 90186, December 14, 2016).

The FSMA FY 2020 third-party certification program user fee rate announced in this notice is effective on October 1, 2019, and will remain in effect through September 30, 2020.

[1] For the reasons explained in the third-party certification final rule (80 FR 74570 at 74578 to 74579, November 27, 2015), and for consistency with the implementing regulations for the third-party certification program in 21 CFR parts 1, 11, and 16, this notice uses the term ''third-party certification body'' rather than the term ''third-party auditor'' used in section 808(a)(3) of the FD&C Act.

II. Estimating the Average Cost of a Supported Direct FDA Work Hour for FY 2020

FDA must estimate its costs for each activity in order to establish fee rates for FY 2020. In each year, the costs of salary (or personnel compensation) and benefits for FDA employees account for between 50 and 60 percent of the funds available to, and used by, FDA. Almost all of the remaining funds (operating funds) available to FDA are used to support FDA employees for paying rent, travel, utility, information technology, and other operating costs.

A. Estimating the Full Cost per Direct Work Hour in FY 2020

Full-time Equivalent (FTE) reflects the total number of regular straight-time hours—not including overtime or holiday hours—worked by employees, divided by the number of compensable hours applicable to each fiscal year. Annual leave, sick leave, compensatory time off, and other approved leave categories are considered ''hours worked'' for purposes of defining FTE employment.

In general, the starting point for estimating the full cost per direct work hour is to estimate the cost of an FTE or paid staff year. Calculating an Agency-wide total cost per FTE requires three primary cost elements: Payroll, non-payroll, and rent.

We have used an average of past year cost elements to predict the FY 2020 cost. The FY 2020 FDA-wide average cost for payroll (salaries and benefits) is $160,885; non-payroll—including equipment, supplies, information technology, general and administrative overhead—is $92,828; and rent, including cost allocation analysis and adjustments for other rent and rent-related costs, is $24,888 per paid staff year, excluding travel costs.

Summing the average cost of an FTE for payroll, non-payroll, and rent, brings the FY 2020 average fully supported cost to $278,602 per FTE, excluding travel costs. FDA will use this base unit

fee in determining the hourly fee rate for third-party certification user fees for FY 2020 prior to including travel costs as applicable for the activity.

To calculate an hourly rate, FDA must divide the FY 2020 average fully supported cost of $278,602 per FTE by the average number of supported direct FDA work hours in FY 2018—the last FY for which data are available. See table 1.

TABLE 1—SUPPORTED DIRECT FDA WORK HOURS IN A PAID STAFF YEAR IN FY 2018

Total number of hours in a paid staff year	2,080
Less:	
10 paid holidays	−80
20 days of annual leave	−160
10 days of sick leave	−80
12.5 days of training	−100
26.5 days of general administration	−184
26.5 days of travel	−212
2 hours of meetings per week	−104
Net Supported Direct FDA Work Hours Available for Assignments	1,160

Dividing the average fully supported FTE cost in FY 2020 ($278,602) by the total number of supported direct work hours available for assignment in FY 2018 (1,160) results in an average fully supported cost of $240 (rounded to the nearest dollar), excluding travel costs, per supported direct work hour in FY 2020.

B. Adjusting FY 2018 Travel Costs for Inflation To Estimate FY 2020 Travel Costs

To adjust the hourly rate for FY 2020, FDA must estimate the cost of inflation in each year for FY 2019 and FY 2020. FDA uses the method prescribed for estimating inflationary costs under the Prescription Drug User Fee Act (PDUFA) provisions of the FD&C Act (section 736(c)(1) (21 U.S.C. 379h(c)(1)), the statutory method for inflation adjustment in the FD&C Act that FDA has used consistently. FDA previously determined the FY 2019 inflation rate to be 1.7708 percent; this rate was published in the FY 2019 PDUFA user fee rates notice in the **Federal Register** 83 FR 37504, August 1, 2018). Utilizing the method set forth in section 736(c)(1) of the FD&C Act, FDA has calculated an inflation rate of 1.7708 percent for FY 2019 and 2.3964 percent for FY 2020, and FDA intends to use this inflation rate to make inflation adjustments for FY 2020 for several of its user fee programs; the derivation of this rate will be published in the **Federal Register** in the FY 2020 notice for the PDUFA user fee rates. The compounded inflation rate for FYs 2019 and 2020, therefore, is 1.042096 (or 4.2096 percent) (1 plus 1.7708 percent times 1 plus 2.3964 percent).

The average fully supported cost per supported direct FDA work hour, excluding travel costs, of $240 already takes into account inflation as the calculation above is based on FY 2020 predicted costs. FDA will use this base unit fee in determining the hourly fee rate for third-party certification program fees for FY 2020 prior to including travel costs as applicable for the activity. For the purpose of estimating the fee, we are using the travel cost rate for foreign travel because we anticipate that the vast majority of onsite assessments made by FDA under this program will require foreign travel. In FY 2018, the Office of Regulatory Affairs spent a total of $3,229,335 on 455 foreign inspection trips related to FDA's Center for Food Safety and Applied Nutrition and Center for Veterinary Medicine field activities programs, which averaged a total of $7,097 per foreign inspection trip. These trips averaged 3 weeks (or 120 paid hours) per trip. Dividing $7,097 per trip by 120 hours per trip results in a total and an additional cost of $59 (rounded to the nearest dollar) per paid hour spent for foreign inspection travel costs in FY 2017. To adjust $59 for inflationary increases in FY 2019 and FY 2020, FDA must multiply it by the same inflation factor mentioned previously in this document (1.042096 or 4.2096 percent), which results in an estimated cost of $61 (rounded to the nearest dollar) per paid hour in addition to $240 for a total of $301 per paid hour ($240 plus $61) for each direct hour of work requiring foreign inspection travel. FDA will use these rates in charging fees in FY 2020 when travel is required for the third-party certification program.

TABLE 2—FSMA FEE SCHEDULE FOR FY 2020

Fee category	Fee rates for FY 2020
Hourly rate without travel	$240
Hourly rate if travel is required	301

III. Fees for Accreditation Bodies and Certification Bodies in the Third-Party Certification Program Under Section 808(c)(8) of the FD&C Act

The third-party certification program assesses application fees and annual fees. In FY 2020, the only fees that could be collected by FDA under section 808(c)(8) of the FD&C Act are the initial application fee for accreditation bodies seeking recognition, the annual fee for recognized accreditation bodies, the annual fee for certification bodies accredited by a recognized accreditation body, and the initial application fee for a certification body seeking direct accreditation from FDA. Table 3 provides an overview of the fees for FY 2020.

TABLE 3—FSMA THIRD-PARTY CERTIFICATION PROGRAM USER FEE SCHEDULE FOR FY 2020

Fee category	Fee rates for FY 2020
Initial Application Fee for Accreditation Body Seeking Recognition	$41,328
Annual Fee for Recognized Accreditation Body	1,945
Annual Fee for Accredited Certification Body	2,432
Initial Application Fee for a Certification Body Seeking Direct Accreditation from FDA	41,328

A. Application Fee for Accreditation Bodies Applying for Recognition in the Third-Party Certification Program Under Section 808(c)(8) of the FD&C Act

Section 1.705(a)(1) (21 CFR 1.705(a)(1)) establishes an application fee for accreditation bodies applying for initial recognition that represents the estimated average cost of the work FDA performs in reviewing and evaluating initial applications for recognition of accreditation bodies.

The fee is based on the fully supported FTE hourly rates and estimates of the number of hours it would take FDA to perform relevant activities. These estimates represent FDA's current thinking, and as the program evolves, FDA will continue to reconsider the estimated hours. Based on data we have acquired since starting the program, we estimate that it would take, on average, 70 person-hours to review an accreditation body's submitted application, 48 person-hours for an onsite performance evaluation of the applicant (including travel and other steps necessary for a fully supported FTE to complete an onsite assessment), and 42 person-hours to prepare a written report documenting the onsite assessment.

FDA employees review applications and prepare reports from their worksites, so we use the fully supported FTE hourly rate excluding travel, $240/hour, to calculate the portion of the user

fee attributable to those activities: $240/hour × (70 hours + 42 hours) = $26,880. FDA employees will likely travel to foreign countries for the onsite performance evaluations because most accreditation bodies are anticipated to be located in foreign countries. For this portion of the fee we use the fully supported FTE hourly rate for work requiring travel, $301/hour, to calculate the portion of the user fee attributable to those activities: $301/hour × 48 hours (*i.e.,* two fully supported FTEs × ((2 travel days × 8 hours) + (1 day onsite × 8 hours))) = $14,448. The estimated average cost of the work FDA performs in total for reviewing an initial application for recognition for an accreditation body based on these figures would be $26,880 + $14,448 = $41,328. Therefore, the application fee for accreditation bodies applying for recognition in FY 2020 will be $41,328.

B. Annual Fee for Accreditation Bodies Participating in the Third-Party Certification Program Under Section 808(c)(8) of the FD&C Act

To calculate the annual fee for each recognized accreditation body, FDA takes the estimated average cost of work FDA performs to monitor performance of a single recognized accreditation body and annualizes that over the average term of recognition. At this time we assume an average term of recognition of 5 years. We also assume that FDA will monitor 10 percent of recognized accreditation bodies onsite. As the program proceeds, we will adjust the term of recognition as appropriate. We estimate that for one performance evaluation of a recognized accreditation body, it would take, on average (taking into account that not all recognized accreditation bodies would be monitored onsite), 33 hours for FDA to conduct records review, 8 hours to prepare a report detailing the records review and onsite performance evaluation, and 6 hours of onsite performance evaluation (*i.e.,* 10 percent × 60 hours). Using the fully supported FTE hourly rates in table 2, the estimated average cost of the work FDA performs to monitor performance of a single recognized accreditation body would be $7,920 ($240/hour × (25 hours + 8 hours)) plus $1,806 ($301/hour × 6 hours), which is $9,726. Annualizing this amount over 5 years would lead to an annual fee for recognized accreditation bodies of $1,945 for FY 2020.

C. Annual Fee for Certification Bodies Accredited by a Recognized Accreditation Body in the Third-Party Certification Program Under Section 808(c)(8) of the FD&C Act

To calculate the annual fee for a certification body accredited by a recognized accreditation body, FDA takes the estimated average cost of work FDA performs to monitor performance of a single certification body accredited by a recognized accreditation body and annualizes that over the average term of accreditation. At this time we assume an average term of accreditation of 4 years. This fee is based on the fully supported FTE hourly rates and estimates of the number of hours it would take FDA to perform relevant activities. We estimate that FDA would conduct, on average, the same activities, for the same amount of time to monitor certification bodies accredited by a recognized accreditation body as we would to monitor an accreditation body recognized by FDA. Using the fully supported FTE hourly rates in table 2, the estimated average cost of the work FDA performs to monitor performance of a single accredited certification body would be $7,920 ($240/hour × (25 hours + 8 hours)) plus $1,806 ($301/hour × 6 hours), which is $9,726. Annualizing this amount over 4 years would lead to an annual fee for accredited certification bodies of $2,432 for FY 2020.

D. Initial Application Fee for Certification Bodies Seeking Direct Accreditation From FDA in the Third-Party Certification Program Under Section 808(c)(8) of the FD&C Act

Section 1.705(a)(3) establishes an application fee for certification bodies applying for direct accreditation from FDA that represents the estimated average cost of the work FDA performs in reviewing and evaluating initial applications for direct accreditation of certification bodies.

The fee is based on the fully supported FTE hourly rates and estimates of the number of hours it would take FDA to perform relevant activities. These estimates represent FDA's current thinking, and as the program evolves, FDA will reconsider the estimated hours. We estimate that it would take, on average, 70 person-hours to review a certification body's submitted application, 48 person-hours for an onsite performance evaluation of the applicant (including travel and other steps necessary for a fully supported FTE to complete an onsite assessment), and 42 person-hours to prepare a written report documenting the onsite assessment.

FDA employees are likely to review applications and prepare reports from their worksites, so we use the fully supported FTE hourly rate excluding travel, $240/hour, to calculate the portion of the user fee attributable to those activities: $240/hour × (70 hours + 42 hours) = $26,880. FDA employees will likely travel to foreign countries for the onsite performance evaluations because most certification bodies are anticipated to be located in foreign countries. For this portion of the fee we use the fully supported FTE hourly rate for work requiring travel, $301/hour, to calculate the portion of the user fee attributable to those activities: $301/hour × 48 hours (*i.e.,* two fully supported FTEs × ((2 travel days × 8 hours) + (1 day onsite × 8 hours))) = $14,448. The estimated average cost of the work FDA performs in total for reviewing an initial application for direct accreditation of a certification body based on these figures would be $26,880 + $14,448 = $41,328. Therefore, the application fee for certification bodies applying for direct accreditation from FDA in FY 2020 will be $41,328.

IV. Estimated Fees for Accreditation Bodies and Certification Bodies in Other Fee Categories for FY 2020

Section 1.705(a) also establishes application fees for recognized accreditation bodies submitting renewal applications and certification bodies applying for renewal of direct accreditation. Section 1.705(b) also establishes annual fees for certification bodies directly accredited by FDA.

Although we will not be collecting these other fees in FY 2020, for transparency and planning purposes, we have provided an estimate of what these fees would be for FY 2020 based on the fully supported FTE hourly rates for FY 2020 and estimates of the number of hours it would take FDA to perform relevant activities as outlined in the Final Regulatory Impact Analysis for the Third-Party Certification Regulation. Table 4 provides an overview of the estimated fees for other fee categories.

TABLE 4—ESTIMATED FEE RATES FOR OTHER FEE CATEGORIES UNDER THE FSMA THIRD-PARTY CERTIFICATION PROGRAM

Fee category	Estimated fee rates for FY 2020
Renewal application fee for recognized accreditation body	$24,622
Renewal application fee for directly accredited certification body	24,622

TABLE 4—ESTIMATED FEE RATES FOR OTHER FEE CATEGORIES UNDER THE FSMA THIRD-PARTY CERTIFICATION PROGRAM—Continued

Fee category	Estimated fee rates for FY 2020
Annual fee for certification body directly accredited by FDA	19,720

V. How must the fee be paid?

Accreditation bodies seeking initial recognition must submit the application fee with the application.

For recognized accreditation bodies and accredited certification bodies, an invoice will be sent annually. Payment must be made within 30 days of the receipt date. The payment must be made in U.S. currency from a U.S. bank by one of the following methods: Wire transfer, electronically, check, bank draft, or U.S. postal money order made payable to the Food and Drug Administration. The preferred payment method is online using an electronic check (Automated Clearing House (ACH), also known as eCheck) or credit card (Discover, VISA, MasterCard, American Express). Secure electronic payments can be submitted using the User Fees Payment Portal at *https://userfees.fda.gov/pay* or the *Pay.gov* payment option is available to you after you submit a cover sheet. (*Note:* Only full payments are accepted. No partial payments can be made online.) Once you have found your invoice, select ''Pay Now'' to be redirected to *Pay.gov.* Electronic payment options are based on the balance due. Payment by credit card is available only for balances less than $25,000. If the balance exceeds this amount, only the ACH option is available. Payments must be made using U.S. bank accounts as well as U.S. credit cards.

When paying by check, bank draft, or U.S. postal money order, please include the invoice number. Also write the FDA post office box number (P.O. Box 979108) on the enclosed check, bank draft, or money order. Mail the payment and a copy of the invoice to: Food and Drug Administration, P.O. Box 979108, St. Louis, MO 63197–9000.

When paying by wire transfer, it is required that the invoice number is included; without the invoice number the payment may not be applied. The originating financial institution may charge a wire transfer fee. If the financial institution charges a wire transfer fee, it is required to add that amount to the payment to ensure that the invoice is paid in full. For international wire transfers, please inquire with the financial institutions prior to submitting the payment. Use the following account information when sending a wire transfer: U.S. Department of the Treasury, TREAS NYC, 33 Liberty St., New York, NY 10045, Account Name: Food and Drug Administration, Account No.: 75060099, Routing No.: 021030004, Swift No.: FRNYUS33.

To send a check by a courier such as Federal Express, the courier must deliver the check and printed copy of the cover sheet to: U.S. Bank, Attn: Government Lockbox 979108, 1005 Convention Plaza, St. Louis, MO 63101. (*Note:* This address is for courier delivery only. If you have any questions concerning courier delivery, contact U.S. Bank at 314–418–4013. This phone number is only for questions about courier delivery.)

The tax identification number of FDA is 53–0196965. (*Note:* In no case should the payment for the fee be submitted to FDA with the invoice.)

VI. What are the consequences of not paying this fee?

The consequences of not paying these fees are outlined in 21 CFR 1.725. If FDA does not receive an application fee with an application for recognition, the application will be considered incomplete and FDA will not review the application. If a recognized accreditation body fails to submit its annual user fee within 30 days of the due date, we will suspend its recognition. If the recognized accreditation body fails to submit its annual user fee within 90 days of the due date, we will revoke its recognition. If an accredited certification body fails to pay its annual fee within 30 days of the due date, we will suspend its accreditation. If the accredited certification body fails to pay its annual fee within 90 days of the due date, we will withdraw its accreditation.

Dated: July 18, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15622 Filed 7–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2018–N–3138; FDA–2009–N–0232; FDA–2018–N–4465; FDA–2018–N–4206; FDA–2018–N–3758; FDA–2015–D–1163; FDA–2012–N–0559; FDA–2015–N–3815; FDA–2018–N–3353; and FDA–2018–N–2973]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at *http://www.reginfo.gov/public/do/PRAMain.* 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
Experimental Study of an Accelerated Approval Disclosure	0910–0872	6/30/2020
Interstate Shellfish Dealer's Certificate	0910–0021	5/31/2022
Administrative Detention and Banned Medical Devices	0910–0114	5/31/2022
Medical Device User Fee Small Business Qualifications and Certifications	0910–0508	5/31/2022

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB—Continued

Title of collection	OMB control No.	Date approval expires
Individual Patient Expanded Access Applications	0910–0814	5/31/2022
Electronic Forma for Submissions; Promotional labeling and Advertising Materials for Human Prescription Drugs	0910–0870	5/31/2022
Public Health Service Guideline on Infectious Disease Issues in Xenotransplantation	0910–0456	6/30/2022
Electronic Submission of Medical Device Registration and Listing	0910–0625	6/30/2022
Antimicrobial Animal Drug Distribution Reports and Recordkeeping	0910–0659	6/30/2022
Obtaining Information for Evaluating Nominated Bulk Drug Substances for Use in Compounding Drug Products Under Section 503B of the Federal Food, Drug, and Cosmetic Act	0910–0871	6/30/2022

Dated: July 16, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15626 Filed 7–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0424]

Final Guidance for Industry and FDA Staff on Postmarketing Safety Reporting for Combination Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry and FDA staff entitled ''Postmarketing Safety Reporting for Combination Products Guidance for Industry and FDA Staff.'' The guidance describes and explains the final rule on postmarketing safety reporting (PMSR) for combination products, issued on December 20, 2016, and provides recommendations for complying with the PMSR requirements as well as hypothetical scenarios that illustrate how to comply with certain PMSR requirements.

DATES: The announcement of the guidance is published in the **Federal Register** on July 23, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2008–N–0424 for ''Postmarketing Safety Reporting for Combination Products Guidance for Industry and FDA Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

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

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). Submit written requests for a single hard copy of the guidance document entitled ''Postmarketing Safety Reporting for Combination

Products Guidance for Industry and FDA Staff'' to the Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg 32, Room 5129, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Melissa Burns or John Barlow Weiner, Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002, 301–796–8930.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff entitled ''Postmarketing Safety Reporting for Combination Products Guidance for Industry and FDA Staff.'' The guidance provides general information on combination products; how FDA regulates combination products; a summary of the combination product PMSR final rule (21 CFR part 4, subpart B); an overview of which entities are subject to the final rule and what safety reporting requirements apply to such entities; detailed discussion of specific combination product PMSR report types; guidance on where, how, and when to submit PMSR reports to FDA; and hypothetical scenarios that illustrate how to comply with certain combination product PMSR requirements.

FDA carefully considered the comments received on the draft guidance, and revised the guidance as appropriate in response to the comments. Combination PMSR information, including examples to illustrate how to report combination production information in electronic reporting systems, is also available on FDA's website at *https://www.fda.gov/combination-products/guidance-regulatory-information/postmarketing-safety-reporting-combination-products.* FDA encourages combination product applicants to contact the lead Center for their combination product and/or the Office of Combination Products if they have questions on PMSR compliance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Postmarketing Safety Reporting for Combination Products. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons with access to the internet may obtain the guidance document at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/combination-products-guidance-documents.*

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 314.80(c) and (e), as well as for 21 CFR 314.81(b) are approved under OMB control numbers 0910–0001, 0910–0230, and 0910–0291. The information collection provisions for 21 CFR 600.80 and 600.81 are approved under OMB control number 0910–0308. Those for 21 CFR 606.170 are approved under OMB control number 0910–0116. Those for 21 CFR 606.171 are approved under OMB control number 0910–0458. The information collection provisions for 21 CFR 803.50, 803.53, and 803.56 are approved under OMB control numbers 0910–0291 and 0910–0437. The information collection provisions for 21 CFR 806.10 and 806.20 are approved under OMB control number 0910–0359. The information collection provisions for 21 CFR 4.102, 4.103, and 4.105 are approved under OMB control number 0910–0834.

Dated: July 17, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–15595 Filed 7–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, 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.

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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: September 5, 2019.

Closed: 9:00 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852.

Open: 10:30 a.m. to 4:30 p.m.

Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative, and program developments in the drug abuse field.

Place: National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Susan R.B. Weiss, Ph.D. Director, Division of Extramural Research, Office of the Director, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, NSC, Room 5274, MSC 9591, Rockville, MD 20892, 301–443–6487, *sweiss@nida.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and

any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: July 17, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15568 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; Impaired Wound Healing in Aging.

Date: August 9, 2019.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: Inese Z Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health,6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 16, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15567 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Request for Human Embryonic Stem Cell Line To Be Approved for Use in NIH Funded Research (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Ellen Gadbois, Office of the Director, NIH, Building 1, Room 218, MSC 0166, 9000 Rockville Pike, Bethesda, MD 20892, or call non-toll-free number (301) 496–9838 or email your request, including your address to: *gadboisel@od.nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on May 16, 2019, page 22153 (84 FR 22153) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH Office of the Director may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Request for Human Embryonic Stem Cell Line to be approved for Use in NIH Funded Research. OMB No. 0925–0601—Extension—Expiration Date 07/31/2019—Office of the Director, National Institutes of Health (NIH).

Need and Use of Information Collection: The form is used by applicants to request that human embryonic stem cell lines be approved for use in NIH funded research. Applicants may submit applications at any time.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 255 per respondent.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
NIH grantees and others with hESC lines	5	3	17	255
Total		15		255

Dated: July 17, 2019.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2019–15659 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Notice of Meeting

Notice is hereby given of a meeting of the HEAL (Helping to End Addiction Long-term) Multi-Disciplinary Working Group.

The meeting will be open to the public as indicated below, 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.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended. The program documents and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the program documents, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: HEAL Multi-Disciplinary Working Group Meeting.

Date: August 21–22, 2019.

Open: August 21, 2019, 8:30 a.m. to 1:00 p.m.

Closed: August 21, 2019, 1:00 p.m. to 5:00 p.m.

Open: August 22, 2019, 8:30 a.m. to 11:30 a.m.

Closed: August 22, 2019, 11:30 a.m. to 3:30 p.m.

Agenda: Provide an update on Helping to End Addiction Long-Term (HEAL) Initiatives projects and obtain expertise from MDWG relevant to the NIH HEAL Initiative.

Videocast: For those not able to attend in person, this meeting will be live webcast at: *http://videocast.nih.gov/.*

Place: National Institutes of Health, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892.

Contact Person: Rebecca G. Baker, Ph.D., Office of the Director, National Institutes of Health, 1 Center Drive, Room 103A, Bethesda, MD 20892, (301) 402–1994, *Rebecca.baker@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitors must go through a security check at the building entrance to receive a visitor's badge. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Office of the Director for the NIH HEAL Initiative home page: *https://www.nih.gov/research-training/medical-research-initiatives/heal-initiative* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 16, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15569 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 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: Office of Research Infrastructure Programs Special Emphasis Panel Member Conflict: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: July 25, 2019.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.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. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: July 17, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15571 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following 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: Office of Research Infrastructure Programs Special Emphasis Panel; Conferences and Meetings: Office of Research Infrastructure Programs (ORIP).

Date: August 15, 2019.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: July 17, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–15570 Filed 7–22–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0263]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0077

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0077, Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf Facilities and Other Security-Related Requirements; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or beforeAugust 22, 2019.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2019–0263] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: OIRA-submission@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Fax:* 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. Consistent with the requirements of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, the Coast Guard is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents. These comments will help OIRA determine whether to approve the ICR referred to in this notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2019–0263], and must be received by August 22, 2019.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0077.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (84 FR 20902, May 13, 2019) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Security Plans for Ports, Vessels, Facilities, and Outer Continental Shelf

Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary: This information collection is associated with the maritime security requirements mandated by the Maritime Transportation Security Act (MTSA) of 2002. Security asessments, security plans and other security-related requirements are in Title 33 CFR parts 101 through 106.

Need: This information is needed to determine if vessels and facilities are in compliance with certain security standards.

Forms: CG–6025, Facility Vulnerability and Security Measures Summary and CG–6025A, Vulnerability and Security Measures Addendum.

Respondents: Vessels and facility owners and operators.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 1,127,500 hours to 1,198,530 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: July 17, 2019.

James D. Roppel,

Chief, Office of Information Management, U.S. Coast Guard.

[FR Doc. 2019–15583 Filed 7–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0010]

Agency Information Collection Activities: Certificate of Registration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 22, 2019) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 11113) on March 25, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: CBP Forms 4455 and 4457.

Abstract: Travelers who do not have proof of prior possession in the United States of foreign made articles and who do not want to be assessed duty on these items can register them prior to departing on travel. In order to register these articles, the traveler completes CBP Form 4457, *Certificate of Registration for Personal Effects Taken Abroad,* and presents it at the port at the time of export. This form must be signed in the presence of a CBP official after verification of the description of the articles is completed. CBP Form 4457 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4457&=Apply.*

CBP Form 4455, *Certificate of Registration,* is used primarily for the registration, examination, and supervised lading of commercial shipments of articles exported for repair, alteration, or processing, which will subsequently be returned to the United States either duty free or at a reduced duty rate. CBP Form 4455 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4455&=Apply.*

CBP Forms 4455 and 4457 are provided for by 19 CFR 10.8, 10.9, 10.68, 148.1, 148.8, 148.32 and 148.37.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected on CBP Forms 4455 and 4457.

Type of Review: Extension (without change).

Affected Public: Businesses.

CBP Form 4455

Estimated Number of Respondents: 60,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 60,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 9,960.

CBP Form 4457

Estimated Number of Respondents: 140,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 140,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 7,000.

Dated: July 17, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–15550 Filed 7–22–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0057]

Agency Information Collection Activities: Country of Origin Marking Requirements for Containers or Holders

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 22, 2019) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 11550) on March 27, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Country of Origin Marking Requirements for Containers or Holders.

OMB Number: 1651–0057.

Abstract: Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304, requires each imported article of foreign origin, or its container, to be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container permits, with the English name of the country of origin. The marking informs the ultimate purchaser in the United States of the name of the country in which the article was manufactured or produced. The marking requirements for containers are provided for by 19 CFR 134.22(b).

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: 40.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Response: 15 seconds.

Estimated Total Annual Burden Hours: 41.

Dated: July 17, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–15551 Filed 7–22–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs & Border Protection

Section 321 Data Pilot

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

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is conducting a voluntary test to collect certain advance data related to shipments potentially eligible for release under section 321 of the Tariff Act of 1930, as amended. Section 321 provides for an administrative exemption from duty and taxes for shipments of merchandise (other than bona-fide gifts and certain personal and household goods) imported by one person on one day having an aggregate fair retail value in the country of shipment of not more than $800. Pursuant to this test, participants will electronically transmit certain data elements pertaining to these shipments to CBP in advance of arrival. CBP is conducting this test to determine the feasibility of requiring advance data from different types of parties and requiring additional data that is generally not required under current regulations in order to effectively identify and target high-risk shipments in the e-commerce environment. Participants may be non-traditional CBP partners, such as online marketplaces. This notice describes the purpose of the

test and test procedures, and sets forth the eligibility requirements for participation. This test will be known as the Section 321 Data Pilot.

DATES: The voluntary pilot will begin on August 22, 2019 and run for approximately one year. CBP will accept applications from prospective pilot participants at any time, including after the pilot commences, until CBP has identified a sufficient number of eligible participants.

ADDRESSES: Prospective pilot participants should submit an email to *e-commercesmallbusinessbranch@cbp.dhs.gov.* In the subject line of your email please indicate ''Application for Section 321 Data Pilot.'' For information on what information to include in the email, see section II.D (Application Process and Acceptance) of the **SUPPLEMENTARY INFORMATION** heading below.

FOR FURTHER INFORMATION CONTACT: Laurie Dempsey, Director, IPR & E-Commerce Division at *laurie.b.dempsey@cbp.dhs.gov* or 202–615–0514 and Daniel Randall, Branch Chief, Manifest & Conveyance Security at 202–344–3282.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Pilot

A. Current Requirements

CBP has broad authority to collect advance data and inspect cargo crossing the border for health, safety, and other risks pursuant to various statutory authorities. *See, e.g.,* 6 U.S.C. 211(c) and (g); 19 U.S.C. 482, 1461, 1589a, 1595a; *see also* 19 CFR 162.6. Currently, CBP requires the electronic transmission of certain information relating to commercial cargo prior to its arrival in the United States. Section 343(a) of the Trade Act of 2002, as amended, authorizes CBP to promulgate regulations, in accordance with certain parameters, providing for the mandatory transmission of cargo information before the cargo is brought into or departs the United States by any mode of commercial transportation. Public Law 107–210, 116 Stat. 933 (Aug. 6, 2002) (codified at 19 U.S.C. 1415). The required cargo information is that which is reasonably necessary to enable high-risk cargo to be identified for purposes of ensuring cargo safety and security pursuant to the laws enforced and administered by CBP. Accordingly, CBP promulgated regulations in title 19 of the Code of Federal Regulations (19 CFR) to require carriers or other eligible parties to submit certain data for cargo in advance, regardless of the mode of transportation. *See* 68 FR 68140 (Dec. 5, 2003); 19 CFR 4.7 (vessel), 122.48a (air), 123.91 (rail), and 123.92 (truck). Although the required data elements differ depending on the mode of transportation and the type of shipment, the carrier generally must transmit information such as the shipper name and address, the consignee name and address, a description of the cargo, including the cargo's quantity and weight, and information regarding the cargo's trip, such as trip/flight number, carrier code, point of arrival and point of origin.

The Air Cargo Advance Screening (ACAS) regulations, also issued pursuant to the Trade Act of 2002, impose additional requirements for cargo arriving by air. See 19 CFR 122.48b. The ACAS regulations require carriers or other eligible parties to transmit a subset of the data required by the Trade Act of 2002 earlier in the process (*i.e.,* as soon as practicable, but no later than prior to loading the cargo into an aircraft). *See* 19 CFR 122.48b(b)(1). Pursuant to the ACAS regulations, air carriers must transmit the following data elements prior to loading: Shipper name and address, consignee name and address, cargo description, total quantity, total weight, and air waybill number. 19 CFR 122.48b(d)(1).[1]

The Security and Accountability for Every Port Act of 2006 (SAFE Port Act) authorizes CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting for cargo arriving by vessel. Public Law 109–347, 120 Stat. 1884 (Oct. 13, 2006) (codified at 6 U.S.C. 901 note). CBP promulgated regulations to require importers and carriers to submit additional data, in addition to the data required by the Trade Act regulations, for cargo arriving by vessels before the cargo is brought to the United States. *See* 19 CFR part 149 (the Importer Security Filing or ISF regulations). The data required by the ISF regulations differs depending on the type of shipment, but generally includes the name and address of the seller, buyer, and manufacturer or supplier, the consignee identifying number, the ship to party (the first deliver-to party scheduled to receive the goods after the goods have been released from customs custody), country of origin, Harmonized Tariff Schedule of the United States (HTSUS) number, container stuffing location, and the name and address of the consolidator. 19 CFR 149.3(a).

CBP uses the advance electronic data transmitted pursuant to these authorities to identify and target high-risk shipments of commercial cargo arriving in the United States.

B. Section 321 Shipments

Section 321(a)(2)(C) of the Tariff Act of 1930, as amended, authorizes CBP to provide an administrative exemption to admit free from duty and tax shipments of merchandise (other than bona-fide gifts and certain personal and household goods) imported by one person on one day having an aggregate fair retail value in the country of shipment of not more than $800. 19 U.S.C. 1321(a)(2)(C). CBP regulations provide that, subject to the conditions in 19 CFR 10.153, the port director shall pass free of duty and tax any shipment of merchandise imported by one person on one day having a fair retail value in the country of shipment not exceeding $800, unless there is a reason to believe the shipment is one of several lots covered by a single order or contract, and was sent separately for the express purpose of securing free entry or of avoiding compliance with any pertinent law or regulation. 19 CFR 10.151.

Prior to the enactment of the Trade Facilitation and Trade Enforcement Act (TFTEA) (Pub. L. 114–125, 130 Stat. 223 (Feb. 24, 2016)), the Section 321 exemption applied only to shipments valued at less than $200. Section 901(a) of TFTEA amended Section 321(a)(2)(C) of the Tariff Act of 1930 to raise the *de minimis* threshold from $200 to $800. *See* Public Law 114–125, 130 Stat. 223 (Feb. 24, 2016); 19 U.S.C. 1321(a)(2)(C). This has greatly increased the number of shipments qualifying for the Section 321 exemption. Currently, approximately 1.8 million shipments a day are released pursuant to Section 321. The majority of these Section 321 shipments are arriving by air and truck.

C. Purpose of the Section 321 Data Pilot

CBP faces significant challenges in targeting Section 321 shipments, while still maintaining the clearance speeds the private sector has come to expect. This is because CBP does not receive adequate advance information in order to effectively and efficiently assess the security risk of the approximately 1.8 million Section 321 shipments that arrive each day.

In the e-commerce environment, traditionally regulated parties, such as carriers, are unlikely to possess all of the information relating to a shipment's supply chain. While CBP receives some advance electronic data for Section 321

[1] The above-listed data elements are mandatory in all circumstances. Carriers or other ACAS filers may also be required to transmit an additional data element, depending on the circumstances, and are encouraged to transmit additional data elements. 19 CFR 122.48b(d).

shipments from air, rail, and truck carriers (and certain other parties in limited circumstances) as mandated by current regulations described above in section I.A (Current Requirements), the transmitted data often does not adequately identify the entity causing the shipment to cross the border, the final recipient, or the contents of the package. Consequently, CBP may not receive any advance information on the entity actually causing the shipment to travel to the United States, such as the seller or manufacturer. Some carriers may not have this information because sellers on e-commerce platforms often contract with other entities to act as the seller. Similarly, for the consignee's name and address, a carrier might transmit information for the domestic deconsolidator, which will not allow CBP to identify in advance of arrival, the final recipient of the merchandise in the United States. With the growth of e-commerce, shipments are increasingly subject to these complex transactions, where information about the shipment is limited. As a result, CBP is less able to effectively target or identify high-risk shipments in the e-commerce environment and CBP Officers must use additional time and resources to inspect Section 321 shipments upon arrival.

CBP anticipates that Section 321 shipments will continue to grow exponentially. Accordingly, CBP is initiating this voluntary Section 321 Data Pilot to test the feasibility of obtaining advance information from regulated and non-regulated entities, such as online marketplaces, as well as requiring additional advance data elements. Online marketplaces are internet-based entities that facilitate e-commerce by (1) connecting third-party sellers with consumers and (2) receiving and processing payment information from consumers, including receiving and processing payments on behalf of the third-party sellers. Online marketplaces generally have detailed information regarding Section 321 shipments, including information relating to the party causing the product to travel to the United States, the final recipient in the United States, and detailed descriptions and pictures of the contents of the shipment. Online marketplaces may also assign sellers with unique identifiers or develop their own known seller programs. This test will enable CBP to assess the ability of online marketplaces to transmit information to CBP that enables CBP to better utilize resources used in inspecting and processing these shipments and better understand the operation of online marketplaces.

Additionally, CBP is testing whether the transmission of additional advance data, beyond the data elements currently required for shipments arriving by air, truck, or rail under the authorities cited above in section I.A (Current Requirements), will enable CBP to more accurately and efficiently target Section 321 shipments. Pursuant to this test, participants will provide information that identifies the entity causing the shipment to cross the border, the ultimate recipient, and the product in the shipment with greater specificity, in advance. CBP will test the feasibility of using the additional data elements, transmitted by multiple entities for a single shipment, to segment risk. For example, CBP may compare a picture of the product (transmitted by an online marketplace) to an x-ray image of the package (transmitted by the carrier) to determine if the picture of the product and x-ray image match. In sum, the pilot will enable CBP to determine if requiring additional data and involving non-regulated entities will enable CBP to address the threats and complexities resulting from the vast increase in Section 321 shipments, while facilitating cross-border e-commerce.

II. Description of the Section 321 Data Pilot

The Section 321 Data Pilot is a voluntary test that will enable participants to electronically transmit to CBP certain information regarding Section 321 shipments prior to the shipment's arrival in the United States. CBP will use the advance information to improve CBP's ability to effectively and efficiently identify and target high-risk shipments, including for narcotics, counter-proliferation, and health and safety risks. CBP will select pilot participants from eligible applicants engaged in e-commerce, including carriers, brokers, and freight forwarders, as well as online marketplaces. Further details about the eligibility requirements and application process are provided in section II.C (Eligibility Requirements) and section II.D (Application Process and Acceptance) below.

Participants in the pilot will electronically transmit certain data elements specified below in section II.A (Data Elements) in addition to other data elements as available and at the participant's discretion. CBP must receive the data elements prior to the shipment's arrival in the United States. Participants may electronically transmit the requested information through an existing point-to-point connection with CBP. Alternatively, participants may authorize a carrier or broker participating in the pilot and who has an existing point-to-point connection with CBP to transmit the information on their behalf. For additional information on technology requirements, see section II.C (Eligibility Requirements) below. CBP will respond to the data transmissions with a confirmation of receipt and will use the transmitted information to conduct risk assessments. Risk assessment for each shipment will be based on multiple transmissions, as each transmission can be from different parties providing different data elements at various stages in the supply chain. Messages will be maintained in the Automated Targeting System (ATS).

The Section 321 Data Pilot will not affect any current requirements and CBP is not waiving any regulations for purposes of the pilot, including all the regulations pertaining to the provision of advance data cited above, including the ACAS and ISF regulations. All of the existing Trade Act of 2002 requirements and all manifest requirements continue to apply. Additionally, CBP will not use the information transmitted pursuant to the pilot for entry or release purposes, and pilot participants cannot rely on information transmitted through the pilot for entry or release purposes.

A. Data Elements

Participants in the Section 321 Data Pilot must transmit certain information for any Section 321 shipments destined for the United States for which the participant has information. (For additional information on the types of shipments included in the pilot, see section II.B (Duration and Scope of the Pilot)). The required data elements differ slightly depending on what entity is transmitting the data. In general, the required data relates to the entity initiating the shipment (*e.g.,* the entity causing the shipment to cross the border, such as the seller, manufacturer, or shipper), the product in the package, the listed marketplace price, and the final recipient (*e.g.,* the final entity to possess the shipment in the United States). The data elements are as follows.

1. All participants. All participants, regardless of filer type, must electronically transmit the following elements:

- Originator Code of the Participant (assigned by CBP)
- Participant Filer Type (*e.g.,* carrier or online marketplace)
- One or more of the following:
  - Shipment Tracking Number
  - House Bill Number
  - Master Bill Number

- Mode of Transportation (*e.g.,* air, truck, or rail)

2. Participating carriers. In addition to the data elements listed above in paragraph 1, participating carriers must also electronically transmit the following data elements:

- Shipment Initiator Name and Address (*e.g.,* the entity that causes the movement of a shipment, which may be a seller, shipper, or manufacturer, but not a foreign consolidator)
- Final Deliver to Party Name and Address (*e.g.,* the final entity to receive the shipment once it arrives in the United States, which may be a final purchaser or a warehouse, but not a domestic deconsolidator)
- Enhanced Product Description (*e.g.,* a description of a product shipped to the United States more detailed than the description on the manifest, which should, if applicable, reflect the advertised retail description of the product as listed on an online marketplace)
- Shipment Security Scan (air carriers only) (*e.g.,* verification that a foreign security scan for the shipment has been completed such as an x-ray image or other security screening report)
- Known Carrier Customer Flag (*e.g.,* an indicator that identifies a shipper as a repeat customer that has consistently paid all required fees and does not have any known trade violations)

3. Participating online marketplaces. In addition to the data elements listed above in paragraph 1, participating online marketplaces must electronically submit the following data elements:

- Seller Name and Address (*e.g.,* an international or domestic company that sells products on marketplaces and other websites), and, if applicable, Shipment Initiator Name and Address (as defined in Section II.A.2)
- Final Deliver to Party Name and Address (as defined in Section II.A.2)
- Known Marketplace Seller Flag (*e.g.,* an indicator provided by a marketplace that identifies a seller as an entity vetted by the marketplace and has no known trade violations)
- Marketplace Seller Account Number/ Seller ID (*e.g.,* the unique identifier a marketplace assigns to sellers)
- Buyer Name and Address, if applicable (*e.g.,* the purchaser of a good from an online marketplace. This entity is not always the same as the final deliver to party.)
- Product Picture (*e.g.,* picture of the product presented on an online marketplace), Link to Product Listing (*e.g.,* an active and direct link to the listing of a specific product on an online marketplace), or Enhanced Product Description (as defined in Section II.A.2)
- Listed Price on Marketplace (*e.g.,* the retail price of a product that a seller lists while advertising on an online marketplace. For auction marketplaces, this price is the price of final sale.)

Different entities may transmit different data elements for the same shipment.

B. Duration and Scope of the Pilot

The pilot will begin on August 22, 2019 and operate for approximately one year.

The pilot applies to each Section 321 shipment destined for the United States, arriving by air, truck, or rail, for which the selected participants have information. The pilot will operate in all ports of entry utilized by the participants for Section 321 shipments. The pilot does not apply to any mail shipments covered by 19 CFR part 145, shipments arriving by ocean, or shipments destined for a Foreign Trade Zone.

C. Eligibility Requirements

CBP is seeking participation from stakeholders in the e-commerce environment, including carriers, brokers, freight forwarders, as well as online marketplaces. There are no restrictions with regard to organization size, location, or commodity type. Additionally, online marketplaces do not need to offer delivery logistic services in order to participate in the pilot. However, participation is limited to those parties with sufficient information technology infrastructure and support, as described below. Prospective pilot participants will need to assess whether they can fulfill the following eligibility requirements:

- Technical capability to electronically submit data to CBP and to receive messaging responses via an existing point-to-point connection with CBP. Alternatively, participants may authorize a carrier or broker participating in the pilot and who has an existing point-to-point connection with CBP to transmit the information on their behalf.
- Participants who establish a new point-to-point connection with CBP will need to sign an Interconnect Security Agreement (ISA) or amend their existing ISA, if necessary, and adhere to security policies defined in the DHS 4300a security guide.

D. Application Process and Acceptance

Those interested in participating in the pilot should submit an email to *e-commercesmallbusinessbranch@cbp.dhs.gov,* stating their interest and their qualifications based on the above eligibility requirements. Online marketplaces should indicate the extent to which they have information related to the delivery logistics of the products sold on their website. The email should also include a point of contact. The email will serve as an electronic signature of intent. CBP will accept applications from prospective pilot participants at any time, including after the pilot commences, until CBP has identified a sufficient number of eligible participants. Specifically, CBP is looking for pilot participants to include one or more carriers and one or more online marketplaces. Applications will be processed in the order in which they are received. Once applications are processed, those selected as participants will be notified by email. The pilot will initially be limited to 9 participants but CBP may expand the pilot to additional participants in the future.

E. Costs to Pilot Participants

The costs of pilot participation will vary depending on the pre-existing infrastructures of the participants. Costs may include communication requirements, such as transmission and receipt of data, as well as cost associated with collecting the required information. Participants are encouraged to keep track of the costs incurred by their participation in the pilot.

F. Benefits to Pilot Participants

While the benefits of participation may vary, one benefit is that, where appropriate, CBP may expedite clearances for low-risk Section 321 shipments when sufficient test data has been received prior to the shipment's arrival.

G. Evaluation of the Pilot

After the end of the pilot, CBP will evaluate the results of the pilot and determine whether to extend the duration of the pilot and/or expand the pilot to include additional participants. Additionally, CBP will evaluate the results of the pilot to determine whether additional mandatory advance reporting requirements are necessary in the e-commerce environment.

III. Authority

This pilot is conducted pursuant to 19 CFR 101.9(a), which authorizes the Commissioner to impose requirements different from those specified in the

CBP regulations for the purposes of conducting a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

IV. Privacy

CBP will ensure that all Privacy Act requirements and applicable policies are adhered to during the implementation of this pilot.

V. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. The PRA applies to collections of information imposed on ''ten or more persons.'' This pilot will initially include fewer than ten participants and as such will not require an OMB control number. If CBP expands the pilot to include ten or more persons, CBP will adhere to the requirements of the PRA.

VI. Misconduct Under the Pilot

A pilot participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, or discontinuance from participation in the Section 321 Data Pilot for any of the following:

(1) Failure to follow the rules, terms, and conditions of this pilot;

(2) Failure to exercise reasonable care in the execution of participant obligations; or

(3) Failure to abide by applicable laws and regulations that have not been waived.

If the Director, Intellectual Property Rights and E-Commerce Division, Office of Trade, finds that there is a basis for discontinuance of pilot participation privileges, the pilot participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The pilot participant will be offered the opportunity to appeal the decision in writing within 10 calendar days of receipt of the written notice. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing *e-commercesmallbusiness branch@cbp.dhs.gov.*

The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing on the proposed action within 30 working days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a pilot participant's privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the pilot participant.

In cases of willfulness or those in which public health, interest, or safety so requires, the Director, Intellectual Property Rights and E-Commerce Division, Office of Trade, may immediately discontinue the pilot participant's privileges upon written notice to the pilot participant. The notice will contain a description of the facts or conduct warranting the immediate action. The pilot participant will be offered the opportunity to appeal the decision within 10 calendar days of receipt of the written notice providing for immediate discontinuance. The appeal of this determination must be submitted to the Executive Director, Trade Policy and Programs, Office of Trade, by emailing *e-commercesmallbusinessbranch@cbp.dhs.gov.*

The immediate discontinuance will remain in effect during the appeal period. The Executive Director, Trade Policy and Programs, Office of Trade, will issue a decision in writing on the discontinuance within 15 working days after receiving a timely filed appeal from the pilot participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Date: July 18, 2019.

Robert E. Perez,

Deputy Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2019–15625 Filed 7–22–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS Docket No. DHS–2019–0036]

Designating Aliens for Expedited Removal

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This Notice (this Notice) enables the Department of Homeland Security (DHS) to exercise the full remaining scope of its statutory authority to place in expedited removal, with limited exceptions, aliens determined to be inadmissible under sections 212(a)(6)(C) or (a)(7) of the Immigration and Nationality Act (INA or the Act) who have not been admitted or paroled into the United States, and who have not affirmatively shown, to the satisfaction of an immigration officer, that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility. Presently, immigration officers can apply expedited removal to aliens encountered anywhere in the United States for up to two years after the alien arrived in the United States, provided that the alien arrived by sea and the other conditions for expedited removal are satisfied. For aliens who entered the United States by crossing a land border, the Secretary of Homeland Security has exercised his discretion under the INA to permit the use of expedited removal if the aliens were encountered by an immigration officer within 100 air miles of the United States international land border and were continuously present in the United States for less than 14 days immediately prior to that encounter. The INA grants the Secretary of Homeland Security the ''sole and unreviewable discretion'' to modify at any time the discretionary limits on the scope of the expedited removal designation. The Acting Secretary of Homeland Security is exercising his statutory authority through this Notice to designate for expedited removal the following categories of aliens not previously designated: (1) Aliens who did not arrive by sea, who are encountered anywhere in the United States more than 100 air miles from a U.S. international land border, and who have been continuously present in the United States for less than two years; and (2) aliens who did not arrive by sea, who are encountered within 100 air miles from a U.S. international land border, and who have been continuously present in the United States for at least 14 days but for less than two years. Therefore, the designation in this Notice (the New Designation) harmonizes the authorization for aliens arriving by land with the existing authorization for aliens arriving by sea. The effect of that change will be to enhance national security and public safety—while reducing government costs—by facilitating prompt immigration determinations. In particular, the New Designation will enable DHS to address more effectively and efficiently the large volume of aliens who are present in the United States unlawfully, without having been admitted or paroled into the United States, and ensure the prompt removal from the United States of those not entitled to enter, remain, or

be provided relief or protection from removal.

DATES: This Notice, including the New Designation, is effective on July 23, 2019. Interested persons are invited to submit written comments on this Notice on or before September 23, 2019.

ADDRESSES: You may submit comments, identified by Docket Number DHS–2019–0036 using the Federal e-Rulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ihsan Gunduz, Policy Analyst, Office of Policy, Department of Homeland Security, 202–282–9708.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

The Department of Homeland Security (DHS) is requesting public comments on the substance of this Notice as a matter of discretion. As discussed in Section D below, the Administrative Procedure Act's (APA) notice-and-comment requirements do not apply to this Notice, and the New Designation is effective immediately upon publication. However, DHS believes that by maintaining a dialogue with interested parties, DHS can ensure that it is even more effective in addressing the significant national security and public safety interests implicated with respect to aliens present in the United States who entered the United States without admission or parole and have been continuously present in the United States for at least 14 days but less than two years after their entry regardless of where in the U.S. they are encountered, and those continuously present for up to 14 days who are encountered more than 100 miles from a land border, while at the same time continuing to ensure appropriate procedural safeguards for affected individuals.

We encourage commenters to submit comments through the Federal e-Rulemaking Portal at *https://www.regulations.gov.* Please follow the website instructions for submitting comments. If you cannot submit your comments using the Federal e-Rulemaking Portal, please contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this notice for alternate instructions.

Comments received by means other than those listed above or comments received after the comment period has closed will not be reviewed. Comments posted on the Federal e-Rulemaking portal are available and accessible to the public. All comments received will be posted without change on *https://www.regulations.gov.* Commenters should not include personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses in their comments as such information will become viewable by the public on the *http://www.regulations.gov* website. It is the commenter's responsibility to safeguard his or her information.

II. Background

A. DHS Statutory Authority Over Expedited Removal Proceedings

Under section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), DHS [1] may remove, without a hearing before an immigration judge, certain aliens arriving in the United States at a port of entry, and certain other aliens (as designated by the Secretary of Homeland Security and as discussed more below) who are inadmissible under sections 212(a)(6)(C) or 212(a)(7) of the INA, 8 U.S.C. 1182(a)(6)(C) or 1182(a)(7). Sections 212(a)(6)(C) and 212(a)(7) of the INA designate aliens as inadmissible if they lack valid documents that are necessary for admission, or if they have ever fraudulently or willfully misrepresented a material fact to acquire admission to the United States, including whether they are a U.S. citizen, or to procure a visa or other immigration-related documentation. Unaccompanied alien children, as defined in 6 U.S.C. 279(g)(2), may not be placed in expedited removal under current law.[2] *See* 8 U.S.C. 1232(a)(5)(D).

The Secretary, in his ''sole and unreviewable discretion,'' may designate certain aliens to whom the expedited removal provisions may be applied. INA section 235(b)(1)(A)(iii)(I), 8 U.S.C. 1225(b)(1)(A)(iii)(I); 8 CFR 235.3(b)(1)(ii). The statute provides that the Secretary may apply (by designation) expedited removal to any alien ''who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility. . . .'' INA section 235(b)(1)(A)(iii)(II), 8 U.S.C. 1225(b)(1)(A)(iii)(II). In other words, Congress provided the Secretary, in his sole and unreviewable discretion, the authority to apply expedited removal to aliens inadmissible under INA section 212(a)(6)(C) or 212(a)(7), who had not been admitted or paroled and who could not prove that they have been continuously present in the United States for two years.

In 1997, the Attorney General promulgated a regulation applying expedited removal to aliens arriving in the United States at a port-of-entry and aliens interdicted in international or United States waters. *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,* 62 FR 10,312 (Mar. 6, 1997) (the 1997 Regulation). The 1997 Regulation also delegated the Attorney General's authority to the Commissioner of the former Immigration and Naturalization Service (INS) and established a mechanism for later designations of aliens subject to expedited removal. *See id.* The Attorney General ''emphasized that a proposed expansion of the expedited removal procedures may occur at any time and may be driven either by specific situations such as a sudden influx of illegal aliens motivated by political or economic unrest or other events or by a general need to increase the effectiveness of enforcement operations at one or more locations.'' *See id.*

In 2002, the Commissioner of the INS invoked this authority to designate as eligible for expedited removal aliens who arrived in the United States by sea, were not paroled or admitted into the United States, and ''who have not been physically present in the United States continuously for the two-year period prior to the determination of inadmissibility under'' the Notice. *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(a)(iii) of the Immigration and Nationality Act,* 67 FR 68923 (Nov. 13, 2002) (the 2002 Notice). Under the 2002 Notice, immigration officers could apply expedited removal to aliens encountered anywhere in the United States for up to two years after the alien arrived in the United States, as long as the alien arrived by sea and the other

[1] The INA provided the Attorney General those authorities; however, under section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions that were transferred from the Attorney General or other Department of Justice official to DHS by the HSA ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (2003) (codifying HSA, tit. XV, sec. 1517); 6 U.S.C. 542 note; 8 U.S.C. 1551 note.

[2] In certain limited circumstances, an unaccompanied alien child who is a national or habitual resident of a contiguous country (*i.e.,* Mexico or Canada) may be permitted to withdraw his or her application for admission to the United States and return to such contiguous country without a removal hearing. *See* 8 U.S.C. 1232(a)(2).

conditions for expedited removal were satisfied.

In 2004, the Secretary designated additional aliens for expedited removal through a **Federal Register** notice, pursuant to which DHS officials could apply expedited removal to aliens encountered within 100 air miles of the border and within 14 days of their date of entry regardless of the alien's method of arrival, as long as the other conditions for expedited removal were satisfied. *Designating Aliens for Expedited Removal,* 69 FR 48877 (Aug. 11, 2004) (the 2004 Notice, and, together with the 1997 Regulation and the 2002 Notice, collectively the Previous Designations); *see also Eliminating Exception To Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea,* 82 FR 4902 (Jan. 17, 2017). The 2004 Notice explained that in the interest of focusing limited resources ''upon unlawful entries that have a close spatial and temporal nexus to the border,'' the 2004 Notice did not implement ''the full nationwide expedited removal authority available to DHS.'' It did, however, expressly reserve to DHS the option of ''implementing the full nationwide enforcement authority of the statute through publication of a subsequent **Federal Register** notice.'' *Designating Aliens for Expedited Removal,* 69 FR at 48879.

In recent years, increasing numbers of aliens have been detained after being apprehended within the interior of the United States, necessitating a change in the focus of limited government resources to include the use of expedited removal proceedings for aliens apprehended within the U.S. interior, as well as near the border.

Aliens otherwise subject to expedited removal who indicate either an intention to apply for asylum or a fear of persecution or torture will be given further review by an asylum officer including an opportunity to establish a ''credible fear,'' and thus potential eligibility for asylum. INA section 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i); 8 CFR 235.3(b)(4). Further, an alien otherwise subject to expedited removal is ''given a reasonable opportunity to establish to the satisfaction of the examining immigration officer that he or she was admitted or paroled into the United States.'' 8 CFR 235.3(b)(6). Aliens who have not been admitted or paroled and who are subject to expedited removal have the burden of proving that they are not inadmissible and satisfy the continuous physical presence requirement. 8 CFR 235.3(b)(1)(ii). Any absence from the United States serves to break the period of continuous physical presence. *Id.* Aliens determined by immigration officers to be subject to expedited removal nonetheless will receive prompt review of that determination if they claim under oath, after being warned of the penalties for perjury, that they have been admitted for permanent residence, admitted as a refugee, granted asylum, or are a U.S. citizen. INA section 235(b)(1)(C), 8 U.S.C. 1225(b)(1)(C); 8 CFR 235.3(b)(5)(i).

B. DHS Need for the New Designation

In light of the ongoing crisis at the southern border, the large number of aliens who entered illegally and were apprehended and detained within the interior of the United States, and DHS's insufficient detention capacity both along the border and in the interior of the United States, DHS is issuing the New Designation to use more effectively and efficiently its limited resources to fulfill its mission to enforce the immigration laws and ensure the security of the Nation's borders. *See* INA section 103(a)(5), 8 U.S.C. 1103(a)(5); 6 U.S.C. 202; Exec. Order 13767, *Border Security and Immigration Enforcement Improvements,* 82 FR 8793, section 1 (Jan. 25, 2017) (Border Security E.O.) (''Border security is critically important to the national security of the United States. Aliens who illegally enter the United States without inspection or admission present a significant threat to national security and public safety.''). Fully exercising DHS's statutory expedited removal authority to include certain aliens who would not be subject to expedited removal under the Previous Designations will provide to DHS officers a valuable tool to fulfill their mission.

Fully implementing expedited removal will help to alleviate some of the burden and capacity issues currently faced by DHS and DOJ by allowing DHS to remove certain aliens encountered in the interior more quickly, as opposed to placing those aliens in more time-consuming removal proceedings. Indeed, many of the aliens previously encountered in the interior of the United States likely would have been eligible for expedited removal under this Notice. In Fiscal Year (FY) 2018, 37% (20,570) of ICE's 54,983 total interior encounters, with entry dates, were of aliens who had been present in the United States for less than two years. Through March 30, 2019, 39% (6,410) of U.S. Immigration and Customs Enforcement's (ICE) 15,328 total interior encounters, with entry dates, in FY2019 were aliens who had been present in the United States for less than two years. ICE estimates that a significant number of the aliens it encounters in the interior likely would have been eligible for expedited removal had DHS used its discretion to exercise its full statutory authority. Placing certain aliens apprehended in the interior of the United States in expedited removal would allow ICE to more effectively use its limited detention resources. In FY 2018, the average time in DHS custody for aliens placed in expedited removal was 11.4 days. Conversely, for inadmissible aliens encountered in the interior of the United States and placed into full removal proceedings, the average time in DHS custody was 51.5 days. Under the New Designation, ICE will be able to use expedited removal for certain aliens who it arrests in the interior, which will likely result in those aliens spending less time in ICE detention than if they were placed in full removal proceedings. That, in turn, will more quickly make available additional ICE bed space, which can be used for additional interior arrests and removals.

Additionally, the Acting Secretary of Homeland Security has determined that the implementation of additional measures is a necessary response to the ongoing immigration crisis. Presently, U.S. Border Patrol and ICE lack sufficient detention capacity and resources to detain the vast majority of aliens DHS apprehends along the southern border. As a result, hundreds of thousands of aliens are released into the interior of the United States, pending the outcome of their immigration proceedings. However, by more effectively utilizing ICE's limited resources, more aliens apprehended along the southern border likely will be able to be detained in ICE custody, where they can be more quickly processed and removed from the country than if they had been released into the interior of the United States. The New Designation will also allow ICE to place into expedited removal certain aliens that cross the border illegally but evade apprehension due to vulnerabilities in border operations resulting from U.S. Border Patrol's lack of sufficient resources.

Additionally, immigration courts nationwide are experiencing a historic backlog of removal cases, and non-detained cases are taking years to complete. In June 2019, EOIR reported a total of 909,034 pending immigration cases. By contrast, there were fewer than 168,000 cases pending at the end of Fiscal Year 2004 when DHS exercised its discretion to apply expedited removal to certain aliens encountered within 100 miles of the border who

could not establish to the satisfaction of an immigration officer that they have been physically present in the United States continuously for the previous 14 days. The current number of pending immigration cases represents a substantial increase of the number of cases pending completion in 2004, notwithstanding the 2004 Notice. Moreover, the average non-detained alien's removal proceeding has been pending for more than two years before an immigration judge. That backlog includes many cases involving aliens who were encountered by an immigration officer during the two-year period after they illegally entered the United States, but who were not covered by a Previous Designation. DHS expects that the New Designation will help mitigate additional backlogs in the immigration courts and will reduce the significant costs to the government associated with full removal proceedings before an immigration judge, including the costs of a longer detention period and government representation in those proceedings. DHS acknowledges that it will need to devote certain additional resources to implement this Notice, including by making credible fear determinations for certain aliens placed in expedited removal proceedings. Nonetheless, DHS anticipates that the mitigation of additional backlogs in the immigration courts, the reduction of costs associated with placing aliens in full removal proceedings, and the ability to use limited resources and detention capacity more effectively outweighs any additional costs to the government.

Under this Notice, the Acting Secretary is designating as eligible for expedited removal: (1) Aliens who did not arrive by sea, who are encountered anywhere in the United States more than 100 air miles from a U.S. international land border, and who have been continuously present in the United States for less than two years; and (2) aliens who did not arrive by sea, who are encountered within 100 air miles from a U.S. international land border, and who have been continuously present in the United States for at least 14 days but for less than two years. The designation under the 2004 Notice restricting expedited removal to those encountered within 100 miles of the border makes insufficient use of the authorities Congress has granted to address the current immigration crisis, the large number of aliens illegally present in the United States, insufficient DHS resources, and the backlog of removal cases before immigration judges and the Board of Immigration Appeals. The statute places no geographic limitation on the application of expedited removal. DHS has anecdotal evidence, moreover, that many aliens who have been smuggled into the United States hide in ''safe houses'' that are located more than 100 miles from the nearest land border. For instance, in 2019, ICE conducted a ''knock and talk'' of a safe house in Roswell, New Mexico, which is more than 100 miles from the nearest land border, and encountered 67 illegal aliens, resulting in arrests and numerous charges. In 2018, ICE executed a search warrant at a safe house in San Antonio, Texas, during an extortion attempt tied to a human smuggling event, resulting in the rescue of three victims and arrests and charges against the subjects with alien smuggling.

Under the Previous Designations, DHS officers could not apply expedited removal to those individuals, thus limiting the availability of an important authority that Congress has granted to DHS for quickly and efficiently removing certain inadmissible aliens. Under this Notice, DHS anticipates that this broader use of expedited removal orders will reduce incentives not only to enter unlawfully but also to attempt to travel quickly into the interior of the United States in an effort to avoid the application of expedited removal. It will also accelerate the processing of covered inadmissible aliens, because expedited removal does not entail merits hearings before an immigration judge or appeals to the Board of Immigration Appeals except upon positive fear determinations. Therefore, designating aliens encountered anywhere in the United States, who are not subject to a Previous Designation, will help to ensure efficient removal from the United States of aliens who cannot establish a credible fear of persecution or torture.

DHS has determined that the volume of illegal entries, and the attendant risks to national security and public safety presented by these illegal entries, warrants this immediate implementation of DHS's full statutory authority over expedited removal. This Notice will ensure that those individuals present in the United States without being admitted or paroled, particularly those who evade apprehension at the southern border, are quickly and efficiently removed (except if they have demonstrated a credible fear of persecution or torture). DHS expects that the full use of expedited removal statutory authority will strengthen national security, diminish the number of illegal entries, and otherwise ensure the prompt removal of aliens apprehended in the United States. And it will further Congress's purpose for creating expedited removal procedures, which was ''to expedite the removal from the United States of aliens who indisputably have no authorization to be admitted to the United States . . . .'' H.R. Rept. 104–828 at 209 (1996). Accordingly, immigration officers may now use expedited removal authority not only for those individuals apprehended at or near the border, but also for those individuals who evade detection at the border and are apprehended within two years thereafter anywhere within the United States.

C. Implementation Considerations

As in the case of the Previous Designations, immigration officers generally have broad discretion to apply expedited removal to individuals covered under the New Designation. *See Matter of E–R–M– & L–R–M–,* 25 I&N Dec. 520, 523 (BIA 2011) (holding that language in INA section 235(b)(1)(A)(i) does not limit DHS's discretion to place aliens amenable to expedited removal into removal proceedings under INA section 240). DHS recognizes that the circumstances of certain aliens, including aliens with serious medical conditions and aliens who have substantial connections to the United States, for example, may weigh against the discretionary use of expedited removal proceedings.[3] Accordingly, in appropriate circumstances, and as an exercise of prosecutorial discretion, immigration officers, in their sole and unreviewable discretion, may permit certain aliens otherwise eligible for placement into expedited removal proceedings to return voluntarily, withdraw their applications for admission, or be placed in full removal proceedings under section 240 of the Act, in lieu of expedited removal. DHS plans to issue guidance to immigration officers to guide the exercise of discretion in referring aliens for expedited removal.

The expedited removal procedures required under existing law and regulations are applicable to the aliens designated by this Notice.[4] As required

[3] *Trump* v. *Int'l Refugee Assistance Project,* 582 U.S. ___, No. 16–1436, slip op. at 11 (noting that ''foreign nationals abroad who have no connection to the United States at all'' can be denied entry as such a denial does not ''impose any legally relevant hardship'' on the foreign nationals themselves).

[4] Under existing law, aliens wishing to apply for asylum are required by statute to do so within one year of entering the United States. INA section 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B). *See also* Convention relating to the Status of Refugees, art. 31(1), July 28, 1951, 189 U.N.T.S. 137, 174 (obliging refugees to ''present themselves without delay to

by statute and regulation, any alien who falls within the New Designation, who is placed in expedited removal, and who indicates an intention to apply for asylum or expresses a fear of persecution or torture or a fear of return to his or her country, will be interviewed by an asylum officer who will determine whether the alien has a credible fear of persecution or torture. *See* INA section 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v); 8 CFR 235.3(b)(4), 208.30. DHS expects to continue to use the form I–867A/B, which includes questions officers must ask with respect to fear of return. Immigration officers are trained to be alert for indications that the alien may be afraid to return to his or her country. *See* INA section 235(b)(1)(E), 8 U.S.C. 1225(b)(1)(E).[5] Aliens that express a fear of return are referred for an interview with an asylum officer. INA section 235(b)(1)(A)(ii); 8 U.S.C. 1225(b)(1)(A)(ii); 8 CFR 235.3(b)(4). Asylum officers determining that an alien has or has not established a credible fear are to provide a written record of the factual basis for their determination. *See* INA sections 235(b)(1)(B)(iii)(II), 8 U.S.C. 1225(b)(1)(B)(iii)(II).

If an asylum officer determines that the alien has established a credible fear of persecution or torture, the alien will be referred to an immigration judge for further consideration of the alien's application for asylum. INA section 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii); 8 CFR 208.30, 235.6. If the officer determines that the alien has not established a credible fear of persecution or torture, the alien may request de novo review by an immigration judge of the officer's negative credible fear determination. *See* INA section 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); 8 CFR 208.30(g), 1003.42, 1208.30, 1235.3(b)(4).

Similarly, all aliens placed in expedited removal as a result of the New Designation who claim lawful permanent resident, refugee, or asylee status, or U.S. citizenship will have the benefit of the same procedural safeguards that apply in all expedited removal proceedings. *See* INA section 242(e)(2); 8 CFR 235.3(b); 1235.3(b)(5).

D. This Notice Is Immediately Effective

In keeping with the practice followed in announcing the Previous Designations, and consistent with implementing regulations at 8 CFR 235.3(b)(1)(ii),[6] this designation is effective without prior notice and comment or a delayed effective date. *See, e.g.,* 67 FR 68923, 68925 (2002 Notice); 69 FR 48877, 48880 (2004 Notice); 82 FR 4769, 4769 (2017 elimination of exception for Cuban nationals arriving by air); 82 FR. 4902, 4902 (2017 elimination of exception for Cuban nationals encountered in the United States or arriving by sea). The rulemaking procedures of the APA do not apply to this Notice, because delaying the New Designation's implementation to allow public notice and comment would be impracticable, unnecessary, and contrary to the public interest. *Cf.* 5 U.S.C. 553(b)(3)(B) and (d)(3).

Implementation of the New Designation is exempt from notice-and-comment requirements, because public notice and comment and the delay attendant thereon would be impracticable, unnecessary, and contrary to the public interest. *See* 5 U.S.C. 553(b)(B) and (d)(3). Congress explicitly authorized the Secretary of Homeland Security to designate categories of aliens to whom expedited removal may be applied on a case-by-case basis, and made clear that ''[s]uch designation shall be in the sole and unreviewable discretion of the Secretary and may be modified at any time.'' INA section 235(b)(1)(A)(iii)(I), 8 U.S.C. 1225(b)(1)(A)(iii)(I). As such, the Secretary's designation is not required to go through notice-and-comment rulemaking. Indeed, the application of APA's notice-and-comment requirements would defeat a major purpose of the expedited removal provision: To allow the Secretary to authorize immigration officers to respond rapidly, effectively, and flexibly to border security and public safety challenges, including urgent situations such as the present high number of aliens unlawfully entering and remaining in the United States and the lack of sufficient DHS resources to deal with these aliens. Consistent with the mandate of INA section 235(b)(1)(A)(iii)(I), 8 U.S.C. 1225(b)(1)(A)(iii)(I), that the Secretary may modify the scope of expedited removal under section 235(b)(1)(A)(iii) ''at any time,'' such designation ''shall become effective upon publication of a notice in the **Federal Register**.'' 8 CFR 235.3(b)(1)(ii) (noting that such designation where appropriate ''shall become effective immediately upon issuance''). Accordingly, it is appropriate to publish such designation, effective immediately, without prior notice and comment.

Indeed, as in the cases of the Previous Designations, DHS is concerned that delayed implementation could lead to a surge in migration across the southern border during a notice-and-comment period. *See* 67 FR 68,924, 68,925; 82 FR 4902, 4904. ''Such a surge would threaten national security and public safety by diverting valuable Government resources from counterterrorism and homeland security responsibilities. A surge could also have a destabilizing effect on the region, thus weakening the security of the United States and threatening its international relations. Additionally, a surge could result in significant loss of human life.'' 82 FR 4902, 4904.

In addition, DHS could not meaningfully implement INA section 235(b)(1)(A)(iii)(I), which establishes that the Secretary's designation ''may be modified at any time,'' if such modification is not effective until after notice and comment rulemaking. The New Designation is necessary to remove from the United States inadmissible aliens not covered by a Previous Designation who are encountered less than two years after entering the United States without admission or parole.

Although DHS believes that pre-promulgation notice-and-comment procedures are neither statutorily mandated nor in the interests of the United States with respect to this Notice, DHS is interested in receiving comments from the public on all aspects of this Notice. DHS believes that by maintaining a dialogue with interested parties, DHS may be better positioned to ensure that it is even more effective in combating and deterring illegal entry, while at the same time providing for appropriate procedural safeguards for the individuals designated.

III. Notice of Designation of Aliens Subject To Expedited Removal

Pursuant to section 235(b)(1)(A)(iii) of the Immigration and Nationality Act (INA) and 8 CFR 235.3(b)(1)(ii), I order, in my sole and unreviewable discretion, as follows:

the authorities and show good cause for their illegal entry or presence'').

[5] As the New Designation will result in greater use of expedited removal by ICE immigration officers, ICE will also develop and deploy updated training on the use of this authority, including proper referral of aliens for credible fear screening.

[6] 8 CFR 235.3(b)(1)(ii) (providing that ''[t]he Commissioner shall have the sole discretion to apply the provisions of section 235(b)(1) of the Act, *at any time,* to any class of aliens described in this section'' and that this ''designation shall become effective upon publication of a notice in the **Federal Register**'' as well as that, ''if the Commissioner determines, in the exercise of discretion, that the delay caused by publication would adversely affect the interests of the United States or the effective enforcement of the immigration laws, the Commissioner's designation shall become effective immediately upon issuance, and shall be published in the **Federal Register** as soon as practicable thereafter'' (emphasis added)).

(1) Except as otherwise expressly provided, the Department of Homeland Security may place in expedited removal any or all members of the following class of aliens (other than unaccompanied alien children as defined in 6 U.S.C. 279(g)(2)) as determined by an immigration officer: Aliens who are inadmissible under sections 212(a)(6)(C) or (7) of the INA, who are physically present in the United States without having been admitted or paroled following inspection by an immigration officer at a designated port of entry, and who either (a) did not arrive by sea, are encountered by an immigration officer anywhere in the United States more than 100 air miles from a U.S. international land border, and have not been physically present in the United States continuously for the two-year period immediately prior to the date of the determination of inadmissibility, or (b) did not arrive by sea, are encountered by an immigration officer within 100 air miles from a U.S. international land border, and have been physically present in the United States continuously at least 14 days but less than two years immediately prior to the date of the determination of inadmissibility. Each alien placed in expedited removal under this designation bears the affirmative burden to show to the satisfaction of an immigration officer that the alien has been present in the United States continuously for the relevant period. This designation does not apply to aliens who arrive at U.S. ports of entry, because those aliens are already subject to expedited removal. Nor does this designation apply to or otherwise affect aliens who satisfy the expedited removal criteria set forth in any of the previous designations. *See* 82 FR 4902, 69 FR 48877; 67 FR 68923 (collectively, the Previous Designations).

(2) Any alien who is placed in expedited removal under this designation who indicates an intention to apply for asylum or who expresses a fear of persecution or torture, or a fear of return to his or her country, will be interviewed by an asylum officer to determine whether such alien has a credible fear as defined in section 235(b)(1)(B)(v) of the INA, 8 U.S.C. 1225(b)(1)(B)(v). If the asylum officer determines that the alien has established a credible fear, the alien will be referred to an immigration judge for further consideration of his or her application for asylum in proceedings under section 240 of the INA, 8 U.S.C. 1229a.

(3) Any alien who is placed in expedited removal under this designation who claims lawful permanent resident, refugee, or asylee status, or U.S. citizenship will be reviewed in accordance with the procedures provided in 8 CFR 235.3(b) and 8 CFR 1235.3(b).

(4) This Notice applies to aliens described in paragraph (1) on or after July 23, 2019.

(5) This Notice does not supersede, abrogate, or amend or modify any of the Previous Designations, which shall remain in full force and effect in accordance with their respective terms.

Signed at Washington, DC, this 19th day of July 2019.

Kevin K. McAleenan,

Acting Secretary of Homeland Security.

[FR Doc. 2019–15710 Filed 7–22–19; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7012–N–03]

60-Day Notice of Proposed Information Collection: Application for Community Compass TA and Capacity Building Program NOFA and Awardee Reporting

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* September 23, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4186, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Kenneth Rogers, Senior CPD Specialist, Kenneth Rogers at *Kenneth.W.Rogers@hud.gov* or telephone 202–402–4396. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Application for Community Compass Technical Assistance and Capacity Building Program Notice of Funding Availability (NOFA).

OMB Approval Number: 2506–0197.

Type of Request: Extension.

Form Number: SF–424, SF424CB, SF–424CBW, SF–425, SF–LLL, HUD–2880, HUD–50070, HUD–XXX, HUD–XXX, HUD–XXX, HUD–XXX, HUD–XXX, HUD–XXX, and *Grants.gov* Lobbying Form Certification.

Description of the need for the information and proposed use: Application information is needed to determine competition winners, *i.e.,* the technical assistance providers best able to develop efficient and effective programs and projects that increase the supply of affordable housing units, prevent and reduce homelessness, improve data collection and reporting, and use coordinated neighborhood and community development strategies to revitalize and strengthen their communities. Additional information is needed during the life of the award from the competition winner, *i.e.,* the technical assistance providers to fulfill the administrative requirements of the award.

Application/Pre-Award

Respondents (*i.e.,* affected public): For profit and non-profit organizations.

Estimated Number of Respondents: 60.

Estimated Number of Responses: 60.

Frequency of Response: 1.

Average Hours per Response: 118.14.

Application/Pre-Award Total Estimated Burden: 7,088.40.

Post-Award

Estimated Number of Respondents/Awardees: 30.

Work Plans: 10 per year/awardee.

Average Hours per Response: 18.

Reports: 4 per year/awardee.

Average Hours per Response: 6.

Recordkeeping: 12 per year/awardee.

Average Hours per Response: 16. *Post-Award Total Estimated Burden:* 11,070. *Total Estimated Burdens:* 18,158.40.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response *	Annual cost
Application/Pre-Award	60	1	60	118.14	7,088.40	$60.74	$430,549.42
Post-Award							
Work Plans	30	10	300	18	5,400	60.74	327,996.00
Reports	30	4	120	5.85	702	60.74	42,639.48
Recordkeeping	30	12	360	13.8	4,968	60.74	301,756.32
Total					18,158.40		1,102,941.22

* Estimated cost for respondents is calculated from the June 2018 Department of Labor Bureau of Labor Statistics report on Employer Costs for Employee Compensation determined that the hourly rate of management, professional and related wages and salaries averaged $41.71 per hour plus $19.03 per hour for fringe benefits for a total $60.74 per hour.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including using appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 11, 2019.

David C. Woll Jr.,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2019–15628 Filed 7–22–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Docket No. FR–7014–N–21]

60-Day Notice of Proposed Information Collection: Comment Request Nonprofit Application and Recertification for FHA Mortgage Insurance Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 23, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Kevin Stevens, Director, Home Mortgage Insurance Division, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 708–2121 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Nonprofit Application and Recertification for FHA Mortgage Insurance Programs.

OMB Control Number, if applicable: 2502–0540.

Type of Request: Extension of currently approved collection.

Description of the need for the information and proposed use: A nonprofit organization must apply for HUD-approval, and be placed on the HUD Nonprofit Roster (Roster) to participate in FHA's Single Family Nonprofit Programs. Nonprofits must submit a recertification package every two years to retain approval and remain on the Roster. HUD uses the information to ensure that a nonprofit organization meets the requirements to participate in Single Family Nonprofit programs.

Agency form numbers, if applicable: None.

Respondents: Nonprofit organizations.

Estimation of the total numbers of hours needed to prepare the information collection:

Estimated Number of Respondents: 435.

Estimated Number of Responses: 771.

Frequency of Response: On occasion, periodic.

Average Hours per Response: 12.6.

Total Estimated Burdens: 9,244.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: July 9, 2019.

John L. Garvin,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2019–15629 Filed 7–22–19; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: July 31, 2019, 11:00 a.m.–12:30 p.m.

PLACE: Via tele-conference hosted at, Inter-American Foundation, 1331 Pennsylvania Ave., Suite 1200, NW, Washington, DC 20004.

STATUS: Meeting of the Board of Directors, Open to the public.

MATTERS TO BE CONSIDERED:

- Call to Order
- Management Report
- IAF's 50th Anniversary
- New Staff
- Board Matters
- Adjournment

For Dial-In Information Contact: Karen Vargas, Executive Assistant, (202) 524–8869.

CONTACT PERSON FOR MORE INFORMATION: Paul Zimmerman, General Counsel, (202) 683–7118.

Paul Zimmerman,

General Counsel.

[FR Doc. 2019–15740 Filed 7–19–19; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000 L13300000 PO0000; OMB Control Number 1004–0121]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Land Management (BLM), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 22, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the BLM at U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington, DC 20240, Attention: Jean Sonneman; or by email to *jesonnem@blm.gov.* Please reference OMB Control Number 1004–0121 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Lindsey Curnutt by email at *lcurnutt@BLM.gov,* or by telephone at 202–912–7574. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 16, 2019 (84 FR 15634). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BLM; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the BLM enhance the quality, utility, and clarity of the information to be collected; and (5) How might the BLM minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Control number 1004–0121 authorizes the BLM to collect information pertaining to the leasing of solid minerals other than coal and oil shale, and the development of those leases.

Title of Collection: Leasing of Solid Minerals Other Than Coal and Oil Shale.

OMB Control Number: 1004–0121.

Form Numbers: 3504–1, 3504–3, 3504–4, 3510–1, 3510–2, and 3510–7.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses that apply for leases for minerals other than coal and oil shale, and businesses that hold such leases.

Total Estimated Number of Annual Respondents: 507.

Total Estimated Number of Annual Responses: 507.

Estimated Completion Time per Response: Varies from 1 to 800 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 27,306 hours.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-Hour Burden Cost: $2,050,695.

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.*).

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2019–15643 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[19X.LLAZ921000.L14400000. BJ0000.LXSSA2250000.241A]

Notice of Filing of Plat of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed 30 days after the date of this publication in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona. The survey announced in this notice is necessary for the management of lands administered by the agency indicated.

ADDRESSES: This plat will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Protests of the survey should be sent to the Arizona State Director at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Davis, Chief Cadastral Surveyor of Arizona; (602) 417–9558; *gtdavis@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat, in one sheet, representing the dependent resurvey of a portion of Homestead Entry No. 48 and a metes-and bounds survey in section 23, Township 10 North, Range 10 East, accepted July 1, 2019, for Group 1193, Arizona.

This plat was prepared at the request of the United States Forest Service.

A person or party who wishes to protest against this survey must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, 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: 43 U.S.C. Chap. 3.

Gerald T. Davis,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2019–15621 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0006; 190E1700D2 ETISF0000 EAQ000 EEEE500000; OMB Control Number 1014–0001]

Agency Information Collection Activities; Oil and Gas Well-Workover Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2019–0006 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

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 comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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 regulations at 30 CFR part 250, subpart F, concern the Oil and Gas Well-Workover Operations regulatory requirements of oil, gas, and sulphur operations in the Outer Continental Shelf (OCS) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide

additional guidance on some aspects of our regulations.

The BSEE uses the information collected under the Subpart F regulations to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

- Review log entries of crew meetings to verify that safety procedures have been properly reviewed.
- review well-workover procedures relating to hydrogen sulfide (H2S) to ensure the safety of the crew in the event of encountering H2S.
- review well-workover diagrams and procedures to ensure the safety of well-workover operations.
- verify that the crown block safety device is operating and can be expected to function and avoid accidents.
- assure that the well-workover operations are conducted on well casing that is structurally competent.

Title of Collection: 30 CFR part 250, subpart F, *Oil and Gas and Sulfur Operations in the OCS—Oil and Gas Well-Workover Operations.*

OMB Control Number: 1014–0001.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 1,933.

Estimated Completion Time per Response: Varies from 2 hours to 6.5 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 5,284.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits.

Frequency of Collection: On occasion.

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*).

Stacey Noem,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2019–15613 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0002; 190E1700D2 ETISF0000 EAQ000 EEEE500000; OMB Control Number 1014–0028]

Agency Information Collection Activities; Well Operations and Equipment

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2019–0002 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0028 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

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 comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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 regulations at 30 CFR part 250, subpart G, concern well operations and equipment regulatory requirements of oil, gas, and sulphur operations in the Outer Continental Shelf (OCS) (including the associated forms), and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

BSEE uses the information to ensure safe drilling, workover, completion, and decommissioning operations and to protect the human, marine, and coastal environment. BSEE analyzes and evaluates these information/requirements to reduce the likelihood of a similar Deepwater Horizon event and to reduce the risk of fatalities, injuries, and spills. BSEE also utilizes these requirements in the approval, disapproval, or modification process for well operations.

Specifically, BSEE uses the information in Subpart G to ensure:

- Certain well designs and operations have been reviewed by appropriate third parties/engineers/classification societies that, after one year, have been approved by BSEE;
- rig tracking data is available to locate rigs during major storms;
- casing or equipment repairs are acceptable and tested;
- up-to-date engineering documents are available;
- the BOP and associated components are fit for service for its intended use;
- that the BOP will function as intended;
- that BOP components are properly maintained and inspected;
- the proper engineering reviews and approvals for all BOP designs, repairs, and modifications are met.

Rig Movement Notification Report, Form BSEE–0144

We use the information to schedule inspections and verify that the equipment being used complies with approved permits. The information on this form is used by all 3 regions, but primarily in the GOM, to ascertain the precise arrival and departure of all rigs in OCS waters in the GOM. The accurate location of these rigs is necessary to facilitate the scheduling of inspections by BSEE personnel.

Title of Collection: 30 CFR part 250, subpart G, *Well Operations and Equipment.*

OMB Control Number: 1014–0028.

Form Number: Form BSEE–0144.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all of the potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 43,408.

Estimated Completion Time per Response: 6 minutes to 2,160 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 160,842.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits, or are voluntary.

Frequency of Collection: Submissions are generally on occasion, daily, weekly, monthly, quarterly, biennially, and as a result of situations encountered depending upon the requirement.

Total Estimated Annual Nonhour Burden Cost: $867,500.

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.*).

Stacey Noem,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2019–15612 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0005; 190E1700D2 ETISF0000 EAQ000 EEEE500000; OMB Control Number 1014–0006]

Agency Information Collection Activities; Sulfur Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2019–0005 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0006 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

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 comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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 regulations at 30 CFR part 250, subpart P, concern the regulatory requirements Sulphur Operations in the Outer Continental Shelf (OCS) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information collected under the Subpart P regulations to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

• Ascertain that a discovered sulfur deposit can be classified as capable of production in paying quantities.

• ensure accurate and complete measurement of production to determine the amount of sulfur royalty payments due the United States; and that the sale locations are secure, production has been measured accurately, and appropriate follow-up actions are initiated.

• ensure the adequacy and safety of firefighting systems; the drilling unit is fit for the intended purpose; and the adequacy of casing for anticipated conditions.

• review drilling, well-completion, well-workover diagrams and procedures, as well as production operation procedures to ensure the safety of the proposed sulfur drilling, well-completion, well-workover and proposed production operations.

• monitor environmental data during sulfur operations in offshore areas where such data are not already available to provide a valuable source of information to evaluate the performance of drilling rigs under various weather and ocean conditions. This information is necessary to make reasonable determinations regarding safety of operations and environmental protection.

Title of Collection: 30 CFR part 250, subpart P, *Oil and Gas and Sulfur Operations in the OCS—Sulphur Operations.*

OMB Control Number: 1014–0006.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 510.

Estimated Completion Time per Response: Varies from 15 minutes to 12 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 897.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits.

Frequency of Collection: On occasion and varies by section.

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.*).

Signed:

Stacey Noem,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2019–15661 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0007; 190E1700D2 ETISF0000 EAQ000 EEEE500000; OMB Control Number 1014–0004]

Agency Information Collection Activities; Oil and Gas Well-Completion Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

• Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2019–0007 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

• Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0004 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

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 comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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 regulations at 30 CFR part 250, subpart E, concern Oil and Gas Well-Completion Operations regulatory requirements of oil, gas, and sulphur operations in the Outer Continental Shelf (OCS) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information collected under the Subpart E regulations to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to ensure:

• Compliance with personnel safety training requirements;

• crown block safety device is operating and can be expected to function to avoid accidents;

• proposed operation of the annular preventer is technically correct and provides adequate protection for personnel, property, and natural resources;

• well-completion operations are conducted on well casings that are structurally competent; and

• sustained casing pressures are within acceptable limits.

Title of Collection: 30 CFR part 250, subpart E, *Oil and Gas and Sulfur Operations in the OCS—Oil and Gas Well-Completion Operations.*

OMB Control Number: 1014–0004.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 5,644.

Estimated Completion Time per Response: Varies from 1.5 hours to 13 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 14,890.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Generally weekly, biennially, and on occasion depending on the requirement.

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.*).

Signed:

Stacey Noem,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2019–15660 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0003; 190E1700D2 ETISF0000 EAQ000 EEEE500000; OMB Control Number 1014–0010]

Agency Information Collection Activities; Decommissioning Activities

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before September 23, 2019.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

• Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2019–0003 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.

• Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0010 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

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 comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE 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 regulations at 30 CFR part 250, subpart Q, concern the decommissioning regulatory requirements of oil, gas, and sulphur operations in the Outer Continental Shelf (OCS) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information collected under the Subpart Q regulations to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

• To determine the necessity for allowing a well to be temporarily abandoned, the lessee/operator must demonstrate that there is a reason for not permanently plugging the well, and the temporary abandonment will not interfere with fishing, navigation, or other uses of the OCS. We use the information and documentation to verify that the lessee/operator is diligently pursuing the final disposition of the well and has performed the temporary plugging of the wellbore.

• To ensure the information submitted in initial decommissioning plans in the Alaska and Pacific OCS Regions will permit BSEE to become

involved on the ground floor planning of platform removals anticipated to occur in these OCS regions.

• To ensure that all objects (wellheads, platforms, etc.) installed on the OCS are properly removed using procedures that will protect marine life and the environment during removal operations, and the site cleared so as not to conflict with or harm other uses of the OCS.

• To ensure that information regarding decommissioning a pipeline in place will not constitute a hazard to navigation and commercial fishing operations, unduly interfere with other uses of the OCS, such as sand resource areas for coastal restoration projects, or have adverse environmental effects.

• To verify that decommissioning activities comply with approved applications and procedures and are satisfactorily completed.

• To evaluate and approve the adequacy of the equipment, materials, and/or procedures that the lessee or operator plans to use during well modifications and changes in equipment, etc.

• To help BSEE better estimate future decommissioning costs for OCS leases, rights-of-way, and rights of use and easements. BSEE's future decommissioning cost estimates may then be used by BOEM to set necessary financial assurance levels to minimize or eliminate the possibility that the government will incur abandonment liability. The information will assist BSEE and BOEM in meeting their stewardship responsibilities and in their roles as regulators.

Title of Collection: 30 CFR part 250, subpart Q, *Oil and Gas and Sulfur Operations in the OCS—Decommissioning Activities.*

OMB Control Number: 1014–0010.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all of the potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 3,656.

Estimated Completion Time per Response: Varies from 15 minutes to 28 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 16,099.

Respondent's Obligation: Mandatory.

Frequency of Collection: Submissions are generally on occasion, varies by section, and annual.

Total Estimated Annual Nonhour Burden Cost: $1,686,396.

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.*).

Signed:

Stacey Noem,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2019–15663 Filed 7–22–19; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–609 and 731–TA–1421 (Final)]

Steel Trailer Wheels From China; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: July 16, 2019.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman (202–205–2610), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On April 15, 2019, the Commission established a schedule for the conduct of the final phase of the subject investigations (84 FR 18862 May 2, 2019). The Commission is revising its schedule for these investigations.

The Commission's revised dates in the schedule are as follows: the Commission will make its final release of information on July 26, 2019; and final party comments are due on July 30, 2019.

For further information concerning this proceeding, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: July 18, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–15631 Filed 7–22–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0002]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Notice of Appeal From a Decision of an Immigration Judge

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register**, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until August 22, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2500, Falls Church, VA 22041, telephone: (703) 305–0289. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Notice of Appeal from a Decision of an Immigration Judge.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is EOIR–26, Executive Office for Immigration Review, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual aliens determined to be removable from the United States and the Department of Homeland Security, Immigration and Customs Enforcement (ICE). Other: None. Abstract: A party (either the alien or ICE) affected by a decision of an Immigration Judge may appeal that decision to the Board, provided that the Board has jurisdiction pursuant to 8 CFR 1003.1(b). An appeal from an Immigration Judge's decision is taken by completing the Form EOIR–26 and submitting it to the Board.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 26,536 respondents will complete the form annually with an average of 30 minutes per response.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 13,268 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405B, Washington, DC 20530.

Dated: July 17, 2019.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–15553 Filed 7–22–19; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Filing of Proposed Settlement Agreement Regarding Environmental Claims in Connection With the Raritan Bay Slag Superfund Site

On July 16, 2019, a Notice of Motion was filed in the Superior Court for the State of California for the County of San Francisco in the proceeding entitled *Insurance Commissioner of the State of California* vs. *Western Employers Insurance Company, et al.,* Case No. CPF–97–984281. The Motion will seek court approval of the Raritan Bay Slag Superfund Site Settlement Agreement between the Insurance Commissioner of the State of California (''Commissioner''), in his capacity as the liquidator of the Western Employers Insurance Company (''WEIC''), and Old Bridge Township, the United States Department of the Interior (''DOI''), Environmental Protection Agency (''EPA''), and National Oceanic and Atmospheric Agency (''NOAA'') (collectively referred to as ''the Federal Claimants''), acting by and through the United States Department of Justice (''DOJ'').

The Settlement Agreement would resolve a proof of claim by the Federal Claimants under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, against WEIC involving the insured Township of Old Bridge, New Jersey at the Raritan Bay Slag Superfund Site. The Federal Claimants filed a proof of claims in the instant proceeding against WEIC arising from policies of insurance that WEIC companies had issued to Old Bridge based on liability for contamination at the Raritan Bay Slag Superfund Site.

Under the Settlement Agreement, WEIC will pay to the United States $2,200,000 million to be allocated among the federal claimants as follows:

a. $1.76 million to EPA. The total amount paid to EPA shall be deposited by EPA in the Raritan Bay Slag Site Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

b. $440,000 to DOI and NOAA.

In consideration of this payment, upon approval of the Settlement Agreement, the Federal Claimants covenant not to file a civil action against the Insurance Commissioner, the California Department of Insurance, the California Conservation and Liquidation Office and WEIC with respect to all liabilities and obligations to Old Bridge or the Federal or the Federal Claimants arising under CERCLA under the Policies issued by the WEIC to Old Bridge, whether such liabilities and obligations are known or unknown, reported or unreported, and whether currently existing or arising in the future. The Settlement Agreement is conditioned upon court approval. The Commissioner will appear at a hearing to present the motion seeking approval the Settlement Agreement on August 19, 2019 at 9:30 a.m. in Department 302 of the San Francisco County Superior Court located at 400 McAllister Street, San Francisco, California 94102.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *Insurance Commissioner of the State of California* v. *Western Employers Insurance Company, et al.,* D.J. Ref. No. 90–11–3–10954/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* Alternatively, a paper copy of the Settlement Agreement will be provided

upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–15610 Filed 7–22–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0030]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until August 22, 2019.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.* Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Financial Capability Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0030. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes non-governmental applicants to OVW grant programs that do not currently (or within the last 3 years) have funding from OVW. In accordance with 2 CFR 200.205, the information is required for assessing the financial risk of an applicant's ability to administer federal funds. The form includes a mix of check box and narrative questions related to the organization's financial systems, policies and procedures.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 40 respondents (non-governmental) applicants to OVW grant programs approximately 4 hours to complete an online assessment form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 160 hours, that is 40 applicants completing a form once as a new applicant with an estimated completion time for the form being 4 hours.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: July 17, 2019.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2019–15552 Filed 7–22–19; 8:45 am]

BILLING CODE 4410–FX–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

Regular Board of Directors Meeting

TIME AND DATE: 2:00 p.m., Wednesday, July 31, 2019

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE, Washington, DC 20002.

STATUS: Open (with the exception of Executive Session)

MATTERS TO BE CONSIDERED:

The General Counsel of the Corporation has certified that in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552 (b)(2) and (4) permit closure of the following portion(s) of this meeting:

- Report from CEO
- Board and Officer Elections

Agenda

I. Call to Order
II. Executive Session: Report from CEO
III. Discussion Item Audit Committee Report
IV. Discussion Item Investment Policy
V. Discussion Item Client Management System
VI. Discussion Item Preview of Federal Budget Process—FY2020 and FY2021
VII. Discussion Item 40th Anniversary Event
VIII. Management Program Background and Updates
IX. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Rutledge Simmons, EVP & General Counsel/Secretary, (202) 760–4105; *Rsimmons@nw.org.*

Rutledge Simmons,

EVP & General Counsel/Corporate Secretary.

[FR Doc. 2019–15692 Filed 7–19–19; 11:15 am]

BILLING CODE 7570–02–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 March 1, 2019 to March 31, 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 March 2019.

Schedule B

No Schedule B Authorities to report during March 2019.

Schedule C

The following Schedule C appointing authorities were approved during March 2019.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Office of the Assistant Secretary for Congressional Relations.	Associate Director	DA190061	03/05/2019
	Office of Agricultural Marketing Service.	Special Assistant	DA190094	03/26/2019
	Farm Service Agency	Special Assistant	DA190085	03/25/2019
	Office of Communications	Deputy Director	DA190075	03/05/2019
		Deputy Press Secretary	DA190091	03/26/2019
	Office of the Assistant Secretary for Administration.	Senior Advisor	DA190087	03/25/2019
	Office of the Secretary	Advance Lead	DA190057	03/14/2019
		Chief of Staff	DA190042	03/26/2019
		Senior Advisor	DA190092	03/26/2019
	Rural Housing Service	Policy Advisor	DA190080	03/25/2019
DEPARTMENT OF COMMERCE	Bureau of Industry and Security	Senior Advisor	DC190055	03/25/2019
	Bureau of the Census	Senior Advisor	DC190052	03/11/2019
	Office of Advance, Scheduling and Protocol.	Director of Advance, Scheduling and Protocol.	DC190060	03/13/2019
	Office of Executive Secretariat	Special Assistant	DC190051	03/25/2019
	Office of the Assistant Secretary for Economic Development.	Senior Advisor	DC190059	03/25/2019
	Office of the Chief Financial Officer and Assistant Secretary for Administration.	Chief of Staff for Administration	DC190045	3/6/2019
	Office of the Chief of Staff	Special Assistant	DC190056	03/13/2019
	Office of White House Liaison	Deputy Director, Office of White House Liaison.	DC190069	03/12/2019
DEPARTMENT OF DEFENSE	Washington Headquarters Services	Defense Fellow	DD190062	03/15/2019
DEPARTMENT OF THE ARMY	Office Assistant Secretary Army (Acquisition, Logistics and Technology).	Special Assistant (Strategy and Acquisition Reform).	DW190022	03/11/2019
DEPARTMENT OF EDUCATION	Office of Communications and Outreach.	Confidential Assistant	DB190064	03/04/2019
	Office of the General Counsel	Attorney Adviser	DB190068	03/06/2019
	Office for Civil Rights	Attorney Adviser	DB190069	03/06/2019
	Office of the Secretary	Confidential Assistant	DB190075	03/15/2019
	Office of Career Technical and Adult Education.	Confidential Assistant	DB190071	03/26/2019
DEPARTMENT OF ENERGY	Office of Policy	Senior Advisor	DE190058	03/05/2019
	Office of the Deputy Secretary	Nuclear Engineer (Senior Advisor for Nuclear Policy).	DE190061	03/15/2019
	Office of Cybersecurity, Energy Security & Emergency Response.	Special Assistant	DE190076	03/19/2019
	Office of Management	Deputy Staff Secretary	DE190067	03/20/2019
	Office of Public Affairs	Digital Director	DE190071	03/22/2019
	Office of the Assistant Secretary for Congressional and Intergovernmental Affairs.	Deputy Assistant Secretary for Senate Affairs.	DE190073	03/22/2019
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Administrator	White House Liaison	EP190045	03/28/2019
	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Senate Affairs Specialist	EP190049	03/08/2019
		House Relations Specialist	EP190061	03/29/2019
	Office of the Associate Administrator for Policy.	Special Advisor for Policy and Economics.	EP190051	03/25/2019
	Office of the Executive Secretariat	Attorney-Advisor (General)	EP190056	03/22/2019
	Office of the General Counsel	Special Assistant for the Office of General Counsel.	EP190059	03/19/2019

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Administration for Children and Families.	Advisor	DH190091	03/26/2019
	Centers for Disease Control and Prevention.	Director of Communications	DH190080	03/14/2019
	Office of Intergovernmental and External Affairs.	Director of Intergovernmental Affairs.	DH190088	03/26/2019
	Office of the Administrator	Senior Advisor (Substance Abuse)	DH190087	03/13/2019
	Office of the Assistant Secretary for Financial Resources.	Policy Advisor	DH190073	03/01/2019
	Office of the Assistant Secretary for Health.	Director of Media Affairs	DH190097	03/26/2019
	Office of the General Counsel	Assistant	DH190085	03/13/2019
	Office of the Secretary	Briefing Book Coordinator and Policy Advisor.	DH190098	03/25/2019
DEPARTMENT OF HOMELAND SECURITY.	Cybersecurity and Infrastructure Security Agency.	Policy Advisor	DM190115	03/14/2019
		Special Assistant	DM190119	03/26/2019
		Strategic Action Officer	DM190127	03/26/2019
	Office of Assistant Secretary for Legislative Affairs.	Legislative Advisor	DM190084	03/11/2019
	Office of the Assistant Secretary for Policy.	Special Assistant	DM190096	03/07/2019
	Office of the Assistant Secretary for Public Affairs.	Deputy Press Secretary	DM190125	03/26/2019
	Office of the United States Citizenship and Immigration Services.	Advisor	DM190091	03/11/2019
	Office of the United States Immigration and Customs Enforcement.	Communications Coordinator	DM190098	03/13/2019
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the General Counsel	Senior Counsel	DU190039	03/01/2019
	Office of Community Planning and Development.	Senior Advisor	DU190043	03/14/2019
	Office of the Secretary	Deputy Chief of Staff	DU190048	03/22/2019
		Special Assistant	DU190051	03/25/2019
DEPARTMENT OF THE INTERIOR	Office of the Assistant Secretary—Water and Science.	Senior Advisor for Water and Science.	DI190036	03/25/2019
	Bureau of Safety and Environmental Enforcement.	Senior Advisor-Bureau of Environmental Enforcement.	DI190037	03/25/2019
	National Park Service	Special Assistant	DI190043	03/25/2019
	Secretary's Immediate Office	Press Secretary and Senior Advisor.	DI190022	03/11/2019
		Advisor	DI190039	03/25/2019
		Special Assistant	DI190040	03/25/2019
		Deputy Director, Communications	DI190029	03/26/2019
		Principal Deputy Director Intergovernmental and External Affairs.	DI190044	03/26/2019
		Deputy Director Intergovernmental and External Affairs.	DI190046	03/26/2019
DEPARTMENT OF JUSTICE	Office of Civil Division	Senior Counsel	DJ190044	03/26/2019
	Executive Office for United States Attorneys.	Secretary (3)	DJ190010	03/01/2019
			DJ190012	03/01/2019
			DJ190011	03/04/2019
	Office of Legislative Affairs	Senior Counsel	DJ190046	03/20/2019
	Office of Public Affairs	Public Affairs Specialist	DJ190034	03/14/2019
	Office of the Attorney General	Special Assistant	DJ190066	03/26/2019
DEPARTMENT OF LABOR	Office of Employment and Training Administration.	Senior Policy Advisor	DL190046	03/29/2019
	Office of the Assistant Secretary for Policy.	Senior Policy Advisor	DL190044	03/18/2019
	Office of the Chief Financial Officer	Chief of Staff	DL190048	03/26/2019
	Office of the Secretary	Advance Lead	DL190045	03/13/2019
		Senior Advisor	DL190040	03/25/2019
NATIONAL ENDOWMENT FOR THE HUMANITIES.	National Endowment for the Humanities.	Executive Assistant	NH190002	03/11/2019
OFFICE OF MANAGEMENT AND BUDGET.	Office of the Director	Special Assistant	BO190010	03/22/2019
	Office of Communications	Press Secretary	BO190011	03/22/2019
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Legislative Affairs	Legislative Analyst	QQ190008	03/14/2019
OFFICE OF PERSONNEL MANAGEMENT.	Office of Communications	Assistant Director of Communications for Policy and Operations.	PM190022	03/27/2019
DEPARTMENT OF STATE	Bureau of Consular Affairs	Senior Advisor	DS190043	03/25/2019
	Bureau of Energy Resources	Senior Advisor	DS190046	03/25/2019
	Bureau of International Security and Nonproliferation.	Senior Advisor	DS190004	03/26/2019

Agency name	Organization name	Position title	Authorization No.	Effective date
	Bureau of Public Affairs	Senior Advisor	DS190060	03/28/2019
	Office of Policy Planning	Special Assistant	DS190051	03/13/2019
	Office of the Secretary	Senior Advisor	DS190038	03/15/2019
		Special Advisor	DS190040	03/25/2019
		Special Assistant	DS190055	03/25/2019
	Office of the Under Secretary for Civilian Security, Democracy, and Human Rights.	Senior Advisor	DS190020	03/25/2019
DEPARTMENT OF TRANSPORTATION.	Office of the Administrator	Director of Governmental and Congressional Affairs.	DT190044	03/15/2019
		Special Assistant for Governmental Affairs.	DT190051	03/18/2019
		Senior Advisor for Policy and Infrastructure.	DT190036	03/19/2019
		Director of Public Affairs	DT190047	03/19/2019
		Director of Governmental Affairs	DT190062	03/25/2019
		Director of Communications	DT190061	03/26/2019
	Assistant Secretary for Governmental Affairs.	Governmental Affairs Officer (2)	DT190026	03/19/2019
			DT190046	03/19/2019
	Executive Secretariat	Special Assistant	DT190054	03/27/2019
	Immediate Office of the Administrator.	Special Assistant	DT190048	03/19/2019
	Office of the Secretary	Deputy Director for Scheduling and Operations.	DT190045	03/04/2019
		Senior Advisor for Advance	DT190053	03/13/2019
		Advisor	DT190064	03/29/2019
DEPARTMENT OF THE TREASURY.	Secretary of the Treasury	Special Assistant	DY190041	03/26/2019
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Speechwriter	DV190035	03/05/2019

The following Schedule C appointing authorities were revoked during March 2019.

Agency name	Organization name	Position title	Request No.	Date vacated
COMMODITY FUTURES TRADING COMMISSION.	Office of the Chairperson	Confidential Assistant	CT180001	03/01/2019
		Director, Office of Public Affairs	CT170009	03/16/2019
DEPARTMENT OF AGRICULTURE.	Office of Communications	Deputy Director (Press Secretary)	DA170138	03/16/2019
		Press Secretary	DA180233	03/16/2019
	Office of the Assistant Secretary for Congressional Relations.	Associate Director	DA180236	03/16/2019
		Staff Assistant (2)	DA180118	03/15/2019
			DA180157	03/16/2019
	Office of the Secretary	Director of Policy Coordination	DA180158	03/16/2019
		Program Specialist	DA180147	03/16/2019
	Office of Rural Housing Service	Senior Advisor	DA180259	03/16/2019
DEPARTMENT OF COMMERCE	Bureau of Industry and Security	Director of Congressional and Public Affairs.	DC180149	03/16/2019
	Office of White House Liaison	Special Assistant	DC180199	03/16/2019
	Office of the Deputy Assistant Secretary.	Special Advisor	DC180123	03/31/2019
OFFICE OF THE SECRETARY OF DEFENSE.	Office of the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict).	Special Assistant to the Deputy Assistant Secretary of Defense for Stability and Humanitarian Affairs.	DD170217	03/03/2019
		Special Assistant to the Deputy Assistant Secretary of Defense Special Operations and Combating Terrorism.	DD180028	03/09/2019
	Washington Headquarters Services.	Defense Fellow	DD180058	03/16/2019
DEPARTMENT OF EDUCATION	Office of Communications and Outreach.	Special Assistant	DB180053	03/02/2019
	Office of the Deputy Secretary	Confidential Assistant	DB190043	03/14/2019
DEPARTMENT OF ENERGY	Office of the Chief Financial Officer.	Chief of Staff	DE180154	03/02/2019
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Administration for Children and Families.	Principal Deputy Director for Office of Refugee Resettlement.	DH170229	03/30/2019

Agency name	Organization name	Position title	Request No.	Date vacated
	Centers for Medicare and Medicaid Services.	Senior Advisor	DH170172	03/16/2019
	Office of Intergovernmental and External Affairs.	Senior Advisor	DH180092	03/02/2019
	Director of Intergovernmental Affairs.	DH170133	03/16/2019	
	Office of the Administrator	Senior Advisor (Substance Abuse)	DH170301	03/16/2019
	Office of the Assistant Secretary for Public Affairs.	Director of Digital Media	DH180158	03/15/2019
	Office of the General Counsel	Assistant to the General Counsel	DH170327	03/16/2019
	Office of the Secretary	Policy Advisor	DH180123	03/02/2019
		Advisor to the Office of the Secretary.	DH180194	03/16/2019
		Special Assistant for Health Policy	DH170242	03/23/2019
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Public Affairs.	Deputy Press Secretary	DM180231	03/08/2019
	Office of the Assistant Secretary for Policy.	Advisor	DM170105	03/09/2019
	Office of United States Citizenship and Immigration Services.	Advisor to the Director	DM180042	03/17/2019
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Secretary	Policy and Programs Officer	DU180068	03/30/2019
DEPARTMENT OF JUSTICE	Office of Legal Policy	Counsel	DJ180027	03/30/2019
DEPARTMENT OF THE TREASURY.	Office of the Assistant Secretary for International Markets and Development.	Special Assistant	DY180069	03/16/2019
DEPARTMENT OF TRANSPORTATION.	Office of the Administrator	Director of Governmental Affairs (2).	DT170081	03/16/2019
			DT180009	03/16/2019
		Special Assistant	DT170127	03/30/2019
	Office of the Assistant Secretary for Budget and Programs.	Special Assistant	DT180032	03/02/2019
	Office of the Secretary	Deputy Director of Scheduling and Advance.	DT180026	03/03/2019
		Special Assistant for Advance	DT180036	03/16/2019
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Special Advisor to the Associate Administrator for Office of Congressional and Intergovernmental Relations.	EP180059	03/16/2019
	Office of the Chief Financial Officer.	Senior Advisor to the Administrator for Financial Management.	EP180099	03/16/2019
	Region II—New York, New York	Special Assistant to the Regional Administrator.	EP180015	03/16/2019
	Office of the Associate of the Administrator for Policy.	Policy Advisor	EP180078	03/30/2019
	Office of the Administrator	White House Liaison	EP180072	03/31/2019
GENERAL SERVICES ADMINISTRATION.	Office of Regional Administrators	Special Assistant to the Regional Administrator.	GS170019	03/01/2019
	Office of the Administrator	Confidential Assistant	GS180023	03/04/2019
NATIONAL ENDOWMENT FOR THE HUMANITIES.	National Endowment for the Humanities.	Director of Communications	NH170005	03/30/2019
OFFICE OF PERSONNEL MANAGEMENT.	Office of the Director	White House Liaison	PM180012	03/19/2019
	Office of Communications	Special Assistant for Advance	PM180053	03/29/2019
	Office of Congressional, Legislative and Intergovernmental Affairs.	Legislative Director	PM180015	03/31/2019
OFFICIAL RESIDENCE OF THE VICE PRESIDENT.	Official Residence of the Vice President.	Deputy Residence Manager	RV170001	03/09/2019
PRESIDENTS COMMISSION ON WHITE HOUSE FELLOWSHIPS.	Presidents Commission on White House Fellowships.	Assistant Director for Operations and Recruitment.	WH180001	03/04/2019
SECURITIES AND EXCHANGE COMMISSION.	Office of the Chairman	Writer-Editor	SE180004	03/15/2019
SMALL BUSINESS ADMINISTRATION.	Office of Congressional and Legislative Affairs.	Legislative Assistant	SB180044	03/02/2019
	Office of Capital Access	Special Assistant	SB180030	03/22/2019

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. 2019–15596 Filed 7–22–19; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–167 and CP2019–187; CP2019–188; CP2019–189]

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 25, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–167 and CP2019–187; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 110 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 17, 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 25, 2019.

2. *Docket No(s).:* CP2019–188; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 17, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 25, 2019.

3. *Docket No(s).:* CP2019–189; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* July 17, 2019; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 25, 2019.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–15620 Filed 7–22–19; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, July 25, 2019.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov*.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFO: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: July 18, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–15673 Filed 7–19–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86408; File No. SR–IEX–2019–06]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to IEX's Fee Schedule To Correct Two Fee Code Combinations

July 18, 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 15, 2019, the Investors Exchange LLC (''IEX'' 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

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to correct two minor Fee Code combination to conform each to the applicable fee. The Exchange proposes to implement the change immediately upon filing, pursuant to Section 19(b)(3)(A)(ii) of the Act.[6]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to correct two minor Fee Code combination descriptions to conform each to the applicable fee. Specifically, the Exchange proposes to change the words ''non-displayed'' to ''displayed'' in the descriptions of fee codes LSN and LSQN. As discussed below, neither descriptive error had any impact on IEX Members because the applicable fees were correctly applied.

Effective July 1, 2018, IEX modified the structure of its Fee Schedule in order to provide more clarity to market participants regarding the fees assessed for executions on the Exchange (''Fee Schedule Update'').[7] Among other changes, the Fee Schedule Update added a table of all possible Fee Code combinations, a description of each combination, and the applicable fee.

The Exchange recently identified that the descriptions for the LSN and LSQN Fee Code combinations are inaccurate. Each description incorrectly states that the execution involves removing non-displayed liquidity rather than displayed liquidity.[8] As described in the Fee Schedule Update, IEX uses a Fee Code of ''L'' to designate executions that provide or take resting interest with displayed priority, and a Fee Code of ''I'' to designate executions that provide or take resting interest with non-displayed priority.[9] Thus, Fee Code ''L'' is accurately defined in the Fee Schedule as relating to the adding or removing of displayed liquidity, and a Fee Code combination that includes ''L'' should reference displayed liquidity. Notwithstanding these errors, the table correctly specifies that both Fee Code combinations are free of charge.[10] This is because each includes Fee Code ''S'' pursuant to which a Member's order that executes against resting liquidity provided by the same Member is free of charge.[11] Thus, although the Fee Code descriptions for LSN and LSQN inaccurately state that they apply to removal of non-displayed interest, IEX has correctly billed all executions pursuant to each Fee Code combination.[12] In addition, Fee Code combinations ISN and ISQN apply to an execution in which a Member removes non-displayed liquidity provided with a spread-crossing eligible order or a Member removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order, respectively.

Accordingly, the Exchange proposes to correct the IEX Fee Schedule to reflect that Fee Codes LSN and LSQN apply to the removal of displayed liquidity, not non-displayed liquidity.

IEX notes, as suggested by the May 21, 2019 Staff Guidance on SRO Rule Filings Relating to Fees (''Guidance''),[13] that these proposed corrections to the descriptions of two Fee Codes do not involve any new or changed fees, because IEX will continue to charge Members no fee for executions that remove displayed liquidity from the same Member with a spread-crossing eligible order. Additionally, IEX is not proposing any new product, service, or fee change. While, the Guidance does not suggest that IEX provide an analysis of any impact this proposal will have on market participants, IEX notes that this proposed rule change will have no impact on market participants because it merely corrects descriptive text in the Fee Schedule.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [14] of the Act in general, and furthers the objectives of Section

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] *See* Securities Exchange Act Release No. 83582 (July 2, 2018) 83 FR 31828 (July 9, 2018) (SR–IEX–2018–11).

[8] The IEX Fee Schedule currently describes Fee Code LSN as ''Member removes non-displayed liquidity provided by such Member with a spread-crossing eligible order'' and Fee Code LSQN as ''Member removes non-displayed liquidity provided by such Member during periods of quote instability with a spread-crossing eligible order.''

[9] *See* Fee Schedule Update, Note 7, at 5.

[10] Under some circumstances, executions that receive the LSQN Fee Code combination are not free to the liquidity remover. Specifically, executions that include Fee Code ''Q'' are subject to footnote 1 of the Fee Schedule which specifies when the Crumbling Quote Remove Fee identified in the Fee Code Modifiers table applies.

[11] *Id.*

[12] Notably, other lines in the Fee Code Combinations and Associated Fees table correctly indicate that Fee Code combinations containing Fee Code ''L'' apply to the removal of displayed liquidity. *See, e.g.,* Fee Codes LS, LQ, LN, and LSQ.

[13] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019) available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees.*

[14] 15 U.S.C. 78f.

6(b)(5) of the Act [15] [sic] 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. The Exchange believes that it is consistent with the Act to correct the Fee Schedule so that the Fee Schedule is accurate, avoiding any potential confusion among Members. The Exchange further believes that the correction to the Fee Schedule is reasonable, equitable, and not unfairly discriminatory because all Members will be subject to the same fee structure.

As described in the Purpose section above, this proposed rule change does not change any fees charged by IEX, but rather corrects inaccurate descriptions of two Fee Code combinations. Thus, the proposed fee change will provide clarity to market participants regarding the meaning of Fee Codes LSN and LSQN, therefore making the Exchange's Fee Schedule clearer and more deterministic to the benefit of all market participants.

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 intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to correct an inadvertent error rather than a competitive issue.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [16] of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] 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–IEX–2019–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–IEX–2019–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–IEX–2019–06, and should be submitted on or before August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15635 Filed 7–22–19; 8:45 am]

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[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86406; File No. SR–NYSE–2019–20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change Amending Section 302 of the Listed Company Manual To Provide Exemptions for the Issuers of Certain Categories of Securities From the Obligation To Hold Annual Shareholders' Meetings

July 18, 2019.

I. Introduction

On May 6, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 302 of the NYSE Listed Company Manual (''Manual'') regarding the annual shareholder meeting requirement. The proposed rule change was published for comment in the **Federal Register** on May 23, 2019.[3] The Commission has received no comment letters on the proposal. On July 3, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposal

Section 302 of the Manual provides that listed companies are required to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 85889 (May 17, 2019), 84 FR 23815 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 86291 (July 3, 2019), 84 FR 32802 (July 9, 2019). The Commission designated August 21, 2019, as the date by which the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

hold an annual shareholders' meeting during each fiscal year. The Exchange has proposed to amend Section 302 of the Manual to provide that the annual meeting requirement does not apply to companies whose only securities listed on the Exchange are non-voting preferred and debt, passive business organizations (such as royalty trusts), or securities listed pursuant to Rules 5.2(j)(2) (Equity Linked notes), 5.2(j)(3) (Investment Company Units), 5.2(j)(4) (Index-Linked Exchangeable Notes), 5.2(j)(5) (Equity Gold Shares), 5.2(j)(6) (Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities), 8.100 (Portfolio Depositary Receipts), 8.200 (Trust Issued Receipts), 8.201 (Commodity-Based Trust Shares), 8.202 (Currency Trust Shares), 8.203 (Commodity Index Trust Shares), 8.204 (Commodity Futures Trust Shares), 8.300 (Partnership Units), 8.400 (Paired Trust Shares), 8.600 (Managed Fund Shares) and 8.700 (Managed Trust Securities). The Exchange also proposed to amend the rule text to make clear that, if an issuer also lists common stock (which the Commission notes can be either voting or non-voting common stock), or voting preferred stock, or their equivalent, such issuer must still hold an annual meeting for the holders of that common stock or voting preferred stock, or their equivalent.[6]

According to the Exchange, holders of non-voting preferred and debt securities, securities of passive business organizations (such as royalty trusts) and derivative and special purpose securities either do not have the right to elect directors at annual meetings or have the right to elect directors only in very limited circumstances.[7] For example, holders of non-voting preferred securities may have the right to temporarily elect directors if dividends on such securities have not been paid for a specified period of time.[8] The Exchange stated in its proposal that absent such special circumstances, in no event do holders of the securities listed above elect directors on an annual basis.[9] The Exchange further stated that despite the fact that there is no matter with respect to which holders of these securities have an annual voting right under state law or their governing documents, NYSE rules currently do not exclude the issuers of such securities from the requirement that they hold an annual meeting of shareholders.[10]

The Exchange further stated that shareholders of ETFs and derivative securities products listed on the Exchange receive regular disclosure documents describing the pricing mechanism for their securities and detailing how they can value their holdings.[11] In addition, the Exchange noted that the net asset value of the categories of ETFs and other derivative securities products listed above is determined by the market price of each fund's underlying securities or other reference asset.[12] The Exchange stated that it believes that there is less need for shareholders to engage management at an annual meeting because shareholders can value their investments on an ongoing basis.[13] The Exchange further stated that, while holders of such securities may have the right to vote in certain limited circumstances, they do not have the right to vote on the annual election of a board of directors, further eliminating the need for an annual meeting.[14]

The Exchange stated in its proposal that, notwithstanding the existence of an exemption from the Exchange's annual shareholder meeting requirement as proposed to be amended, issuers of listed securities will remain subject to any applicable state and federal securities laws with respect to the holding of annual meetings and any other types of shareholder meetings.[15] For example, the Exchange noted that ETFs are registered under, and remain subject to, the Investment Company Act of 1940 (''Investment Company Act''), which imposes various shareholder-voting requirements that may be applicable to such funds.[16] The Exchange further noted that any security listed under Section 703.19 of the Manual that has the attributes of common stock or voting preferred stock, or their equivalents, would still be subject to the Exchange's annual meeting requirements.[17]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[19] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the Exchange's proposal to exclude issuers of certain categories of securities from the obligation to hold annual shareholders' meetings is consistent with the Act. The Commission believes the right of shareholders to vote at an annual meeting is an essential and important one. The Commission, however, believes that the requirement to hold an annual shareholder meeting may not be necessary for certain issuers of specific types of securities because the holders of such securities do not directly participate as equity holders and vote in the annual election of directors or generally on the operations or policies of the listed company.

The Commission notes that NYSE's amended annual shareholder meeting requirement remains subject to any applicable state and federal securities laws that relate to such annual meetings. As a result, a company that lists one or more of the types of securities set forth in amended Section 302 of the Manual may still be required to hold annual shareholder meetings in accordance with such state and federal securities laws. In addition, the Commission notes that issuers of NYSE listed securities, including the types of securities set forth in amended Section 302 of the Manual, remain subject to state and federal securities laws that may require other types of shareholder meetings, such as special meetings of shareholders. For example, exchange traded funds, that are open-ended

[6] *See* NYSE Arca, Inc. Rule 5.3–E(e) and Rule IM–5620 of The Nasdaq Stock Market LLC.

[7] *See* Notice, *supra* note 3, at 23815.

[8] *See id.*

[9] *See id.*

[10] *See* Notice, *supra* note 3, at 23815–16.

[11] *See* Notice, *supra* note 3, at 23816.

[12] *See id.*

[13] *See id.*

[14] *See id.*

[15] *See id.*

[16] *See, e.g.,* Section 16 of the Investment Company Act, which requires, among other things, an investment company's initial board of directors to be elected by the shareholders at an annual or special meeting. 15 U.S.C. 80a–16(a).

[17] *See* Notice, *supra* note 3, at 23816.

[18] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

management investment companies, are registered under, and remain subject to, the Investment Company Act, which imposes various shareholder-voting requirements that may be applicable to such funds.[20]

The proposal also clarifies that the right not to hold an annual shareholder meeting, as set forth in amended Section 302 of the Manual, applies only with respect to the particular securities specified in amended Section 302. Thus, although the proposed rule change excludes a particular NYSE listed company from holding an annual shareholder meeting with respect to, and as a result of listing, the specific type of security specified in amended Section 302 of the Manual, if such company also lists other common stock or voting preferred stock, or their equivalent, such company must nevertheless hold an annual meeting for the holders of such securities during each fiscal year.[21]

The proposed changes to Section 302 of the Manual will also continue to require companies listing common stock to hold an annual meeting irrespective of whether the listed class of common stock is voting or non-voting stock. This is consistent with the rules of other national securities exchanges and will ensure that all common stock shareholders, whether holders of voting or non-voting common stock, have an opportunity at a shareholder meeting to engage with management to discuss company affairs as well as, if required by a listed company's governing documents, to elect directors.[22]

Given the limited rights and other interests of the holders of those securities specified in amended Section 302 of the Manual and the applicability of federal and state securities laws that govern shareholder meetings, the Commission believes that the proposed rule change reasonably sets forth the scope of the annual shareholder meeting requirement and will ensure that the appropriate NYSE listed companies are required to hold annual shareholder meetings under NYSE rules, for the benefit of investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–NYSE–2019–20), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15637 Filed 7–22–19; 8:45 am]

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[20] *See e.g.,* Section 16 of the Investment Company Act, which requires, among others, an investment company's initial board of directors to be elected by the shareholders at an annual or special meeting. 15 U.S.C. 80a–16(a). The Commission notes that closed-end management investment companies are still required to hold annual meetings under Section 302 of the Manual.

[21] The Commission notes, for example, that some of the companies issuing one of the enumerated listed securities excluded from the annual meeting requirement may also have their common stock listed on the NYSE and in that case would, as noted above, be subject to the annual meeting requirement in Section 302 of the Manual.

[22] *See* Securities Exchange Act Release Nos. 57268 (February 4, 2008), 73 FR 7614, 7616 (February 8, 2008) (SR–Amex–2006–31) and 53578 (March 30, 2006), 66 FR 17532, 17533 (April 6, 2006) (SR–NASD–2005–073).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86401; File No. SR–CBOE–2019–036]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Governing the Give Up of a Clearing Trading Permit Holder by a Trading Permit Holder on Exchange Transactions

July 17, 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 3, 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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its rules governing the give up of a Clearing Trading Permit Holder by a Trading Permit Holder on exchange transactions. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.21, which governs the give up of a Clearing Trading Permit Holder (''Clearing TPH'') by a Trading Permit Holder (''TPH'') on Exchange transactions.

Background

By way of background, Cboe Options Rule 6.21 provides that when a TPH executes a transaction on the Exchange, it must give up the name of the Clearing TPH (the ''Give Up'') through which the transaction will be cleared. Rule 6.21 also provides that a TPH may only give up a ''Designated Give Up'' or its ''Guarantor.'' This limitation is enforced by the Exchange's trading systems.

A ''Designated Give Up'' is currently defined as any Clearing TPH that a TPH (other than a Market-Maker[5]) identifies to the Exchange, in writing, as a Clearing TPH that the TPH would like to have the ability to give up. To designate a ''Designated Give Up'' a TPH must submit written notification, in a form and manner determined by the Exchange, to the Membership Services Department (''MSD''). Specifically, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] For purposes of this rule, references to ''Market-Maker'' shall refer to Trading Permit Holders acting in the capacity of a Market-Maker and shall include all Exchange Market-Maker capacities (*e.g.,* Designated Primary Market-Makers and Lead Market-Makers).

Exchange uses a standardized form (''Notification Form'') that a TPH needs to complete and submit to MSD. The Exchange notes that a TPH may currently designate any Clearing TPH as a Designated Give Up. Additionally, there is no minimum or maximum number of Designated Give Ups that a TPH must identify. Rule 6.21 also requires that the Exchange notify a Clearing TPH, in writing and as soon as practicable, of each TPH that has identified it as a Designated Give Up. The Exchange however, will not accept any instructions from a Clearing TPH to prohibit a TPH from designating the Clearing TPH as a Designated Give Up. Additionally, there is no subjective evaluation of a TPH's list of proposed Designated Give Ups by the Exchange.

Rule 6.21 also defines ''Guarantor''. For purposes of Rule 6.21, a ''Guarantor'' refers to a Clearing TPH that has issued a Letter of Guarantee or Letter of Authorization for the executing TPH under the Exchange Rules that is in effect at the time of the execution of the applicable trade.[6] An executing TPH may give up its Guarantor without having to first designate it to the Exchange as a ''Designated Give Up.''[7] Additionally, the Exchange notes that a Market-Maker is only enabled to give up the Guarantor of the Market-Maker pursuant to Cboe Options Rule 8.5 and also does not need to identify any Designated Give Ups.

Beginning in early 2018, certain Clearing TPHs (in conjunction with the Securities Industry and Financial Markets Association (''SIFMA'')) expressed concerns related to the process by which executing brokers on U.S. options exchanges (the ''Exchanges'') are allowed to designate or 'give up' a clearing firm for purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give-up process as a significant source of risk for clearing firms. SIFMA-affiliated Clearing Members subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.[8]

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing TPH to ''opt in'', at The Options Clearing Corporation (''OCC'') clearing number level, to a feature that, if enabled by the Clearing TPH, will allow the Clearing TPH to specify which TPH organizations are authorized to give up that OCC clearing number. As proposed, Rule 6.21, will continue to provide that for each transaction in which a TPH participates, the TPH must immediately give up the name of the Clearing Trading Permit Holder through which the transaction will be cleared (''give up''). Rule 6.21 will also continue to require that TPHs identify to the Exchange, via the Notification Form, all Clearing TPHs that the TPH would like to have the ability to give up (*i.e.,* Designated Give Ups). However, the Exchange proposes to also add to Rule 6.21(a) that Clearing TPHs may elect to ''Opt In,'' as defined in paragraph (c) of the proposed Rule and described further below, and restrict one or more of its OCC number(s) (''Restricted OCC Number''). A TPH may Give Up a Restricted OCC Number provided the TPH has written authorization as described in paragraph (c)(ii) (''Authorized TPH''). The Exchange notes that if a TPH identifies a particular Clearing TPH as a Designated Give Up, but that Clearing TPH has restricted its OCC number(s) and has not authorized the TPH to give it up, then the Exchange will not give effect to the designation on the Notification Form (*i.e.,* the TPH will not be able to give up that Clearing TPH even though it was identified as a Designated Give Up). Similarly, if a Clearing TPH authorizes a TPH to give up its Restricted OCC Number(s), the Exchange will not enable that Clearing TPH as a give up for that TPH until and unless the TPH identifies that Clearing TPH as a Designated Give Up on a Notification Form. In light of Clearing TPHs having the ability to restrict their OCC numbers from being given up by particular TPHs, the Exchange also proposes to eliminate the process for Clearing TPHs to ''reject'' trades. As such, the Exchange proposes to eliminate subparagraphs (e) and (f) of Rule 6.21 and any other references to the process in Rule 6.21.

Proposed Rule 6.21(c) provides that Clearing TPHs may request the Exchange restrict one or more of their OCC clearing numbers (''Opt In'') from being given up unless otherwise authorized. If a Clearing TPH Opts In, the Exchange will require written authorization from the Clearing TPH permitting a TPH to give up a Clearing TPH's Restricted OCC Number. An Opt In would remain in effect until the Clearing TPH terminates the Opt In as described in subparagraph (iii). If a Clearing TPH does not Opt In, that Clearing TPH's OCC number may be subject to being given up by any TPH that has designated it as a Designated Give Up. Proposed Rule 6.21(c)(i) will set forth the process by which a Clearing TPH may Opt In. Specifically, a Clearing TPH may Opt In by sending a completed ''Clearing TPH Restriction Form'' listing all Restricted OCC Numbers and Authorized TPHs.[9] A copy of the proposed form is included in Exhibit 3. A Clearing TPH may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC. The Clearing TPH would be required to submit the Clearing TPH Restriction Form to the Exchange's MSD as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System. This time period is to provide adequate time for the TPH users of that Restricted OCC Number who are not initially specified by the Clearing TPH as Authorized TPHs to obtain the required written authorization from the Clearing TPH for that Restricted OCC Number. Such member users would still be able to give up that Restricted OCC Number during this ninety day period (*i.e.,* until the number becomes restricted within the System).

Proposed Rule 6.21(c)(ii) will set forth the process for TPHs to give up a Clearing TPH's Restricted OCC Number. Specifically, a TPH desiring to give up a Restricted OCC Number must become an Authorized TPH. The Clearing TPH will be required to authorize a TPH as described in subparagraph (i) or (iii) of

[6] *See* Cboe Options Rule 3.28, Cboe Options Rule 6.72, and Cboe Options Rule 8.5.

[7] The Exchange already knows each TPH's Guarantor and as such, no further designation or identification is required of TPHs to enable their respective Guarantors.

[8] Nasdaq PHLX LLC (''Phlx'') recently modified its give up procedure to allow clearing members to ''opt in'' such that the clearing member may specify which Phlx member organizations are authorized to give up that clearing member. *See* Phlx Rule 1037. *See also* Securities and Exchange Act Release Nos. 84624 (November 19. 2018), 83 FR 60547 (Notice); 85136 (February 14, 2019), 84 FR 5526 (February 21, 2019) (SR–Phlx–2018–72) (Approval Order). NYSE Arca, Inc., (''Nyse Arca'') and NYSE American LLC (''NYSE American'') also recently submitted rule filings to modify their respective give up rules to adopt an ''opt in'' process. *See* SR–NYSEArca 2019–32 and SR–NYSEAMER–2019–17. The Exchange's proposal leads to the same result of providing its Clearing TPHs the ability to control risk and includes Phlx's, NYSE Arca's and NYSE American's ''opt in'' process, but it otherwise differs slightly in process from their give up rules. For example, the Exchange intends to maintain its provisions relating to Designated Give Ups and eliminate its provisions relating to the rejection of a trade.

[9] This form will be available on the Exchange's website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing TPH's contact information to assist TPH organizations (to the extent they are not already Authorized TPH Organizations) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its members of such updates on a periodic basis.

Rule 6.21(c) (*i.e.,* through a Clearing TPH Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the TPH is a party to, as set forth in Rule 6.21(b)(vi). Pursuant to proposed Rule 6.21(c)(iii), a Clearing TPH may amend the list of its Authorized TPHs or Restricted OCC Numbers by submitting a new Clearing TPH Restriction Form to the Exchange's MSD indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the System pursuant to Rule 6.21(c)(i), the Exchange may permit the Clearing TPH to authorize, or remove authorization for, a TPH to give up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify TPH organizations if they are no longer authorized to give up a Clearing TPH's Restricted OCC Number. If a Clearing TPH removes a Restricted OCC Number, any TPH may give up that OCC clearing number once the removal has become effective on or before the next business day, provided that Clearing TPH has been designated as a Designated Give Up.

The Exchange also proposes to amend current subparagraph (c) (System) (to be renumbered to subparagraph (d)) of Rule 6.21 to clarify that in addition to the Exchange's system not accepting orders that identify a give up that is not at the time a Designated Give Up or a Guarantor, the System will also reject any order that designates a Restricted OCC Number for which the Trading Permit Holder is not an Authorized TPH.

The Exchange proposes to amend current subparagraph (d) (Notice to Clearing Trading Permit Holders) (to be renumbered to subparagraph (e)) of Rule 6.21 to provide that the Exchange will provide notice to TPHs that they are authorized or unauthorized by Clearing TPHs.

The Exchange also proposes to adopt subparagraph (g) of Rule 6.21 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 4.1, titled ''Just and Equitable Principles of Trade''. This language will make clear that the Exchange will regulate an intentional misuse of this Rule, and that such behavior would be a violation of Exchange rules. The proposed language is similar to corresponding provisions in other exchanges' give-up rules.[10]

Lastly, the Exchange proposes to amend its current Trading Permit Holder Notification of Designated Give-Ups Form (''Designated Give-Ups Form''), effective October 7, 2019. The Exchange notes that it will be migrating its trading platform onto new technology on October 7, 2019. Following the technology migration, the Exchange and each of its affiliated options exchanges (*i.e.,* Cboe C2 Exchange, Inc., Cboe BZX Exchange, Inc. and Cboe BYX Exchange, Inc. (collectively, ''Cboe Markets'') will be on the same technology platform. To provide further harmonization across the Cboe Markets and provide more seamless administration of the Give-Up rule, the Exchange proposes to eliminate the current Designated Give Ups Form and adopt a new form which would be applicable to all Cboe Markets going forward.[11] The proposed Designated Give-Ups Form is included in Exhibit 3.

Implementation Date

The Exchange proposes to announce the implementation date of the proposed rule change in an Exchange Notice, to be published no later than thirty (30) days following the operative date. The implementation date will be no later than sixty (60) days following the operative date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [14] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Particularly, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits member organizations to identify any Clearing TPH as a Designated Give Up for purposes of clearing particular transactions, and have identified the current give up process (*i.e.,* a process that lacks authorization) as a significant source of risk for clearing firms. The Exchange believes that the proposed changes to Rule 6.21 help alleviate this risk by enabling Clearing TPHs to 'Opt In' to restrict one or more of its OCC clearing numbers (*i.e.,* Restricted OCC Numbers), and to specify which Authorized TPHs may give up those Restricted OCC Numbers. As described above, all other TPHs would be required to receive written authorization from the Clearing TPH before they can give up that Clearing TPH's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing TPHs as it provides controls for Clearing TPHs to restrict access to their OCC clearing numbers, allowing access only to those Authorized TPHs upon their request. The Exchange also believes that its proposed Clearing Trading Permit Holder Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing TPHs, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require TPHs (other than Authorized TPHs) to seek authorization from Clearing TPHs in order to have the ability to give them up, each TPH will still have the ability to give up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that TPH is party to that arrangement. The Exchange also notes that to the extent the executing TPH has a clearing arrangement with a Clearing TPH (*i.e.,* through a Letter of Guarantee), a trade can be assigned to the executing TPH's guarantor. Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing TPH would be responsible for a trade, which protects investors and the public interest.

[10] *See e.g.,* Phlx Rule 1037(e).

[11] The Exchange notes that it will not give effect to any instructions on the Designated Give-Ups Form for a particular Cboe Market until and unless such market files a rule change to adopt the new form. The Exchange anticipates filing copycat rule filings for each of its affiliated options exchange in the near future.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intramarket competition because it would apply equally to all similarly situated TPHs. The Exchange also notes that, should the proposed changes make the Exchange more attractive for trading, market participants trading on other exchanges can always elect to become TPHs on the Exchange to take advantage of the trading opportunities. Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to reduce risk for Clearing TPHs under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction. In the absence of a mechanism that governs a market participant's use of a Clearing TPH's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing TPH to manage their existing customer relationships while continuing to allow market participant choice in broker execution services. While Clearing TPHs may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing TPHs to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) [16] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2019–036 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–2019–036. 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–2019–036 and should be submitted on or before August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15559 Filed 7–22–19; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86398; File No. SR–ISE–2019–20]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 2 (Options Market Participants) and Options 3 (Options Trading Rules)

July 17, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 10, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 2 (Options Market Participants) and Options 3 (Options Trading Rules) relating to certain order types.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is amend Options 2 (Options Market Participants) and Options 3 (Options Trading Rules) relating to certain order types. Each change is described in more detail below.

Stopped Orders

The Exchange proposes to amend its rules to remove Stopped Orders as an order type. A Stopped Order is a limit order that meets the requirements of Options 5, Section 2(b)(8).[3] As provided in Options 5, Section 2(b)(8), a ''stopped order'' is defined as an order for which, at the time of receipt for the order, a Member had guaranteed an execution at no worse than a specified price, where: (i) The stopped order was for the account of a Customer; (ii) the Customer agreed to the specified price on an order-by-order basis; and (iii) the price of the Trade-Through was, for a stopped buy order, lower than the national Best Bid in the options series at the time of execution, or, for a stopped sell order, higher than the national Best Offer in the options series at the time of execution. To execute Stopped Orders, Members must enter them into the Facilitation Mechanism or Solicited Order Mechanism pursuant to Options 3, Section 11.[4]

Due to a lack of demand for Stopped Orders, the Exchange plans to decommission the functionality supporting this order type.[5] To reflect this elimination, the Exchange proposes to delete all references to Stopped Orders as follows:

- Options 2, Section 6(a), which currently allows Market Makers to enter all order types in the options classes to which they are appointed, except for Stopped Orders, Reserve Orders, and Customer Cross Orders.
- Options 3, Section 7(b)(5), which defines a Stopped Order.

The Exchange proposes to implement the amendments relating to Stopped Orders by November 1, 2019.

All-Or-None Orders

The Exchange also proposes to amend Options 3, Section 8 (Opening) to remove specific references to the manner in which All-Or-None Orders[6] (''AONs'') will be treated in the Exchange's opening process. The Exchange previously amended its rules to provide that an AON may only be entered into the System with a time-in-force designation of Immediate-Or-Cancel,[7] and deleted related rule text that described an AON as persisting in the Exchange's order book.[8] The Exchange, however, inadvertently did not remove such AON references from the opening rule in Options 3, Section 8. At the time the Exchange's opening process was adopted, AONs were not restricted and could trade as a limit or market order to be executed in its entirety or not at all.[9] With the amendments in SR–ISE–2017–03, an AON does not persist in the order book and is therefore treated the same as any other Immediate-or-Cancel Order. As such, the carve-outs specified in Section 8(b), (g) and (j)(6) are unnecessary since an All-or-None Order would execute immediately or cancel similar to other orders which trade in the same manner. The Exchange believes removing these references will eliminate confusion.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that removing Stopped Orders as an order type is consistent with the Act because it would simplify the functionality available on the Exchange and reduce the complexity of its order types. The Exchange's affiliated options markets, Nasdaq BX (''BX''), The Nasdaq Options Market (''NOM''), and Nasdaq PHLX (''Phlx'') do not offer stopped orders as an order type.

The Exchange also believes that it is consistent with the Act to remove unnecessary and confusing references to AONs in the opening rule set forth in Options 3, Section 8 as AONs will now immediately trade or cancel. The Exchange originally specified the manner in which AONs would trade in the opening because at the time the opening process was adopted, this order type traded differently as compared to other order types. That distinction has become unnecessary because AONs trade the same as other Immediate-or-Cancel Orders. Updating Options 3, Section 8 to remove an unnecessary and inaccurate distinction will protect investors and the public interest by clarifying the rule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The

[3] *See* Options 3, Section 7(b)(5). The current rule text erroneously refers to Options 1, Section 2(b)(8) instead of Options 5, Section 2(b)(8).

[4] Stopped orders were originally introduced on the Exchange as a Trade-Through exception under the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). *See* Securities Exchange Act Release No. 60559 (August 21, 2009), 74 FR 44425 (August 28, 2009) (SR–ISE–2009–27) (stating that customer stopped orders permit broker-dealers to execute large orders over time at a price agreed upon by a customer, even though the price of the option may change before the order is executed in its entirety). The Exchange subsequently amended its rules to implement the Trade-Through exception for stopped orders as an order type. *See* Securities Exchange Act Release No. 62027 (May 4, 2010), 75 FR 25897 (May 10, 2010) (SR–ISE–2010–28).

[5] No member has used this order type since the Exchange's previous trading system migrated over to Nasdaq INET technology in 2017.

[6] An All-Or-None Order is a limit or market order that is to be executed in its entirety or not at all. An All-Or-None Order may only be entered as an Immediate-or-Cancel Order. *See* Options 3, Section 7(c).

[7] An Immediate-Or-Cancel Order is a limit order that is to be executed in whole or in part upon receipt. Any portion not so executed is to be treated as cancelled. *See* Options 3, Section 7(b)(3).

[8] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03).

[9] *See* Securities Exchange Act Release No. 80225 (March 13, 2017), 82 FR 14243 (March 17, 2017) (SR–ISE–2017–02).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

proposed rule change would allow the Exchange to remove an order type that no Member uses today, and eliminate unnecessary and inaccurate references to AONs within its opening rule, thereby making clear the order types available for trading on the Exchange and reducing potential confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–ISE–2019–20 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–ISE–2019–20. 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–ISE–2019–20 and should be submitted on or before August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

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[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86400; File No. SR–CBOE–2019–035]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 6.49A Concerning Off-Floor Position Transfers Including RWA Transfers

July 17, 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 3, 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 Rule 6.49A. 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

The Exchange proposes to amend Rule 6.49A to delete the provisions related to amend the permissible reasons for and procedures related to off-floor position transfers and make other nonsubstantive changes. Rule 6.49A specifies the circumstances under which Trading Permit Holders may effect transfers of positions off the trading floor, notwithstanding the prohibition in Rule 6.49(a).[3]

Current Rule 6.49A(a) lists the circumstances in which Trading Permit Holders may transfer their positions off the floor. The circumstances currently listed include: (1) The dissolution of a joint account in which the remaining Trading Permit Holder assumes the positions of the joint account; (2) the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions; (3) positions transferred as part of a Trading Permit Holder's capital contribution to a new joint account, partnership, or corporation; (4) the donation of positions to a not-for-profit corporation; (5) the transfer of positions to a minor under the Uniform Gifts to Minor law; and (6i) a merger or acquisition where continuity of ownership or management results.[4]

The Exchange proposes to add clarifying language to the first sentence of Rule 6.49A(a) to state that existing positions in options listed on the Exchange of a Trading Permit Holder or of a Non-Trading Permit Holder that are to be transferred on, from, or to the books of a Clearing Trading Permit Holder (''CTPH'') may be transferred off the Exchange (an ''off-floor transfer'') if the off-floor transfer involves one of the events listed in the Rule.[5] The proposed rule change clarifies that Rule 6.49A does not apply to products other than options listed on the Exchange, consistent with the Exchange's other trading rules.[6] It also clarifies that a Trading Permit Holder or CTPH must be on at least one side of the transfer. The proposed rule change also clarifies that transferred positions must be on, from, or to the books of a CTPH. This language is consistent with how off-floor transfers are currently effected. The proposed rule change also clarifies that existing positions of a Trading Permit Holder or a non-Trading Permit Holder may be subject to an off-floor transfer, except under specified circumstances in which a transfer may only be effected for positions of a Trading Permit Holder may.[7]

The Exchange notes off-floor transfers of positions in Exchange-listed options may also be subject to applicable laws, rules, and regulations, including rules of other self-regulatory organizations.[8] Except as explicitly provided in the proposed rule text, the proposed rule change is not intended to exempt off-floor position transfers from any other applicable rules or regulations, and proposed paragraph (h) makes this clear in the rule.

The proposed rule change adds four events where an off-floor transfer would be permitted to occur.

- Proposed subparagraph (a)(1) permits an off-floor transfer to occur if it, pursuant to Rule 4.6 or 4.22, is an adjustment or transfer in connection with the correction of a bona fide error in the recording of a transaction or the transferring of a position to another account, provided that the original trade documentation confirms the error. This proposed rule change codifies previous, long-standing Exchange guidance regarding what off-floor transfers are permissible and will permit transactions to be properly recorded in the originally intended accounts.[9]
- Proposed subparagraph (a)(2) permits an off-floor transfer if it is a transfer of positions from one account to another account where there is no change in ownership involved (*i.e.,* the accounts are for the same Person [10]), provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements.[11] The proposed rule change provides market participants with flexibility to maintain positions in accounts used for the same trading purpose in a manner consistent with their businesses. Such transfers are not intended to be transactions among different market participants, as there would be no change in ownership permitted under the provision, and would also not permit transfers among different trading units for which accounts are otherwise required to be maintained separately.[12]
- Proposed subparagraph (a)(3) similarly permits an off-floor transfer if it is a consolidation of accounts [13] where no change in ownership is involved. This proposed rule change is similar to rules of other options exchanges.[14]
- Proposed subparagraph (a)(10) permits an off-floor transfer if it is a transfer of positions through operation of law from death, bankruptcy, or otherwise.[15] This provision is consistent with applicable laws, rules, and regulations that legally require transfers in certain circumstances. This proposed rule change is consistent with the purposes of other circumstances in the current rule, such as the transfer of positions to a minor or dissolution of a corporation.

The Exchange believes these proposed events have similar purposes as those in the current rule, which is to permit market participants to move positions from one account to another and to permit transfers upon the occurrence of significant, non-recurring events.[16] As noted above, the proposed rule change is consistent with current Exchange guidance or rules of other self-regulatory organizations.

The proposed rule change renumbers current subparagraphs (a)(1) through (5) to be proposed subparagraphs (a)(5) through (9) and moves current subparagraph (a)(6) to proposed

[3] Paragraph (a) of Rule 6.49 (Transactions Off the Exchange) generally requires transactions of option contracts listed on the Exchange for a premium in excess of $1.00 to be effected on the floor of the Exchange or on another exchange.

[4] The Exchange notes that other options exchanges have adopted off-floor position transfer procedures based on, and substantially similar to, the Exchange's procedure in Rule 6.49A(a)(1). *See, e.g.,* Nasdaq OMX PHLX LLC (''Phlx'') Rule 1058; and NYSE Arca, Inc. (''Arca'') Rule 6.78–O(d).

[5] It is possible for positions transfers to occur between two Non-Trading Permit Holders. For example, one Non-Trading Permit Holder may transfer positions on the books of a CTPH to another Non-Trading Permit Holder pursuant to the proposed rule.

[6] Proposed paragraph (h) also clarifies that the off-floor transfer procedure only applies to positions in options listed on the Exchange, and that transfers of non-Exchange-listed options and other financial instruments are not governed by Rule 6.49A.

[7] *See* proposed subparagraphs (a)(5) and (7).

[8] *See* proposed paragraph (h).

[9] *See* Cboe Options Regulatory Circular RG03–62 (July 24, 2003). Note Rule 4.22 was not referenced in that circular, as it did not exist at that time. However, it contains similar language regarding corrections of errors as Rule 4.6, and therefore the Exchange believes it is appropriate to include in the proposed rule change. The proposed rule change is also similar to Cboe Futures Exchange, LLC (''CFE'') Rule 420(a)(i).

[10] Rule 1.1 defines ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof.

[11] The proposed rule change is similar to CFE Rule 420(a)(ii).

[12] Various rules (for example, Regulation SHO in certain circumstances) require accounts to be maintained separately, and the proposed rule change is consistent with those rules.

[13] This refers to the consolidation of entire accounts (*e.g.,* combining two separate accounts (including the positions in each account into a single account)).

[14] *See, e.g.,* Phlx Rule 1058(a)(7); and Arca Rule 6.78–O(d)(1)(vii).

[15] The proposed rule change is similar to CFE Rule 420(a)(iii).

[16] *See* proposed paragraph (g).

subparagraph (a)(4), with nonsubstantive changes. These permissible circumstances for off-floor transfers are consistent with the rules of other options exchanges.[17]

Proposed paragraph (b) codifies Exchange guidance regarding certain restrictions on permissible off-floor transfers related to netting of open positions and to margin and haircut treatment. Proposed paragraph (b) states, unless otherwise permitted by Rule 6.49A, when effecting an off-floor transfer pursuant to paragraph (a), no position may net against another position (''netting''), and no position transfer may result in preferential margin or haircut treatment.[18] Netting occurs when long positions and short positions in the same series ''offset'' against each other, leaving no or a reduced position. For example, if a Trading Permit Holder wanted to transfer 100 long calls to another account that contained short calls of the same options series as well as other positions, even if the transfer is permitted pursuant to one of the 10 permissible events listed in the Rule, the Trading Permit Holder could not transfer the offsetting series, as they would net against each other and close the positions.

However, the Exchange notes that a Market Maker's utilization of a Clearing Corporation Universal Market-Maker Subaccount would not be viewed as netting. A ''Universal Market-Maker Subaccount'' is an automated services provided by the Clearing Corporation whereby the Clearing Corporation directs transactions into a ''universal'' market maker subaccount for a designated market maker or designated group of market makers that trade across multiple options exchanges. This service was created by the Clearing Corporation to assist market making firms that may have employees (or units) that trade across multiple exchanges, with each exchange identifying such employees (or units) with a different acronym(s). The Clearing Corporation's Universal Market Maker Subaccount service ensures that all trades entered into by a market-making firm are automatically directed to a specific subaccount of its clearing firm at the Clearing Corporation for position and margin processing purposes.[19] Under this process, positions cleared into a Universal Market Maker Subaccount would automatically net against each other. Universal Market Maker Subaccounts are generally used because options exchanges traditionally utilized different naming conventions with respect to Market-Maker account acronyms (for example, lettering versus numbering and number of characters), which are used for accounts at the Clearing Corporation. A Market-Maker may have a nominee with an appointment in class XYZ on Cboe Options, and have another nominee with an appointment in class XYZ on Phlx, but due to account acronym naming conventions, those nominees may need to clear their transactions into separate accounts (one for Cboe Options transactions and another for Phlx transactions) at the Clearing Corporation if it did not utilize a Universal Market Maker Subaccount (in which account the positions may net). The proposed rule change would not view the use of a Universal Market Maker Subaccount in this circumstance as netting that would not be permitted.[20]

Proposed paragraph (c) states the transfer price, to the extent it is consistent with applicable laws, rules, and regulations, including rules of other self-regulatory organizations, and tax and accounting rules and regulations, at which an off-floor transfer is effected may be:

(1) The original trade prices of the positions that appear on the books of the trading CTPH, in which case the records of the transfer must indicate the original trade dates for the positions;[21] provided, transfers to correct errors bona fide errors pursuant to proposed subparagraph (a)(1) must be transferred at the correct original trade prices;

(2) mark-to-market prices of the positions at the close of trading on the transfer date;

(3) mark-to-market prices of the positions at the close of trading on the trade date prior to the transfer date;[22] or

(4) the then-current market price of the positions at the time the off-floor transfer is effected.[23]

This proposed rule change provides market participants that effect off-floor transactions with flexibility to select a transfer price based on the circumstances of the transfer and their business. However, for corrections of bona fide errors, because those transfers are necessary to correct processing errors that occurred at the time of transaction, those transfers would occur at the original transaction price, as the purpose of the transfer is to create the originally intended result of the transaction.

Proposed paragraph (d) requires a Trading Permit Holder and its CTPH (to the extent that the Trading Permit Holder is not self-clearing) to submit to the Exchange, in a manner determined by the Exchange, written notice prior to effecting an off-floor transfer from or to the account of a Trading Permit Holder(s).[24] The notice must indicate:

- The Exchange-listed options positions to be transferred;
- the nature of the transaction;
- the enumerated provision(s) under proposed paragraph (a) pursuant to which the positions are being transferred;
- the name of the counterparty(ies);
- the anticipated transfer date;
- the method for determined the transfer price; and
- any other information requested by the Exchange.

The proposed notice will ensure the Exchange is aware of all off-floor transfers so that it can monitor and review them (including the records that must be retained pursuant to proposed paragraph (e)) to determine whether they are effected in accordance with the Rules. Additionally, requiring notice from the Trading Permit Holder(s) and its CTPH(s) will ensure both parties are in agreement with respect to the terms of the off-floor transfer. The proposed rule change is similar to rules of other

[17] *See, e.g.,* Phlx Rule 1058(a)(1) through (6); and Arca Rule 6.78–O(d)(1)(i) through (vi).

[18] *See* Cboe Options Regulatory Circular RG03–62 (July 24, 2003). For example, positions may not transfer from a customer, joint back office, or firm account to a Market-Maker account. However, positions may transfer from a Market-Maker account to a customer, joint back office, or firm account (assuming no netting of positions occurs).

[19] *See, e.g.,* Securities Exchange Act Release 73577 (November 12, 2014) (SR–OCC–2014–20); *see also* Cboe Options Regulatory Circular RG03–62 (July 24, 2003) (which discusses the Clearing Corporation's automated process prior to it being formally titled the ''Universal Market Maker Subaccount'' program).

[20] Additionally, if a Market-Maker makes an internal book-entry to reflect a ''transfer'' of positions within the same account (for example, if a Market-Maker attributes positions within a single account to specific individual traders for its own records, and makes another internal book-entry to ''transfer'' the positions attributed to one individual to another within the same account, but does not transfer the positions out of the account), the Exchange does not view this as a transfer prohibited by Rule 6.49 or Rule 6.49A. The Exchange notes that, with these book-entry transfers, there can be no netting of positions within the same account.

[21] Phlx Rule 1058(c) requires position transfers to occur at the same prices that appear on the books of the transferring member.

[22] For example, for a transfer that occurs on a Tuesday, the transfer price may be based on the closing market price on Monday.

[23] The proposed rule change is similar to CFE Rule 420(c).

[24] This notice provision applies only to transfers involving a Trading Permit Holder's positions and not to positions of Non-Trading Permit Holder parties, as they are not subject to the Rules. In addition, no notice would be required to effect off-floor transfers to correct bona fide errors pursuant to proposed subparagraph (a)(1).

options exchanges.[25] As noted in proposed subparagraph (d)(2), receipt of notice of an off-floor transfer does not constitute a determination by the Exchange that the off-floor transfer was effected or reported in conformity with the requirements of Rule 6.49A. Notwithstanding submission of written notice to the Exchange, Trading Permit Holders and CTPHs that effect off-floor transfers that do not conform to the requirements of Rule 6.49A will be subject to appropriate disciplinary action in accordance with the Rules.

Similarly, proposed paragraph (e) requires each Trading Permit Holder and each CTPH that is a party to an off-floor transfer must make and retain records of the information provided in the written notice to the Exchange pursuant to proposed subparagraph (d)(1), as well as information on the actual Exchange-listed options that are ultimately transferred, the actual transfer date, and the actual transfer price (and the original trade dates, if applicable), and any other information the Exchange may request the Trading Permit Holder or CTPH provide. The proposed rule change is similar to rules of other options exchanges.[26]

The proposed rule change moves current paragraph (d) regarding other exemptions to proposed paragraph (f). The exemptions permitted by this paragraph are those approved by the Exchange's president or a designee. The proposed rule change changes the term Transferor to Trading Permit Holder or CTPH, as a Trading Permit Holder's or CTPH's positions will be involved in any off-floor transfer (as set forth in proposed paragraph (a)).

Proposed paragraph (i) is intended to facilitate the reduction of risk-weighted assets attributable to open options positions and make other conforming changes. SEC Rule 15c3–1 (Net Capital Requirements for Brokers or Dealers) (''Net Capital Rules'') requires registered broker-dealers, unless otherwise excepted, to maintain certain specified minimum levels of capital.[27] The Net Capital Rules are designed to protect securities customers, counterparties, and creditors by requiring that broker-dealers have sufficient liquid resources on hand, at all times, to meet their financial obligations. Notably, hedged positions, including offsetting futures and options contract positions, result in certain net capital requirement reductions under the Net Capital Rules.[28]

Subject to certain exceptions, CTPHs [29] are subject to the Net Capital Rules.[30] However, a subset of CTPHs are subsidiaries of U.S. bank holding companies, which, due to their affiliations with their parent U.S.-bank holding companies, must comply with additional bank regulatory capital requirements pursuant to rulemaking required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.[31] Pursuant to this mandate, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation have approved a regulatory capital framework for subsidiaries of U.S. bank holding company clearing firms.[32] Generally, these rules, among other things, impose higher minimum capital and higher asset risk weights than were previously mandated for CTPHs that are subsidiaries of U.S. bank holding companies under the Net Capital Rules. Furthermore, the new rules do not fully permit deductions for hedged securities or offsetting options positions.[33] Rather, capital charges under these standards are, in large part, based on the aggregate notional value of short positions regardless of offsets. As a result, in general, CTPHs that are subsidiaries of U.S. bank holding companies must hold substantially more bank regulatory capital than would otherwise be required under the Net Capital Rules.

The Exchange believes these higher regulatory capital requirements may impact liquidity in the listed options market by limiting the amount of capital CTPHs can allocate to their clients' transactions. Specifically, the rules may cause CTPHs to impose stricter position limits on their client clearing members. These stricter position limits may impact the liquidity market participants may provide, including liquidity Market-Makers may provide in their appointed classes. This impact may be compounded when a CTPH has multiple client accounts, each having largely risk-neutral portfolio holdings.[34] The Exchange believes that permitting market participants to efficiently transfer existing options positions through an off-floor transfer process may assist CTPHs and TPHs to address bank regulatory capital requirements and would likely have a beneficial effect on continued liquidity in the options market without adversely affecting market quality.

Liquidity in the listed options market is critically important. However, bank capital regulations that govern bank-affiliated clearing firms are negatively impacting the ability of Trading Permit Holders, including Market-Makers, that clear options transactions through bank-affiliated clearing firms to provide liquidity. In order to mitigate the potential negative effects of these additional bank regulatory capital requirements, the proposed rule change provides market participants with an efficient mechanism to transfer their open options positions from one clearing account to another clearing account. The Exchange believes the proposed rule change will increase liquidity in the listed options market and promote more efficient capital deployment in light of bank regulatory capital requirements.

The Exchange has previously adopted Rules 6.56 and 6.57 to provide Trading Permit Holders with tools to reduce risk-weighted assets attributable to their open positions in S&P 500 options (''SPX options''). However, the procedures in those rules involve transactions that must occur on the Exchange's trading floor to close open positions. Therefore, a market participant must find a counterparty and be willing to close positions to use

[25] *See, e.g.,* Phlx Rule 1058(b) and (c); and Arca Rule 6.78–O(d)(2).

[26] *See, e.g.,* Phlx Rule 1058(c); and Arca Rule 6.78–O(c).

[27] 17 CFR 240.15c3–1.

[28] In addition, the Net Capital Rules permit various offsets under which a percentage of an option position's gain at any one valuation point is allowed to offset another position's loss at the same valuation point (*e.g.,* vertical spreads).

[29] All CTPHs must also be clearing members of The Options Clearing Corporation (''OCC'').

[30] Assuming the Commission approves the proposed rule change, in the event federal regulators modify bank capital requirements in the future, the Exchange will reevaluate the proposed rule change at that time to determine whether any corresponding changes to the proposed rule are appropriate.

[31] H.R. 4173 (amending section 3(a) of the Securities Exchange Act of 1934 (the ''Act'') (15 U.S.C. 78c(a))).

[32] 12 CFR 50; 79 FR 61440 (Liquidity Coverage Ratio: Liquidity Risk Measurement Standards).

[33] Many options strategies, including relatively simple strategies often used by retail customers and more sophisticated strategies used by broker-dealers, are risk-limited strategies or options spread strategies that employ offsets or hedges to achieve certain investment outcomes. Such strategies typically involve the purchase and sale of multiple options (and may be coupled with purchases or sales of the underlying securities), executed simultaneously as part of the same strategy. In many cases, the potential market exposure of these strategies is limited and defined. While regulatory capital requirements have historically reflected the risk-limited nature of carrying offsetting positions, these positions may now be subject to higher regulatory capital requirements.

[34] A number of TPHs, including Market-Makers, have informed the Exchange that the heightened bank regulatory requirements could impact their ability to provide consistent liquidity in the market unless they are able to efficiently transfer their open positions out of clearing accounts of U.S.-bank affiliated clearing firms.

either of these tools. As a result, these procedures are less efficient, less flexible, and more burdensome means to reduce risk-weighted assets attributable to open options positions than an off-floor transfer of such positions. Additionally, these tools are currently limited to SPX options, due to the large notional size of those options, which compounds the negative impact of bank capital requirements, and Rule 6.57 is limited to Market-Makers (Rule 6.56 is available to all Trading Permit Holders). However, bank capital requirements apply to positions in all listed options, and may impact all client clearing members of clearing firms affiliated with U.S.-bank holding companies, and clearing firms may request that Market-Makers and non-Market-Makers reduce positions in listed options in addition to SPX. There is currently no mechanism firms may use to transfer positions between clearing accounts without having to effect a transaction with another party and close a position.

Rule 6.49A(a), currently and as proposed, permits positions to be transferred off the floor of the Exchange in specified limited circumstances, including a transfer of positions from one account to another account where no change in ownership is involved, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements.[35] If a Trading Permit Holder wanted to transfer open positions from a clearing account it has with one a bank-affiliated clearing firm to a clearing account it has with a non-bank-affiliated clearing firm, for example, such a transfer would result in no change in ownership. However, paragraph (g) restricts transfers pursuant to that provision to non-routine, non-recurring movements of positions, and does not permit use of the off-floor transfer procedure to be used repeatedly or routinely in circumvention of the normal auction market process. To comply with clearing firms' position limits they may impose on market participants' because they need to limit capital they may allocate for those market participants' transactions, market participants may need to regularly reduce open positions or limit additional positions in their accounts with such clearing firms' to accommodate bank capital requirements. Rule 6.49A does not permit regular transfers of positions between accounts at different clearing firms.

Proposed Rule 6.49A(i) is intended to provide market participants with an additional tool they may use to address the issues raised by bank capital requirements for positions in all listed options in an efficient manner that provides market participants with flexibility to do so in accordance with their businesses and risk management practices. Proposed paragraph (i) provides that notwithstanding paragraphs (a), (b) (which prohibits off-floor position transfers to result in netting), and (g) (which prohibits recurring, regular transfers), existing positions in options listed on the Exchange of a Trading Permit Holder or non-Trading Permit Holder (including an affiliate of a Trading Permit Holder) may be transferred on, from, or to the books of a CTPH off the Exchange if the transfer establishes a net reduction of risk-weighted assets attributable to those options positions (an ''RWA Transfer'').[36] The proposed rule adds examples of two transfers that would be deemed to establish a net reduction of risk-weighted assets, and thus qualify as a permissible RWA Transfer:

- A transfer of options positions from Clearing Corporation member A to Clearing Corporation member B that net (offset) with positions held at Clearing Corporation member B, and thus closes all or part of those positions (as demonstrated in the example below);[37] and
- A transfer of options positions from a bank-affiliated Clearing Corporation member to a non-bank-affiliated Clearing Corporation member.[38]

These transfers will not result in a change in ownership, as they must occur between accounts of the same Person.[39] Rule 1.1 defines ''Person'' as an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof. In other words, RWA transfers may only occur between the same individual or legal entity. These are merely transfers from one clearing account to another, both of which are attributable to the same individual or legal entity. A market participant effecting an RWA Transfer is analogous to an individual transferring funds from a checking account to a savings account, or from an account at one bank to an account at another bank—the money still belongs to the same person, who is just holding it in a different account for personal financial reasons.

For example, Market-Maker A clears transactions on the Exchange into an account it has with CTPH X, which is affiliated with a U.S-bank holding company. Market-Maker A opens a clearing account with CTPH Y, which is not affiliated with a U.S.-bank holding company. CTPH X has informed Market-Maker A that its open positions may not exceed a certain amount at the end of a calendar month, or it will be subject to restrictions on new positions it may open the following month. On August 28, Market-Maker A reviews the open positions in its CTPH X clearing account and determines it must reduce its open positions to satisfy CTPH X's requirements by the end of August. It determines that transferring out 1000 short calls in class ABC will sufficiently reduce the risk-weighted asset capital requirements in the account with CTPH X to avoid additional position limits in September. Market-Maker A wants to retain the positions in accordance with its risk profile. Pursuant to the proposed rule change, on August 31, Market-Maker A transfers 1000 short calls in class ABC to its clearing account with CTPH Y. As a result, Market-Maker A can continue to provide the same level of liquidity in class ABC during September as it did in previous months.

A Trading Permit Holder must give up a CTPH for each transaction it effects on the Exchange, which identifies the CTPH through which the transaction will clear.[40] A Trading Permit Holder may change the give up for a transaction within a specified period of time.[41] Additionally, a Trading Permit Holder may also change the CMTA[42] for a specific transaction.[43] The transfer of positions from an account with one clearing firm to the account of another clearing firm pursuant to the proposed rule change has a similar result as changing a give up or CMTA, as it results in a position that resulted from a transaction moving from the account of one clearing firm to another, just at

[35] Rule 6.49A(a)(2).

[36] The proposed rule change makes conforming changes to paragraph (g).

[37] This transfer would establish a net reduction of risk-weighted assets attributable to the transferring Person, because there would be fewer open positions and thus fewer assets subject to Net Capital Rules.

[38] This transfer would establish a net reduction of risk-weighted assets attributable to the transferring Person, because the non-bank-affiliated Clearing Corporation member would not be subject to Net Capital Rules, as described above.

[39] *See* proposed Rule 6.49A(b)(3)(D).

[40] *See* Rule 6.21.

[41] *See* Rule 6.21(f).

[42] The Clearing Member Trade Assignment (''CMTA'') process at the Options Clearing Corporation (''OCC'') facilitates the transfer of option trades/positions from one OCC clearing member to another in an automated fashion. Changing a CMTA for a specific transaction would allocate the trade to a different OCC clearing member than the one initially identified on the trade.

[43] *See* Rule 6.67(a).

a different time and in a different manner.[44] In the above example, if Market-Maker A had initially given up CTPH Y rather than CTPH X on the transactions that resulted in the 1000 long calls in class ABC, or had changed the give-up or CMTA to CTPH Y pursuant to Rules 6.21 or 6.67, the ultimate result would have been the same. There are a variety of reasons why firms give up or CMTA transactions to certain clearing firms (and not to non-bank affiliate clearing firms) at the time of a transaction, and the proposed rule change provides firms with a mechanism to achieve the same result at a later time.

The proposed rule change states RWA Transfers may occur on a routine, recurring basis.[45] As noted in the example above, clearing firms may impose restrictions on the amount of open positions. Permitting transfers on a routine, recurring basis will provide market participants with the flexibility to comply with these restrictions when necessary to avoid position limits on future options activity.[46] Additionally, the proposed rule change provides no prior written notice pursuant to paragraph (d) is required for RWA Transfers. Because of the potential routine basis on which RWA Transfers may occur, and because of the need for flexibility to comply with the restrictions described above, the Exchange believes it may interfere with the ability of investors firms to comply with any CTPH restrictions describe above, and may be burdensome to provide notice for these routine transfers.[47]

The proposed rule change states RWA Transfers may result in the netting of positions.[48] Netting is generally prohibited for off-floor transfers.[49] Netting occurs when long positions and short positions in the same series ''offset'' against each other, leaving no or a reduced position. For example, if there were 100 long calls in one account, and 100 short calls of the same option series were added to that account, the positions would offset, leaving no open positions. As discussed above, the proposed rule change adds another exception to this prohibition in Rule 6.49A, which permits off-floor transfers on behalf of a Market-Maker account for transactions in multiply listed options series on different exchanges, but only if the Market-Maker nominees are trading for the same Trading Permit Holder organization, and the options transactions on the different options exchanges clear into separate exchange-specific accounts because they cannot easily clear into the same Market-Maker account at OCC. In such instances, all Market-Maker positions in the exchange-specific accounts for the multiply listed class would be automatically transferred on their trade date into one central Market-Maker account (commonly referred to as a ''universal account'') at the Clearing Corporation.[50] Positions cleared into a universal account would automatically net against each other.

While RWA Transfers are not occurring because of limitations related to trading on different exchanges, similar reasoning for the above exception applies to why netting should be permissible for the limited purpose of reducing risk-weighted assets. Firms may maintain different clearing accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. If a Market-Maker clears all transactions into a universal account, offsetting positions would automatically net. However, if a Market-Maker has multiple accounts into which its transactions cleared, they would not automatically net. While there are times when a firm may not want to close out open positions to reduce risk-weighted assets, there are other times when a firm may determine it is appropriate to close out positions to accomplish a reduction in risk-weighted assets.

In the example above, suppose after making the RWA Transfer described above, Market-Maker A effects a transaction on September 25 that results in 1000 long calls in class ABC, which clears into its account with CTPH X. If Market-Maker A had not effected its RWA Transfer in August, the 1000 long calls would have offset against the 1000 short calls, eliminating both positions and thus any risk-weighted asset capital requirements associated with them. At the end of August, Market-Maker A did not want to close out the 1000 short calls when it made its RWA Transfer. However, given changed circumstances in September, Market-Maker A has determined it no longer wants to hold those positions. The proposed rule change would permit Market-Maker A to effect an RWA Transfer of the 1000 short calls from its account with CTPH Y to its account with CTPH X (or vice versa), which results in elimination of those positions (and a reduction in risk-weighted assets associated with them). As noted above, such netting would have occurred if Market-Maker A cleared the September transaction directly into its account with CTPH Y, or had not effected an RWA Transfer in August. Netting provides market participants with appropriate flexibility to conduct their businesses as they see fit while having the ability to reduce risk-weighted asset capital requirements when necessary.[51]

As is true for all other off-floor transfers that are or will be permitted under proposed Rule 6.49A, RWA Transfers may not result in preferential margin or haircut treatment.[52] Additionally, RWA Transfers may only be effected for options listed on the Exchange and will be subject to applicable laws, rules, and regulations, including rules of other self-regulatory organizations (including OCC).[53] RWA Transfers will also be subject to the other requirements in Rule 6.49A, including the permitted transfer prices in proposed paragraph (c), and the notice and record requirements in proposed paragraphs (d) and (e).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[54] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[55] 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,

[44] The transferred positions will continue to be subject to OCC rules, as they will continue to be held in an account of an OCC member.

[45] *See* proposed Rule 6.49A(b)(3)(A).

[46] The proposed rule change adds to proposed paragraph (g) that proposed paragraph (i) is an exception to the prohibition on regular, recurring off-floor transfers.

[47] The proposed rule change adds to proposed paragraph (d) that proposed paragraph (i) is an exception to the requirement to provide prior written notice.

[48] *See* proposed Rule 6.49A(b)(3)(B).

[49] *See* proposed Rule 6.49A(b)(1).

[50] *Id.*

[51] The proposed rule change adds to paragraph (b) that proposed (i) is an exception to the prohibition on netting. Proposed (i) makes clear that RWA Transfers, like all other permissible off-floor position transfers, may not result in preferential margin or haircut treatment.

[52] *See* proposed Rule 6.49A(i)(C) and current Rule 6.49A(b)(1). For example, positions may not transfer from a customer, joint back office, or firm account to a Market-Maker account. However, positions may transfer from a Market-Maker account to a customer, joint back office, or firm account.

[53] *See* Rule 6.49A(h). Transfers of non-Exchange listed options and other financial instruments are not governed by Rule 6.49A currently or as proposed to be amended.

[54] 15 U.S.C. 78f(b).

[55] 15 U.S.C. 78f(b)(5).

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) [56] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that permitting the off-floor transfers in very limited circumstances such as where there is no change in beneficial ownership, to contribute to a non-profit corporation, to transfer to a minor or a transfer by operation of law is reasonable to allow a TPH to accomplish certain goals efficiently. The rule permits off-floor transfers in situations involving dissolutions of entities or accounts, for purposes of donations, mergers or by operation of law. For example, a TPH that is undergoing a structural change and a one-time movement of positions may require a transfer of positions or a TPH that is leaving a firm that will no longer be in business may require a transfer of positions to another firm. Also, a TPH may require a transfer of positions to make a capital contribution. The above-referenced circumstances are non-recurring situations where the transferor continues to maintain some ownership interest or manage the positions transferred. By contrast, repeated or routine off-floor transfers between entities or accounts—even if there is no change in beneficial ownership as a result of the transfer—is inconsistent with the purposes for which Rule 6.49A was adopted. Accordingly, the Exchange believes that such activity should not be permitted under the rules and thus, seeks to adopt language in proposed paragraph (e) to Rule 6.49A that the transfer of positions procedures set forth in Rule 6.49A are intended to facilitate non-recurring movements of positions.

The Exchange believes the proposed rule change to permit RWA Transfers will remove impediments to and perfect the mechanism of a free and open market and a national market system by potentially mitigating the effects bank capital requirements may have on liquidity in the listed options market. As described above, bank capital requirements may impact capital available for options market liquidity providers, for example due to CTPHs' imposition of stricter position limits on firms that clear options transactions with them. The Exchange believes providing market participants with an efficient process to reduce risk-weighted asset capital requirements attributable to open positions in clearing accounts with U.S. bank-affiliated clearing firms may contribute to additional liquidity in the listed options market, which, in general, protects investors and the public interest.

The proposed rule change, in particular the proposed changes to permit RWA transfers to occur on a routine, recurring basis and result in netting, also provides market participants with sufficient flexibility to reduce risk-weighted asset capital requirements at times necessary to comply with requirements imposed on them by clearing firms. This will permit market participants respond to then-current market conditions, including volatility and increased volume, by reducing the risk-weighted asset capital requirements associated with any new positions they may open while those conditions exist. Given the additional capital that may become available to market participants as a result of the RWA Transfers, market participants will be able to continue to provide liquidity to the market, even during periods of increased volume and volatility, which liquidity ultimately benefits investors. It is not possible for market participants to predict what market conditions will exist at a specific time, and when volatility will occur. The proposed rule change to permit routine, recurring RWA Transfers (and to not provide prior written notice) will provide market participants with the ability to respond to these conditions whenever they occur. Additionally, since firms may be subject to restrictions on positions imposed by their clearing firms, permitting transfers on a routine, recurring basis will provide market participants with the flexibility to comply with these restrictions when necessary to avoid position limits on future options activity. In addition, with respect to netting, as discussed above, firms may maintain different clearing accounts for a variety of reasons, such as the structure of their businesses, the manner in which they trade, their risk management procedures, and for capital purposes. Netting may otherwise occur with respect to a firm's positions if it structured its clearing accounts differently, such as by using a universal account. Therefore, the proposed rule change will permit netting while allowing firms to continue to maintain different clearing accounts in a manner consistent with their businesses.

The Exchange recognizes the numerous benefits of executing options transactions occur on an exchanges, including price transparency, potential price improvement, and a clearing guarantee. However, the Exchange believes it is appropriate to permit RWA Transfers to occur off the exchange, as these benefits are inapplicable to RWA Transfers. RWA Transfers have a narrow scope and are intended to achieve a limited, benefit purpose. RWA Transfers are not intended to be a competitive trading tool. There is no need for price discovery or improvement, as the purpose of the transfer is to reduce risk-weighted asset capital requirements attributable to a market participants' positions. Unlike trades on an exchange, the price at which an RWA Transfers occurs is immaterial—the resulting reduction in risk-weighted assets is the critical part of the transfer. RWA Transfers will result in no change in ownership, and thus they do not constitute trades with a counterparty (and thus eliminating the need for a counterparty guarantee). The transactions that resulted in the open positions to be transferred as an RWA Transfer were already guaranteed by an OCC clearing member, and the positions will continue to be subject to OCC rules, as they will continue to be held in an account with an OCC clearing member. The narrow scope of the proposed rule change and the limited, beneficial purpose of RWA Transfers make allowing RWA Transfers to occur off the floor appropriate and important to support the provision of liquidity in the listed options market.

The proposed rule change does not unfairly discriminate against market participants, as all Trading Permit Holders and non-Trading Permit Holders with open positions in options listed on the Exchange may use the proposed off-floor transfer process to reduce the risk-weighted asset capital requirements of CTPHs.

The Exchange believes the proposed rule change benefits investors, as it adds transparency to the Rules by codifying certain long-standing guidance regarding what types of off-floor transfers are permissible. The purpose of the additional circumstances in which market participants may conduct off-floor transfers is consistent with the purpose of the circumstances currently permitted in Rule 6.49A. Therefore, the proposed rule change will provide market participants that experience these limited, non-recurring events with an efficient and effective means to transfer positions in these situations. It also permits presidential exemptions when they are necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and are in the public interest. The

[56] *Id.*

Exchange believes the proposed rule change regarding permissible transfer prices provides market participants with flexibility to determine the price appropriate for their business, which maintain cost bases in accordance with normal accounting practices and removes impediments to a free and open market.

The proposed rule change requiring notice and maintenance of records will ensure the Exchange is able to review off-floor transfers for compliance with the Rules, which prevents fraudulent and manipulative acts and practices. The requirement to retain records is consistent with the requirements of Rule 17a–3 and 17a–4 under the Act.

As discussed above, the proposed rule change is similar to rules of other options exchanges, and thus further removes impediments to and perfects the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the amended off-floor transfer procedure will apply to all Trading Permit Holders in the same manner. Use of the off-floor transfer procedure is voluntary, and all Trading Permit Holders may use the procedure to transfer position off the floor as long as the criteria in the proposed rule are satisfied. Market participants will still be able to effect transactions on the Exchange pursuant to the normal auction process if an off-floor transfer is not permissible.

The proposed rule change also provides market participants that experience the limited permissible, non-recurring events with an efficient and effective means to transfer positions in these situations. The Exchange believes the proposed rule change regarding permissible transfer prices provides market participants with flexibility to determine the price appropriate for their business, which determine prices in accordance with normal accounting practices and removes impediments to a free and open market. The Exchange does not believe the proposed notice and record requirements are unduly burdensome to market participants, as they are similar to requirements in the rules of other options exchanges, as discussed above. The Exchange believes these are reasonable requirements that will ensure the Exchange is aware of all off-floor transfers so that it can monitor and review them to determine whether they are effected in accordance with the Rules.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. The proposed off-floor position transfer procedure is not intended to be a competitive trading tool. The Exchange does not believe the proposed changes to the off-floor position transfer procedure are material, as they codify certain longstanding guidance and clarify the procedure. This procedure is of limited application during unique circumstances. Additionally, as discussed above, the proposed rule change in part is similar to rules of other options exchanges. The Exchange believes having similar rules related to off-floor transfer positions to those of other options exchanges will reduce the administrative burden on market participants of determining whether their off-floor transfers comply with multiple sets of rules.

The purpose of the proposed rule change to permit RWA Transfers is to alleviate the negative impact of bank capital requirements on options market liquidity providers. This process is not intended to be a competitive trading tool. Use of the proposed process is voluntary, and all Trading Permit Holders and non-Trading Permit Holders with open positions in options listed on the Exchange may use the proposed off-floor transfer process to reduce the risk-weighted asset capital requirements attributable to those positions. RWA Transfers have a limited purpose, which is to reduce risk-weighted assets attributable to open positions in listed options in order to free up capital. Cboe Options believes the proposed rule change may relieve the burden on liquidity providers in the options market by reducing the risk-weighted assets attributable to their open positions. As a result, market participants may be able to increase liquidity they provide to the market, which liquidity benefits all market participants.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2019–035 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–2019–035. 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–2019–035 and should be submitted on or before August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15561 Filed 7–22–19; 8:45 am]

BILLING CODE 8011–01–P

[57] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, July 25, 2019 at 9:00 a.m. (ET).

PLACE: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will begin at 9:00 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 8:30 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's website at *www.sec.gov*.

MATTERS TO BE CONSIDERED: On July 3, 2019, the Commission issued notice of the Committee meeting (Release No. 33–10658), indicating that the meeting is open to the public (except during that portion of the meeting reserved for an administrative work session during lunch), and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: Welcome remarks; a discussion regarding regulation in areas with limited completion, a discussion regarding trends in investment research (which may include a recommendation from the Market Structure subcommittee); a discussion regarding the proxy process (which may include a recommendation from the Investor as Owner subcommittee); a presentation on the work of the Office of the Advocate for Small Business Capital Formation; a presentation on the work of the Office of Minority and Women Inclusion; subcommittee reports; and a nonpublic administrative work session during lunch.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: July 18, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–15674 Filed 7–19–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86399; File No. SR–NASDAQ–2019–054]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Generic Listing Standards for Fixed Income Securities Included in the Portfolio of a Series of Managed Fund Shares

July 17, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 3, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rule 5735(b)(1)(B)(v) relating to generic listing standards applicable to fixed income securities included in the portfolio of a series of Managed Fund Shares listed on the Exchange.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Nasdaq Rule 5735(b)(1), which sets forth generic listing standards for the listing and trading of Managed Fund Shares.[3] Nasdaq Rule 5735(b)(1)(B) sets forth generic listing standards applicable to fixed income securities included in the portfolio of a series of Managed Fund Shares listed on the Exchange.[4] Nasdaq Rule 5735(b)(1)(B)(v) provides that non-agency, non-GSE and privately-issued mortgage related and other asset-backed securities (''ABS'' and, collectively, ''non-agency ABS'') components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. Nasdaq proposes to amend Nasdaq Rule 5735(b)(1)(B)(v) by deleting the words ''fixed income portion'' to provide that such 20% limitation would apply to the entire portfolio rather than to only the fixed income portion of the

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end management investment company that issues Index Fund Shares that may be listed and traded on the Exchange under Nasdaq Rule 5705(b) seeks to provide investment results that correspond generally to the performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[4] Nasdaq Rule 5735(b)(1)(B) provides that fixed income securities are debt securities that are notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper.

portfolio. Thus, Nasdaq Rule 5735(b)(1)(B)(v) would provide that non-agency, non-GSE and privately-issued mortgage related and other ABS components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the portfolio.

Nasdaq believes this amendment is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. The Exchange notes that application of the 20% limitation only to the fixed income portion of a fund's portfolio may impose a much more restrictive percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. For example, a fund holding 100% of its assets in fixed income securities can hold 20% of its entire portfolio's weight in non-agency ABS. In contrast, a fund holding 25% of its assets in fixed income securities, 25% in U.S Component Stocks, and 50% in cash and cash equivalents is limited to a 5% (25% * 20% = 5%) allocation to non-agency ABS. Nasdaq, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for Managed Fund Shares issuers with different investment objectives and holdings.

The Commission has previously approved a proposed rule change by NYSE Arca, Inc. that is substantively identical to the amendment to Nasdaq Rule 5735(b)(1)(B)(v) proposed herein.[5] Therefore, Nasdaq believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Nasdaq Rule 5735(b)(1)(B)(v) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Nasdaq Rule 5735(b)(1)(B).

Nasdaq believes the proposed amendments would provide issuers of Managed Fund Shares with additional investment choices for fund portfolios for funds permitted to list and trade on the Exchange pursuant to Rule 19b–4(e), which would enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange notes that Nasdaq or FINRA, on behalf of Nasdaq, or both, would communicate as needed regarding trading in Managed Fund Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and Nasdaq or FINRA, on behalf of Nasdaq, or both, could obtain trading information regarding trading in Managed Fund Shares from such markets and other entities. In addition, Nasdaq could obtain information regarding trading in Managed Fund Shares from markets and other entities that are members of ISG or with which Nasdaq has in place a comprehensive surveillance sharing agreement.

Nasdaq believes that the proposed amendment to Nasdaq Rule 5735(b)(1)(B)(v) is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. As noted above, application of the 20% limitation to only the fixed income portion of a fund's portfolio may impose a much lower percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. Nasdaq, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for issuers of Managed Fund Shares with different investment objectives and holdings.

The Exchange notes that the Commission has previously approved a rule change by NYSE Arca, Inc. that is substantively identical to the amendment to Nasdaq Rule 5735(b)(1)(B)(v) proposed herein.[8] Therefore, Nasdaq believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Nasdaq Rule 5735(b)(1)(B)(v) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Nasdaq Rule 5735(b)(1)(B).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would permit Exchange listing and trading under 19b–4(e) of additional types of Managed Fund Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has

[5] *See* Securities Exchange Act Release No. 86017 (June 3, 2019), 84 FR 26711 (June 7, 2019) (SR–NYSEArca–2019–06) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Certain Generic Listing Standards for Managed Fund Shares Applicable to Holdings of Fixed Income Securities).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See supra* note 5.

become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange states its belief that the proposed rule change does not raise any novel regulatory issues, noting that the Commission approved a substantively identical proposed rule change by NYSE Arca, Inc.[13] For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2019–054 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–054. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–054 and should be submitted on or before August 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–15560 Filed 7–22–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See supra* note 5.

[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16041 and #16042; OKLAHOMA Disaster Number OK–00132]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–4438–DR), dated 07/16/2019.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 05/07/2019 through 06/09/2019.

DATES: Issued on 07/16/2019.

Physical Loan Application Deadline Date: 09/16/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 04/16/2020.

ADDRESSES: Submit completed loan applications to: U.S Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/16/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adair, Alfalfa, Beaver, Beckham, Blaine, Canadian, Cherokee, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Grady, Grant, Greer, Harper, Jackson, Kingfisher, Le Flore, Lincoln, Logan, Mayes, Muskogee, Nowata, Okfuskee, Osage, Pawnee, Payne, Pittsburg, Pottawatomie, Pushmataha, Roger Mills, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Washita, Woods.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750

	Percent
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16041B and for economic injury is 160420.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–15586 Filed 7–22–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16031 and #16032; Missouri Disaster Number MO–00097]

Presidential Declaration Amendment of a Major Disaster for the State of Missouri

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Missouri (FEMA–4451–DR), dated 07/09/2019.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/29/2019 through 07/05/2019.

DATES: Issued on 07/15/2019.

Physical Loan Application Deadline Date: 09/09/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 04/09/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Missouri, dated 07/09/2019, is hereby amended to establish the incident period for this disaster as beginning 04/29/2019 and continuing through 07/05/2019.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–15585 Filed 7–22–19; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2019–26]

Petition for Exemption; Summary of Petition Received; Leading Edge Associates, Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 12, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0275 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 683–7788, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 13, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0275.

Petitioner: Leading Edge Associates, Inc.

Section(s) of 14 CFR Affected: §§ 91.7(a); 91.119(c); 91.121; 91.151(b); 91.405(a); 91.407(a)(1); 91.409(a)(1) & (2); 91.417(a) & (b); 137.19(c), (d), (e)(2)(ii), (e)(2)(iii) & (e)(2)(v); 137.31; 137.33; 137.41(c); 137.42.

Description of Relief Sought: The proposed exemption, if granted, would allow the petitioner to operate the PrecisionVision 35 unmanned aircraft system (UAS), with a maximum takeoff gross weight of 79 pounds (lbs.), during day and night operational times, beyond visual line of sight and simultaneously operate two PrecisionVision UAS with one operator. All proposed operations will be conducted over sparsely populated areas, multiple UAS weighing over 55 lbs. but no more than 150 lbs., for aerial agricultural operations in remote operating environments.

[FR Doc. 2019–15651 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. FAA–2019–22]

Petition for Exemption; Summary of Petition Received; NetJets Aviation, Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 12, 2019.

ADDRESSES: Send comments identified by docket number FAA–2013–0221 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brenda Robeson (202) 267–4712, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 17, 2019.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2013–0221.

Petitioner: The Boeing Company.

Section(s) of 14 CFR Affected: §§ 61.75(d)(2) and 61.117.

Description of Relief Sought: The Boeing Company (Boeing) requests a renewal to Exemption No. 10871D, which provides relief from the requirements of 14 CFR 61.75(d)(2) and 61.117 for pilots obtaining an FAA Private Pilot certificate based on a foreign license. In addition, Boeing requests revisions to Exemption 10871D to align the exemption with Boeing's operations. Specifically, Boeing is requesting Exemption No. 10871D be modified to (1) Expand the definition of what non-crewmember supernumeraries may be carried on flights, (2) Remove the requirement for a Market Surveys—Experimental Special Airworthiness Certificate, (3) Expand the definition of what types of foreign pilots are eligible to use the exemption, and enable exempted customer pilots to obtain training credit with their Foreign Civil Aviation Authority for elements of customer sales demonstration flights that meet their training requirements.

[FR Doc. 2019–15652 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0278]

Agency Information Collection Activities; New Information Collection: Crime Prevention for Truckers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Motor Carrier Safety Administration (FMCSA) announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. This request, titled ''Crime Prevention for Truckers,'' will allow for a study to understand the prevalence, seriousness, and nature of the problem of harassment and assaults against minority and female truckers.

DATES: We must receive your comments on or before September 23, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0278 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You

can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Jeff Loftus, Division Chief, Technology Division, Department of Transportation, FMCSA, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–385–2363; email: *jeff.loftus@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background: FMCSA has accumulated evidence, both documentary and anecdotal, for a serious pattern of harassment- and assault-related crimes against female and minority male truckers. For example, *Security Journal,* in a 2006 article titled ''Workplace Violence against Female Long-haul Truckers,'' reported that 42 percent of female long-haul truckers reported experiencing one or more types of workplace violence. *USA Today,* in a 2017 article titled ''Rigged,'' gave accounts of repeated harassment of minority male truckers. Currently, FMCSA does not provide materials or training to truckers, including minority and female truckers, on how to protect themselves from being stalked, harassed, assaulted, or robbed. Before effective solutions for preventing or reducing these crimes against female and minority truckers can be developed and implemented, FMCSA must understand the prevalence, seriousness, and nature of the problem of harassment and assaults against truckers. Currently, there is insufficient data. The frequency and number of harassment- and assault-related crimes occurring, the portion that are unreported, and reasons for underreporting are unknown.

The purpose of this research study is to gather information to answer these questions, to understand how serious the problem is, and to report it to FMCSA so the Agency can decide on further options for evaluation and action. FMCSA needs to explore and validate the problem of harassment- and assault-related crimes, especially against female and minority male truckers for two reasons. First, there seems to be a perception among these subpopulations of truckers that they are more vulnerable than others. Second, there is a critical shortage of truckers, and helping these subpopulations of truckers protect themselves from crimes could draw more truckers from these subpopulations, while stemming turnover, to alleviate the shortage.

FMCSA has contracted with Battelle to create and execute a survey of truck drivers to gather this information. This exploratory survey will be limited in scale and scope. Quantitative and qualitative analysis of the data will help the Agency to understand the nature and extent of the problem and begin to formulate an approach to reducing it. The results will not be used for rulemaking.

The survey of professional truck drivers will be limited to female and minority male drivers. The survey will ask whether the drivers have experienced race- or gender-related harassment or crimes on the job. If the driver has had such an experience, the survey will ask follow-up questions on where and when the incidents occurred, any information the respondent knows about the perpetrator, and whether the respondent reported the incident. The survey will be anonymous. None of the questions ask for information that could personally identify the respondent or any perpetrators involved. Some respondents will take the survey online, and others will take it in the form of an in-person interview. Identical questions will be asked of all drivers, but answers from males and females will be analyzed separately.

A maximum of 440 males and 440 females will be included in the information collection. The information will be collected through a combination of an online survey and in-person interviews. Approximately 160 in-person interviews will be completed, 80 females and 80 minority males. The balance will take the survey electronically. Some individuals may be eligible to participate in the survey but will not have had any recent experience of harassment or assault. These individuals will be included in the final results for calculation of prevalence. The total number of respondents targeted for those who experienced some sort of harassment or assault will be 400 in each group. If 400 targeted individuals are reached before the overall cap of 440 respondents, data collection will be stopped for that group. Individuals who are screened but fail to qualify as females and minority males, or with other criteria such as not being active drivers, will not be included in the interview counts, though a tabulation of the number of such contacts and reason for their disqualification will be reported to better understand resource needs and burden in future data collection efforts of this type. A $25 incentive will be given to eligible respondents to the in-person interview or the online survey. For respondents to be eligible and to receive the incentive, they must report that they are a female or a minority male who has driven a truck professionally in the past 2 years and complete the survey—at least through the initial questions of what events, if any, they have experienced.

Battelle statisticians experienced in surveys and in analyzing data for FMCSA will execute the data analysis plan. Findings will be presented in a report that will be made available on the Agency's website so that interested stakeholders and the general public will be aware of the findings. Battelle is required to deliver a public-use dataset at the conclusion of the project. By understanding the nature and prevalence of crimes against truckers, FMCSA will be able to formulate and promote programs to address the problem. The report may be useful to law enforcement personnel, motor carriers, truck drivers, operators of private truck stops, and others interested in addressing the situation.

If study findings indicate a significant problem that merits action, FMCSA may consider developing training or outreach materials to help truckers protect themselves from crime or harassment. Such training or outreach materials could help foster motor carriers' employee retention efforts and help make the truck driving profession more attractive to a greater range of people.

Title: Crime Prevention for Truckers.

OMB Control Number: 2126–00XX.

Type of Request: New collection.

Respondents: Female and minority male truck drivers.

Estimated Number of Respondents: Maximum of 880 truck drivers [80 respondents reporting no incidents of harassment or crime + 800 respondents reporting one or more incidents of harassment or crime].

Estimated Time per Response: Varies. [8 minutes for respondents not reporting incidents of harassment or crime; 20 minutes for respondents reporting an incident of harassment or crime].

Expiration Date: This is a new ICR.

Frequency of Response: Once.

Estimated Total Annual Burden: 277.3 hours [80 respondents reporting no incidents × (8 minutes ÷ 60 minutes per hour) + 800 respondents reporting one or more incidents × (20 minutes ÷ 60 minutes per hour)].

Public Comments Invited: FMCSA invites comments on any aspect of this

information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: July 17, 2019.

Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2019–15609 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0114]

Request for Comments of a Previously Approved Information Collection

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 21, 2019.

DATES: Comments must be submitted on or before August 22, 2019.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Russell Krause, Division of Sealift Operations and Emergency Response, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE, W26–494, Washington, DC 20590, 202–366–1031.

SUPPLEMENTARY INFORMATION:

Title: Effective U.S. Control (EUSC)/Parent Company.

OMB Control Number: 2133–0511.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: The Effective U.S. Control (EUSC) Parent Company collection consists of an inventory of foreign registered vessels owned by U.S. citizens. Specifically, the collection consists of responses from vessel owners verifying or correcting vessel ownership data and characteristics found in commercial publications. The information obtained could be vital in a national or international emergency, and is essential to the logistical support planning operations conducted by MARAD officials. The information is used in contingency planning and provides data related to potential sealift capacity to support movement of fuel and military equipment to crisis zones.

Respondents: U.S. citizens who own foreign-registered vessels.

Affected Public: Business or other for profit.

Total Estimated Number of Responses: 60.

Frequency of Collection: Annually.

Estimated time per Respondent: 0.5 minutes.

Total Estimated Number of Annual Burden Hours: 30.

Public Comments Invited: Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

* * * * *

Dated: July 18, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–15592 Filed 7–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On July 18, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. AL-KILDANI, Rayan (a.k.a. AL-KALDANI, Rayyan; a.k.a. DODI, Rian Salim Sadeq; a.k.a. KALDANI, Rayan), Palestine Street, DIST 505 ST 60 H 19, Baghdad, Iraq; DOB 03 Sep 1989; POB Baghdad, Iraq; nationality Iraq; Gender Male; National ID No. 00365298 (Iraq) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13818 (E.O. 13818) of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,'' for being a foreign person who is responsible for or complicit in, or has directly or indirectly engaged in, serious human rights abuse.

2. QADO, Waad (a.k.a. EL KADDU, Waad; a.k.a. ''Abu Jaffar al-Shabaki''), Iraq; DOB 12 Dec 1971; alt. DOB 01 Jan 1971; POB Mosul, Iraq; nationality Iraq; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 for being a foreign person who is or has been a leader or official of an entity, the 30th Brigade, that has

engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

3. AL-SULTAN, Nawfal Hammadi (a.k.a. AL-AKOUB, Nawfal; a.k.a. SULTAN, Nawfal Hamadi), Iraq; DOB 23 Feb 1964; nationality Iraq; Gender Male; National ID No. 71719043 (Iraq) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

4. AL-JUBOURI, Ahmad Abdullah (a.k.a. ABED, Ahmed Abdullah; a.k.a. AL-JUBOURI, Ahmed; a.k.a. KHALAF, Ahmed Abdullah Abid; a.k.a. ''Abu Mazen''; a.k.a. ''Abu Mazin''), Iraq; DOB 01 Jul 1967; POB Baghdad, Iraq; nationality Iraq; Gender Male; Passport D1017310 (Iraq) expires 14 Apr 2025; National ID No. 00318953 (Iraq) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

Dated: July 18, 2019.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2019–15594 Filed 7–22–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Per Diem to States for Care of Eligible Veterans in State Homes

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 23, 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–NEW'' 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: Per Diem to States for Care of Eligible Veterans in State Homes (VA Forms 10–0143, 10–0143A, 10–0144, 10–0144A, 10–0460, and 10–3567).

OMB Control Number: 2900–NEW.

Type of Review: Reinstatement of previously approved collection as a new collection.

Abstract: This collection of forms was part of a previously approved collection under OMB Control Number 2900–0160. However, it has been determined that these six forms will be separated from the other three forms in 2900–0160, and renewal is requested under a new OMB Control Number.

Title 38 CFR part 51 State Veterans Homes (SVH) regulations published in the **Federal Register** as final rule on November 28, 2018 (RIN 2900–A088) require the VA to ensure per diem payments are limited to facilities providing high quality care. These six forms are presented to and completed by SVH management and then assessed and utilized by VA SVH Representatives designated by the Medical Center Director of VA of jurisdiction during the annual VA survey process at each SVH across the U.S. as a regulatory action. This collection of forms falls under the auspices of Geriatrics and Extended Care in VA Central Office (10NC4). As per VHA Directive 1145.01, this collection of forms is part of the annual VA survey process. The legal requirements that necessitate this collection of information are found specifically at 38 CFR parts 51.31, 51.43, and 51.210 for all three levels of care; nursing home, domiciliary, and adult day health care.

The information required at time of the VA survey includes the application and justification for medications for a basic rate Veteran; records and reports that SVH management must maintain regarding activities of residents or participants; information relating to whether the SVH meets standards concerning residents' rights and responsibilities prior to admission or enrollment, during admission or enrollment, and upon discharge; the records and reports which SVH management and SVH health care professionals must maintain regarding residents or participants and employees; various types of documents pertaining to the management of the SVH; pharmaceutical records; and staffing documentation.

a. VA Form 10–0143—38 CFR 51.210(c)(9)—is used for the annual certification pursuant to the Drug-Free Workplace Act of 1988.

b. VA Form 10–0143A—38 CFR 51.210(c)(8)—is used for annual certification from the responsible State Agency showing compliance with Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112).

c. VA Form 10–0144—38 CFR 51.210(c)(10)—is used for annual certification regarding lobbying, in compliance with Public Law 101–121.

d. VA Form 10–0144A—38 CFR 51.210(c)(11)—is used for annual certification of compliance with Title VI of the Civil Rights Act of 1964, as incorporated in Title 38 CFR 18.1–18.3.

e. VA Form 10–0460—38 CFR 51.43—As a condition for receiving drugs or medicine under this section or under § 17.96 of this chapter, the State must

submit to the VA medical center of jurisdiction a completed VA Form 10–0460 with the corresponding prescription(s) for each eligible Veteran.

f. VA Form 10–3567—38 CFR 51.31—is completed by SVH management during the annual VA survey and used to record and then assess the following: operating beds versus recognized beds, total FTEE authorized and vacancies, as well as resident census.

VA Form 10–0143

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 13 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 156.

VA Form 10–0143A

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 13 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 156.

VA Form 10–0144

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 13 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 156.

VA Form 10–0144A

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 13 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 156.

VA Form 10–0460

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 5,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 11,000.

VA Form 10–3567

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 78 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 156.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

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DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Women Veterans will meet on August 7–9, 2019, at the VA Central Office.

Date	Location
August 7, 2019 ...	810 Vermont Avenue NW, Room C–7, Washington, DC.
August 8, 2019 ...	810 Vermont Avenue NW, Room C–7, Washington, DC.
August 9, 2019 ...	810 Vermont Avenue NW, G.V. Sonny Montgomery Conference Room 230, Washington, DC.

The meetings will begin at 8:30 a.m. and end 12:00 p.m. each day. The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, and Staff Offices, as well as briefings on other issues impacting women Veterans.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton, VA Center for Women Veterans (00W), 810 Vermont Avenue NW, Washington, DC 20420, or email at *00W@mail.va.gov,* or fax to (202) 273–7092. Any member of the public who wishes to attend the meeting or wants additional information should contact Ms. Middleton at (202) 461–6193.

Dated: July 18, 2019.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

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Part II

Commodity Futures Trading Commission

17 CFR Parts 3, 39 et al.

Exemption From Derivatives Clearing Organization Registration; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 39 and 140

RIN 3038–AE65

Exemption From Derivatives Clearing Organization Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In August 2018, the Commodity Futures Trading Commission (Commission) proposed regulations that would codify the policies and procedures that the Commission is currently following with respect to granting exemptions from registration as a derivatives clearing organization (registered DCO) (2018 Proposal). The Commission is issuing this supplemental notice of proposed rulemaking to further propose to permit DCOs that are exempt from registration (exempt DCOs) to clear swaps for U.S. customers under certain circumstances. To facilitate this, the Commission also is proposing to allow persons located outside of the United States to accept funds from U.S. persons to margin swaps cleared at an exempt DCO, without registering as futures commission merchants (FCMs). In addition, the Commission is proposing certain amendments to the delegation provisions in part 140 of its regulations.

DATES: Comments must be received on or before September 23, 2019.

ADDRESSES: You may submit comments, identified by ''Exemption From Derivatives Clearing Organization Registration'' and RIN number 3038–AE65, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.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 (FOIA), 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 *https://comments.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 rulemaking 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 FOIA.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Deputy Director, 202–418–5096, *edonovan@cftc.gov;* Parisa Abadi, Associate Director, 202–418–6620, *pabadi@cftc.gov;* Eileen R. Chotiner, Senior Compliance Analyst, 202–418–5467, *echotiner@cftc.gov;* Brian Baum, Special Counsel, 202–418–5654, *bbaum@cftc.gov;* August A. Imholtz III, Special Counsel, 202–418–5140, *aimholtz@cftc.gov;* Abigail S. Knauff, Special Counsel, 202–418–5123, *aknauff@cftc.gov;* Division of Clearing and Risk; Thomas J. Smith, Deputy Director, 202–418–5495, *tsmith@cftc.gov;* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

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I. Background

Section 5b(a) of the Commodity Exchange Act (CEA) provides that a clearing organization may not ''perform the functions of a [registered DCO]'' [2] with respect to swaps unless the clearing organization is registered with the Commission.[3] However, the CEA also permits the Commission to conditionally or unconditionally exempt a clearing organization from registration for the clearing of swaps if the Commission determines that the clearing organization is subject to ''comparable, comprehensive supervision and regulation'' by its home country regulator.[4] To date, the Commission has exempted four clearing organizations organized outside of the United States (hereinafter referred to as ''non-U.S. clearing organizations'') from DCO registration for the clearing of

[1] 17 CFR 145.9. Commission regulations referred to in this release are found at 17 CFR chapter I (2018), and are accessible on the Commission's website at *https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm.*

[2] The term ''derivatives clearing organization'' is statutorily defined to mean a clearing organization in general. However, for purposes of the discussion in this release, the term ''registered DCO'' refers to a Commission-registered DCO, the term ''exempt DCO'' refers to a derivatives clearing organization that is exempt from registration, and the term ''clearing organization'' refers to a clearing organization that: (a) is neither registered nor exempt from registration with the Commission as a DCO; and (b) falls within the definition of ''derivatives clearing organization'' under section 1a(15) of the CEA, 7 U.S.C. 1a(15), and ''clearing organization or derivatives clearing organization'' under § 1.3 of the Commission's regulations, 17 CFR 1.3.

[3] 7 U.S.C. 7a–1(a). Under section 2(i) of the CEA, 7 U.S.C. 2(i), activities outside of the United States are not subject to the swap provisions of the CEA, including any rules prescribed or regulations promulgated thereunder, unless those activities either have a direct and significant connection with activities in, or effect on, commerce of the United States, or contravene any rule or regulation established to prevent evasion of a CEA provision enacted under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (Dodd-Frank Act). Therefore, pursuant to section 2(i), the DCO registration requirement extends to any clearing organization whose clearing activities outside of the United States have a direct and significant connection with activities in, or effect on, commerce of the United States.

[4] Section 5b(h) of the CEA, 7 U.S.C. 7a–1(h). Section 5b(h) also permits the Commission to exempt from DCO registration a securities clearing agency registered with the Securities and Exchange Commission; however, the Commission has not granted, nor developed a framework for granting, such exemptions. The Commission has construed ''comparable, comprehensive supervision and regulation'' to mean that the home country's supervisory and regulatory framework should be consistent with, and achieve the same outcome as, the statutory and regulatory requirements applicable to registered DCOs. Further, the Commission has deemed a supervisory and regulatory framework that conforms to the Principles for Financial Market Infrastructures to be comparable to, and as comprehensive as, the supervisory and regulatory requirements applicable to registered DCOs. For further background, *see* 2018 Proposal, 83 FR at 39924.

proprietary swaps for U.S. persons and FCMs.[5]

In the 2018 Proposal,[6] the Commission proposed regulations that would codify the policies and procedures that the Commission currently follows with respect to granting exemptions from DCO registration.[7] The Commission has reviewed the comments received on the 2018 Proposal[8] and is proposing these supplemental regulations in light of those comments.[9] Most significantly, the Commission is now proposing to permit exempt DCOs to clear swaps for U.S. customers[10] under certain circumstances.[11]

Specifically, the Commission is proposing to permit U.S. customers to clear at an exempt DCO only through a foreign intermediary and not through an FCM. As discussed below, the Commission is not currently proposing to permit an FCM to clear U.S. customer positions at an exempt DCO (either directly or indirectly through a foreign member of the exempt DCO) due to uncertainty regarding the protection of U.S. customer funds in these circumstances in the event of an insolvency of the FCM.[12] The Commission continues to consider and evaluate this issue, including possible approaches to deal with the uncertainty[13] and the possible risks to customers (both those of registered and exempt DCOs) that may result from that uncertainty, and requests public comment to assist in that regard.

II. Proposed Amendments to Part 3

The Commission's current exempt DCO framework permits U.S. persons to clear proprietary swap transactions at an exempt DCO, provided that the U.S. person is a direct clearing member, or an affiliate of a direct clearing member, of the exempt DCO. Thus, a clearing member of an exempt DCO at this time may not clear swap transactions for U.S. persons that are customers of the clearing member.

The Commission is proposing in this release to expand the exempt DCO framework to permit an exempt DCO to clear swap transactions for U.S. persons that are not clearing members, or affiliates of clearing members, of the exempt DCO (*i.e.,* U.S. persons that are customers of a clearing member).

This proposal would further require a foreign intermediary that clears for customers that are U.S. persons to be a direct clearing member of the exempt DCO. As a direct clearing member, the foreign intermediary must comply with any regulations of the home country regulator applicable to the foreign intermediary's activities as a market intermediary, including regulations addressing the holding and safeguarding of customer funds.

In order to permit foreign intermediaries to clear swaps for U.S. persons, the Commission is proposing to exercise its authority under section 4(c) of the CEA to exempt foreign intermediaries from the prohibition in section 4d(f) of the CEA against accepting customer funds to clear swaps at a registered or exempt DCO without registering as FCMs.[14] Specifically, the Commission is proposing to amend § 3.10(c), which addresses, among other things, exemption from FCM registration provisions for certain persons. Proposed § 3.10(c)(7)(i) would provide an exemption to a person located outside of the United States, its territories, or possessions (*i.e.,* a foreign intermediary) from the requirement to register as an FCM if the foreign intermediary accepts funds from U.S. persons to margin, guarantee, or secure swap transactions cleared by an exempt DCO.[15]

The Commission is further proposing § 3.10(c)(7)(ii) to provide that a foreign

[5] *See* ASX Clear (Futures) Pty Amended Order of Exemption from Registration (Jan. 28, 2016), available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/asxclearamdorderdcoexemption.pdf;* Korea Exchange, Inc. Order of Exemption from Registration (Oct. 26, 2015), available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/krxdcoexemptorder10-26-15.pdf;* Japan Securities Clearing Corporation Order of Exemption from Registration (Oct. 26, 2015), available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/jsccdcoexemptorder10-26-15.pdf;* OTC Clearing Hong Kong Limited Order of Exemption from Registration (Dec. 21, 2015), available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/otccleardcoexemptorder12-21-15.pdf.*

[6] *See* Exemption From Derivatives Clearing Organization Registration, 83 FR 39923 (Aug. 13, 2018).

[7] 2018 Proposal, 83 FR 39923.

[8] The Commission received four substantive comment letters: Japan Securities Clearing Corporation (JSCC) comment letter (Oct. 10, 2018); ASX Clear (Futures) Pty comment letter (Oct. 11, 2018); Futures Industry Association (FIA) and Securities and Financial Markets Association (SIFMA) comment letter (Oct. 12, 2018); and International Swaps and Derivatives Association, Inc. (ISDA) comment letter (Oct. 12, 2018).

[9] Procedurally, this supplemental proposal is not a replacement or withdrawal of the 2018 Proposal. Unless specifically amended in this release, all regulatory provisions proposed in the 2018 Proposal remain under active consideration for adoption as final rules. The Commission welcomes comment on both the 2018 Proposal and this supplemental proposal.

[10] *See* 17 CFR 1.3 for the definition of ''customer.'' In accordance with Section 2(e) of the CEA, which requires that swaps be transacted on or subject to the rules of a designated contract market unless entered into by an eligible contract participant, such ''U.S. customers'' must be eligible contract participants. 7 U.S.C. 2(e).

[11] In response to the Commission's request for comment in Part IV of the 2018 Proposal (83 FR 39923, 39930) as to whether the Commission should ''consider permitting an exempt DCO to clear swaps for FCM customers,'' three commenters answered in the affirmative. *See* ASX Clear (Futures) Pty comment letter at 1 (stating that ''ASXCF supports the CFTC permitting exempt DCOs to clear swaps for U.S. person customers. ASXCF believes it would be beneficial to allow U.S person customers to access the broadest possible range of central clearing facilities (''CCPs'') as this would provide U.S person customers with flexibility and choice in accessing the best commercial solutions for the products that they use subject to those CCPs meeting global QCCP standards under the CPMI–IOSCO Principles for Financial Market Infrastructures (PFMIs).''); JSCC comment letter at 5 (stating that ''JSCC would like the CFTC to consider the potential benefits of allowing U.S. customers to access exempt DCOs, using a similar approach to the correspondent clearing structure adopted for foreign futures markets, by permitting . . . non-U.S. clearing members in an exempt DCO to clear for U.S. customers, without the necessity to register as a FCM, as long as those non-U.S. clearing members can demonstrate that they are properly supervised, regulated, and licensed to provide customer clearing services in their home countries, where the regulatory authority maintains appropriate cooperative arrangements with the CFTC.''); and ISDA comment letter at 3 (stating ''[i]n response to the Commission's question about customer clearing, and ISDA strongly believes that the CFTC should permit exempt DCOs to clear swaps for customers.'').

[12] *See* Appendix A to Futures Industry Association (FIA) and Securities and Financial Markets Association (SIFMA) comment letter (Oct. 12, 2018), Promoting U.S. Access to Non-U.S. Swaps Markets: A Roadmap to Reverse Fragmentation, at 27 (Dec. 14, 2017) (FIA/SIFMA White Paper) (''The discrepancy between the [Bankruptcy] Code's 'clearing organization' definition (which is limited to registered DCOs) and the DCO definition in the CEA (which includes any CCP for swaps, whether registered or not), as well as the absence of a separate prong in the 'commodity contract' definition for 'foreign cleared swaps' like the prong for 'foreign futures,' creates uncertainty as to whether swaps cleared through a non-U.S. CCP are commodity contracts under the Code if the CCP does not register as a DCO.'').

[13] *See, e.g.,* FIA/SIFMA White Paper at 27–36, attached as Appendix A to FIA/SIFMA comment letter (Oct. 12, 2018).

[14] 7 U.S.C. 6(c). Section 4(c) of the CEA provides that, in order to promote responsible economic or financial innovation and fair competition, the Commission, by rule, regulation, or order, after notice and opportunity for hearing, may exempt any agreement, contract, or transaction, or class thereof, including any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to, the agreement, contract, or transaction, from the contract market designation requirements of section 4(a) of the CEA, or any other provision of the CEA other than certain enumerated provisions, if the Commission determines that the exemption would be consistent with the public interest and the purposes of the CEA, and that the agreement, contract, or transaction will be entered into solely between appropriate persons and will not have a material adverse effect on the ability of the Commission or any designated contract market (DCM) to discharge its regulatory or self-regulatory duties.

[15] The Commission is proposing to amend § 3.10(c) by adding a new paragraph (7). The Commission previously proposed a new paragraph (6) to § 3.10(c) which has not been finalized. *See* Exemption from Registration for Certain Foreign Persons, 81 FR 51824 (Aug. 5, 2016).

intermediary exempt from registering as an FCM under § 3.10(c)(7)(i) is not required to comply with provisions of the CEA and of the rules, regulations, or orders issued by the Commission that are applicable solely to a registered FCM. Proposed paragraph (c)(7)(ii) would provide that a foreign intermediary that is exempt from registering as an FCM under § 3.10(c)(7)(i) would not be required to comply with the Commission's regulations applicable to FCMs, including minimum capital, segregation of customer funds, and financial reporting requirements.[16] The purpose of this proposed provision is to clarify that the foreign intermediary would be exempt not only from the registration requirement of section 4d(f) of the CEA, but also from all other provisions and regulations applicable to FCMs, including regulations regarding the holding of customer segregated funds and FCM capital and financial reporting requirements.

Proposed § 3.10(c)(7)(iii) would prohibit a foreign intermediary exempt from registering as an FCM under § 3.10(c)(7)(i) from engaging in any other activities that would require the foreign intermediary to register as an FCM, and from voluntarily registering as an FCM.[17] This provision is consistent with proposed § 39.6(b)(1)(i) discussed below, which provides as a condition of the exempt DCO's exemption that only a foreign intermediary that is not an FCM may clear U.S. customers' positions.[18] The proposed FCM registration exemption for foreign intermediaries is also consistent with the exempt DCO framework being proposed by the Commission. As noted above, the proposed exempt DCO framework is based on deference to the regulation and supervision of the exempt DCO by its home country regulator.

Proposed § 3.10(c)(7)(iv) would require a foreign intermediary exempt from registering as an FCM under § 3.10(c)(7)(i) to directly clear the swaps of U.S. persons at the exempt DCO. A foreign intermediary may not use another intermediary to clear U.S. persons' swap transactions. The purpose of this provision is to ensure that the foreign intermediary, as a direct clearing member of the exempt DCO, is subject to the rules and supervision of the exempt DCO. If a foreign intermediary is not a direct clearing member, an exempt DCO may not be in a position to directly monitor the foreign intermediary's activities and ensure that the exempt DCO complies with the conditions of its exemption.

Proposed § 3.10(c)(7)(v) would provide that a foreign intermediary exempt from registering as an FCM under § 3.10(c)(7)(i) may provide trading advice to U.S. persons with respect to swaps cleared by an exempt DCO without registering as a commodity trading advisor (CTA), provided that the foreign intermediary does not engage in any other activity requiring registration as a CTA. The Commission recognizes that a foreign intermediary, in soliciting and accepting orders from U.S. persons for swaps cleared at an exempt DCO, may provide advice regarding those swap transactions, which generally would require the foreign intermediary to register with the Commission as a CTA.[19] The proposed CTA registration exemption for foreign intermediaries is consistent, however, with the exempt DCO framework being proposed by the Commission. As noted above, the proposed exempt DCO framework is based on deference to the regulation and supervision of the exempt DCO by its home country regulator, which would include regulations governing the providing of trading advice.[20]

In proposing the CTA registration exemption, the Commission is removing a potential impediment or disincentive for foreign intermediaries to accept U.S. persons as customers, which would provide U.S. persons with greater access to swap markets while also focusing the Commission's and National Futures Association's resources on markets and registrants that have a greater connection to the U.S. marketplace.[21] In addition, the proposal would limit the availability of the CTA registration exemption to instances where the foreign intermediary is providing trading advice solely to U.S. persons with respect to its solicitation for, and acceptance of, swap transactions that are cleared by an exempt DCO.[22] A foreign intermediary that engages in any activity that requires CTA registration beyond providing trading advice to U.S. persons solely with respect to swap transactions cleared by an exempt DCO would still be required to register as a CTA, absent another available registration exemption.[23]

The Commission believes the proposed exemption in § 3.10(c)(7) promotes responsible financial innovation and fair competition, while also being consistent with the public interest and the purposes of the CEA. The Commission further believes that the proposal is limited to appropriate persons, as only U.S. persons that are eligible contract participants would be permitted to maintain accounts with a foreign intermediary for swaps cleared at an exempt DCO.[24] Eligible contract participants are generally required to meet certain financial or other standards that are intended to distinguish them from less sophisticated retail investors.

As noted above, the exemption is necessary to effectuate the proposed exempt DCO framework; absent such an exemption, foreign intermediaries would be prohibited from accepting U.S. customer funds to clear swaps at an exempt DCO without registering as FCMs. In this connection, the Commission believes that the proposed exemption is consistent with the purposes of the CEA in that the proposal would provide U.S. persons with additional options regarding the trading and clearing of swap transactions. The ability of U.S. customers (*i.e.,* U.S. persons that are not direct members of exempt DCOs, or the affiliates of such members) to use foreign intermediaries to carry their accounts for clearing at exempt DCOs would potentially expand the number of intermediaries that

[16] *See* 17 CFR 1.17 for FCM capital requirements; 17 CFR parts 1 and 22 for treatment of customer funds, and requirements for cleared swaps, respectively); and 17 CFR 1.10, 1.12, 1.16, and 1.32 for certain financial and operational reporting requirements.

[17] The Commission is proposing to prohibit a foreign intermediary from voluntarily registering as an FCM due to the uncertainty of how customer funds held by the FCM to margin swaps cleared at an exempt DCO would be treated under a bankruptcy proceeding. *See* section III.C.2. below for further discussion of potential issues associated with an FCM insolvency proceeding. Proposed § 3.10(c)(7)(i), however, would not prohibit an FCM from clearing proprietary swaps at an exempt DCO.

[18] See the discussion at notes 47–55, below.

[19] A CTA is defined in § 1.3 of the Commission's regulations, 17 CFR 1.3, in relevant part, as any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery, security futures product, or swap. *See also* 7 U.S.C. 1a(12).

[20] *See* proposed § 3.10(c)(7)(iv).

[21] National Futures Association is the self-regulatory organization with oversight responsibility for CTAs.

[22] The Commission notes that the proposed CTA registration exemption for a foreign intermediary is analogous to the exclusion of an FCM from the definition of a CTA contained in section 1(a)(12) of the CEA.

[23] *See, e.g.,* 17 CFR 4.14(a)(10) (providing an exemption from registration for CTAs that advise 15 or fewer persons within the preceding 12 months and that do not hold themselves out to the public as CTAs).

[24] Section 2(e) of the CEA makes it unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a DCM. 7 U.S.C. 2(e). ''Eligible contract participant'' is defined in section 1a(18) of the CEA and § 1.3. 7 U.S.C. 1a(18); 17 CFR 1.3. The Commission's regulations require any transaction executed on or through a DCM to be cleared at a registered DCO. *See* 17 CFR 38.601.

currently clear swaps for U.S. persons. Currently, only 17 FCMs clear swaps for customers, with a substantial concentration in a small number of entities (the top five and the top ten FCMs carry 76 percent and 98 percent of the total cleared swaps customer funds, respectively).[25] The expansion of the exempt DCO framework to include foreign intermediaries clearing for U.S. customers has the potential for increasing the number of market intermediaries clearing for U.S. persons and reducing the concentration of U.S. customer funds in a small number of FCMs.

The proposal also furthers the public interest and purposes of the CEA by providing U.S. customers (*i.e.,* U.S. persons that are not direct members of exempt DCOs, or the affiliates of such members) with access to swaps that are cleared in foreign jurisdictions that U.S. customers otherwise would not be able to access. As noted above, U.S. customers are not currently permitted to clear swaps at non-U.S. clearing organizations that are not registered with the Commission, which may impact their ability to effectively hedge certain exposures. This limited access may become a more acute issue as margin rules for non-cleared swap transactions come fully into effect. Full implementation of the non-cleared margin rules may incentivize market participants not currently subject to them to engage in more cleared swap transactions and fewer non-cleared swap transactions. This would reduce liquidity in the non-cleared markets and provide for greater liquidity in more standardized, cleared contracts. To the extent that liquidity develops in contracts cleared at non-U.S. clearing organizations that are not registered DCOs, U.S. customers would not have access to those cleared markets absent the proposed exempt DCO framework.[26]

The risks to U.S. swaps customers from clearing swaps traded on exempt DCOs through foreign intermediaries that are not registered as FCMs would be mitigated under the proposal by requiring exempt DCOs to be in in good regulatory standing in their home country jurisdictions, and subject to comparable, comprehensive supervision and regulation by their home country regulators that includes a regulatory structure that is consistent with the PFMIs. Furthermore, as discussed below, the proposal would provide that an exempt DCO must require a foreign intermediary to provide written notice to, and obtain acknowledgement from, a U.S. person prior to clearing any swaps for such person that the clearing member is not a registered FCM, that the exempt DCO is not registered with the Commission, and that the protections of the U.S. Bankruptcy Code (Bankruptcy Code) do not apply to the U.S. person's funds. The notice also must explicitly compare the protections available to the U.S. person under U.S. law and the laws of the exempt DCO's home country regulatory regime.

The Commission also does not believe that exempting foreign intermediaries from FCM registration to clear swap transactions for U.S. persons at exempt DCOs will have a material adverse effect on the ability of the Commission to discharge its regulatory duties. As discussed in section III below, a non-U.S. clearing organization must not pose substantial risk to the U.S. financial system in order to qualify for an exemption from DCO registration. In addition, the proposed exempt DCO framework is based on deference to the regulation and supervision of an exempt DCO by its home country regulator, including the regulation and supervision of the foreign intermediaries that are clearing members of the exempt DCO. The exempt DCO must be organized in a jurisdiction in which it is subject, on an ongoing basis, to statutes, rules, regulations, policies, or a combination thereof that, taken together, are consistent with the PFMIs, including principles related to the segregation of customer funds.[27] An exempt DCO also must agree to provide the Commission with information necessary to evaluate its initial and continued eligibility for exemption and its compliance with any conditions of exemption. Accordingly, the Commission believes that the exempt DCO framework provides an effective balancing of regulatory protections with financial innovation to provide U.S. customers with access to cleared swap markets that are otherwise not available to them.

III. Proposed Amendments to Part 39

A. Overview of Supplements to 2018 Proposal

In addition to certain technical revisions, the Commission is proposing certain supplements to its 2018 Proposal. As noted above, the 2018 Proposal would codify existing requirements that exempt DCOs report to the Commission certain information regarding swap clearing by U.S. persons. The Commission proposed these requirements because it recognized that U.S. swap clearing activity at an exempt DCO could grow such that the exempt DCO poses substantial risk to the U.S. financial system. The Commission believes that when the amount of U.S. clearing activity at an exempt DCO reaches that point, the DCO should be registered with, and be subject to oversight by, the Commission. The Commission is issuing this supplemental proposal to require that, for a clearing organization to be eligible for an exemption from registration, the Commission must determine that the clearing organization does not pose substantial risk to the U.S. financial system. The Commission is proposing a test the Commission would use in making this determination, as discussed below. The Commission also is proposing in this release to reduce the daily and quarterly reporting requirements for exempt DCOs to include only information necessary for the Commission to evaluate the continued eligibility of the exempt DCO for exemption under the ''substantial risk'' test and assess the DCO's U.S. clearing activity.

In addition, the supplemental conditions of exemption would require an exempt DCO to have rules that prohibit the clearing of customer positions, including U.S. customer positions, by FCMs. Furthermore, an exempt DCO would be required to have rules requiring any clearing member seeking to clear for a U.S. customer to provide written notice to, and obtain acknowledgement from, the customer prior to clearing, among other things, that the protections of the Bankruptcy Code do not apply to the U.S. customer's funds and comparing the protections available to the U.S. customer under U.S. law and the exempt DCO's home country regime.

Lastly, the Commission is proposing to add a process and conditions under which the Commission may modify or terminate an exemption upon its own initiative.

B. Regulation 39.2—Definitions

1. Principles for Financial Market Infrastructures

The Commission is proposing to modify the definition of ''Principles for Financial Market Infrastructures'' as

[25] *See* Financial Data for FCMs (as of March 31, 2019), available at *https://www.cftc.gov/MarketReports/financialfcmdata/index.htm.*

[26] Further, the possible reduction in liquidity in the non-cleared markets for similar contracts could potentially impact execution quality for U.S. customers in the non-cleared markets.

[27] *See* Principle 14, Segregation and portability, PFMIs, issued by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organizations of Securities Commissions, April 2012.

previously proposed in § 39.2.[28] The Commission previously proposed to define this term to mean the ''[PFMIs] jointly published by the Committee on Payments and Market Infrastructures and the Technical Committee of the International Organization of Securities and Commissions in April 2012, as updated, revised or otherwise amended.'' [29] The Commission proposed the ''as updated, revised or otherwise amended'' qualifying language to recognize that CPMI–IOSCO could offer further interpretation of or guidance on the PFMIs.[30]

The Commission is proposing in this release to strike the qualifying language from the definition. The Commission notes that, in adopting regulations under subpart C of part 39,[31] the Commission looked to the Principles and Key Considerations in the PFMIs, but it has not adopted subsequent guidance on the PFMIs. While an exempt DCO's home country regulator may voluntarily adopt or amend its statutes, rules, regulations, policies, or combination thereof to incorporate subsequent interpretations and guidance, the home country regulator is not required to do so to maintain a regulatory regime that is comparable to and as comprehensive as the PFMIs. The Commission believes that striking that portion of the proposed definition would provide exempt DCOs with greater regulatory certainty, as a DCO's eligibility to remain exempt from registration would not be contingent on whether a home country regulator has adopted CPMI–IOSCO's latest interpretations or guidance.

2. Substantial Risk to the U.S. Financial System

For purposes of this rulemaking, the Commission is proposing to define ''substantial risk to the U.S. financial system'' to mean, with respect to an exempt or registered non-U.S. DCO, that (1) the DCO holds 20 percent or more of the required initial margin of U.S. clearing members for swaps across all registered and exempt DCOs; and (2) 20 percent or more of the initial margin requirements for swaps at that DCO is attributable to U.S. clearing members; provided, however, where one or both of these thresholds are close to 20 percent, the Commission may exercise discretion in determining whether the DCO poses substantial risk to the U.S. financial system. For purposes of this definition and proposed §§ 39.6 and 39.51, the Commission is proposing to clarify that ''U.S. clearing member'' means a clearing member organized in the United States or whose ultimate parent company is organized in the United States, or an FCM.[32]

This definition sets forth the test the Commission would use to identify those non-U.S. DCOs that pose substantial risk to the U.S. financial system, as these DCOs would not be eligible for an exemption from DCO registration. The proposed test consists of two prongs. The first prong, which is directly related to systemic risk, is whether the DCO holds 20 percent or more of the required initial margin [33] of U.S. clearing members for swaps across all registered and exempt DCOs. The Commission notes that its primary systemic risk-related concern is the potential for loss of clearing services for a significant part of the U.S. swaps market in the event of a catastrophic occurrence affecting the DCO. The second prong is whether U.S. clearing members account for 20 percent or more of the initial margin requirements for swaps at that DCO. This prong of the test, intended to respect international comity, would capture a non-U.S. DCO only if a large enough proportion of its clearing activity were attributable to U.S. clearing members such that the U.S. has a substantial interest warranting more active oversight by the Commission.[34]

The Commission believes that, in the context of this test, the term ''substantial'' would reasonably apply to proportions of approximately 20 percent or greater. The Commission stresses that this is not a bright-line test; by offering this figure, the Commission does not intend to suggest that, for example, a DCO that holds 20.1 percent of the required initial margin of U.S. clearing members would potentially pose substantial risk to the U.S. financial system, while a DCO that holds 19.9 percent would not. The Commission is instead seeking to offer some indication of how it would assess the meaning of the term ''substantial'' in the test.

The Commission recognizes that a test based solely on initial margin requirements may not fully capture the risk of a given DCO. The Commission therefore proposes to retain discretion in determining whether a non-U.S. DCO poses substantial risk to the U.S. financial system, particularly where the DCO is close to 20 percent on both prongs of the test. In these cases, in making its determination, the Commission may look at other factors that may reduce or mitigate the DCO's risk to the U.S. financial system or provide a better indication of the DCO's risk to the U.S. financial system.

C. Regulation 39.6—Exemption From DCO Registration

As discussed above, the Commission is proposing to expand its exempt DCO framework to permit exempt DCOs to clear customer positions of U.S. persons through foreign intermediaries that are not registered as FCMs. The Commission is therefore proposing certain changes to § 39.6 as previously proposed to effectuate this approach.

[28] *See* 2018 Proposal, 83 FR at 39925.

[29] *Id.* at 33934.

[30] *Id.* at n.14.

[31] *See* Derivatives Clearing Organizations and International Standards, 78 FR 72476 (Dec. 2, 2013).

[32] On July 11, 2019, the Commission approved a separate notice of proposed rulemaking entitled ''Registration with Alternative Compliance for Non-U.S. Derivatives Clearing Organizations,'' that will be published in the **Federal Register**. In that release, the Commission is proposing an identical definition of ''substantial risk to the U.S. financial system.''

[33] In general, initial margin requirements are risk-based and are meant to cover a registered or exempt DCO's potential future exposure to clearing members based on price movements in the interval between the last collection of variation margin and the time within which the DCO estimates that it would be able to liquidate a defaulting clearing member's portfolio. The relative risk that a DCO poses to the financial system can be identified by the cumulative sum of initial margin collected by the DCO. As a result, the Commission has found initial margin to be an appropriate measure of risk.

[34] In developing this proposal, the Commission is guided by principles of international comity, which counsel due regard for the important interests of foreign sovereigns. *See* Restatement (Third) of Foreign Relations Law of the United States (the Restatement). The Restatement provides that even where a country has a basis for jurisdiction, it should not prescribe law with respect to a person or activity in another country when the exercise of such jurisdiction is unreasonable. *See* Restatement section 403(1). The reasonableness of such an exercise of jurisdiction, in turn, is to be determined by evaluating all relevant factors, including certain specifically enumerated factors where appropriate: (1) The link of the activity to the territory of the regulating state, *i.e.,* the extent to which the activity takes place within the territory, or has substantial, direct, and foreseeable effect upon or in the territory; (2) the connections, such as nationality, residence, or economic activity, between the regulating state and the persons principally responsible for the activity to be regulated, or between that state and those whom the regulation is designed to protect; (3) the character of the activity to be regulated, the importance of regulation to the regulating state, the extent to which other states regulate such activities, and the degree to which the desirability of such regulation is generally accepted; (4) the existence of justified expectations that might be protected or hurt by the regulation; (5) the importance of the regulation to the international political, legal, or economic system; (6) the extent to which the regulation is consistent with the traditions of the international system; (7) the extent to which another state may have an interest in regulating the activity; and (8) the likelihood of conflict with regulation by another state. *See* Restatement section 403(2). Notably, the Restatement does not preclude concurrent regulation by multiple jurisdictions. However, where concurrent jurisdiction by two or more jurisdictions creates conflict, the Restatement recommends that each country evaluate its own interests in exercising jurisdiction and those of the other jurisdiction, and where possible, to consult with each other.

1. Regulation 39.6(a)—Eligibility for Exemption

As previously proposed, § 39.6(a) would provide that the Commission may exempt a non-U.S. clearing organization from registration as a DCO for the clearing of swaps for U.S. persons,[35] and thereby exempt such clearing organization from compliance with the provisions of the CEA and Commission regulations applicable to registered DCOs, if the Commission determines that all of the eligibility requirements listed in proposed § 39.6(a) are met, and that the clearing organization satisfies the conditions set forth in § 39.6(b).[36] As an additional eligibility requirement, the Commission is proposing to require in § 39.6(a)(2) [37] that the clearing organization does not pose substantial risk to the U.S. financial system, as determined by the Commission (as discussed above).

The Commission has found that the existing reporting requirements for exempt DCOs provide the Commission with relevant information in order to analyze the risks presented by U.S. persons clearing at an exempt DCO and to assess the extent to which U.S. business is being cleared by each exempt DCO. As discussed below, the Commission is proposing in this release to modify the daily and quarterly reporting requirements for exempt DCOs to include only information necessary for the Commission to evaluate whether an exempt DCO meets the ''substantial risk to the U.S. financial system'' definition and to assess the extent to which U.S. business is being cleared by each exempt DCO. Based on this information, to the extent that an exempt DCO's cleared swaps activity for U.S. persons reaches a level such that the exempt DCO would pose substantial risk to the U.S. financial system, the Commission may find that it does not qualify for an exemption from DCO registration.

2. Regulation 39.6(b)—Conditions of Exemption

Proposed § 39.6(b) sets forth conditions to which an exempt DCO would be subject. The Commission is proposing in this release to modify these conditions, as discussed below.

As originally proposed, the effect of § 39.6(b)(1) was to prohibit the clearing of all U.S. customer positions at an exempt DCO. To effectuate clearing of U.S. customer positions at an exempt DCO as set forth in this release, the Commission is proposing to modify the conditions set forth in § 39.6(b)(1) to specify that: (i) An intermediary that clears swaps for a U.S. person may not be registered with the Commission as an FCM; and (ii) an FCM may be a clearing member of an exempt DCO, or maintain an account with an affiliated broker that is a clearing member, for the purpose of clearing swaps for the FCM itself and those persons identified in the definition of ''proprietary account'' in § 1.3 of the Commission's regulations.[38]

The proposed modifications to the conditions in § 39.6(b)(1) are due to uncertainty as to whether, in the event of an FCM bankruptcy proceeding, swaps customers funds deposited at exempt DCOs, or margining swaps cleared at exempt DCOs, would be treated as customer property under the Bankruptcy Code to the same extent as if they were deposited at a registered DCO. The CEA and Commission regulations establish a customer protection regime that is intended to ensure that an FCM holds, at all times, a sufficient amount of money, securities, and/or property in specially designated customer segregated accounts with authorized depositories to satisfy the FCM's total outstanding obligation to each customer engaging in cleared swap transactions.[39] Specifically, section 4d(f)(1) of the CEA provides that it is unlawful for any person to accept money, securities, or property (*i.e.,* funds) from, for, or on behalf of a swaps customer to margin swaps cleared through a registered or exempt DCO (including funds accruing to the customer as a result of such swaps) unless the person is registered as an FCM.[40] In addition, any swaps customer funds held by a registered or exempt DCO are subject to the segregation requirements of section 4d(f)(2) of the CEA and part 22 of the Commission's regulations, which includes a requirement that the DCO must treat and deal with a swaps customer's funds as belonging to the swaps customer of the FCM and not as the property of other persons, including the FCM.[41]

The segregation requirements are intended to ensure that customer property in an FCM insolvency proceeding is not subject to the risk of the FCM's proprietary business operations and is available for distribution to customers. In this regard, section 766 of the Bankruptcy Code provides that the trustee in an FCM liquidation proceeding ''shall distribute *customer property* ratably to *customers* on the basis and to the extent of such *customers'* allowed net equity claims,'' except for certain administrative expenses.[42]

The Bankruptcy Code definitions of ''customer'' and ''customer property,'' in turn, are tied to claims based on a ''commodity contract.'' [43] The Commission notes that one prong of the Bankruptcy Code's definition of ''commodity contract'' requires that a commodity contract be cleared through a ''clearing organization,'' [44] which the Bankruptcy Code defines as a DCO ''registered under the [CEA].'' [45] When the CEA was amended by the Dodd-Frank Act to provide for exempt DCOs, the Bankruptcy Code was not similarly amended. Commenters have suggested, however, that another prong of the Bankruptcy Code's definition of

[35] The Commission proposes to use the definition of ''U.S. person'' as set forth in the Commission's Interpretive Guidance and Policy Statement Regarding Compliance With Certain Swap Regulations, 78 FR 45292, 45316—45317 (July 26, 2013) (2013 Cross-Border Guidance), as such definition may be amended or superseded by a definition of the term ''U.S. person'' that is adopted by the Commission and applicable to this proposed regulation.

[36] The eligibility requirements listed in proposed § 39.6(a) and the conditions set forth in proposed § 39.6(b) would be pre-conditions to the Commission's issuance of any order exempting a clearing organization from the DCO registration requirement of the CEA and Commission regulations. Additional conditions that are unique to the facts and circumstances specific to a particular clearing organization could be imposed upon that clearing organization in the Commission's order of exemption, as permitted by section 5b(h) of the CEA.

[37] To implement the proposed change, the Commission is proposing to renumber previously proposed § 39.6(a)(2) as § 39.6(a)(3).

[38] The text of proposed § 39.6(b)(1)(ii), previously proposed as § 39.6(b)(1)(iii), is unchanged. It is intended to permit what would be considered clearing of ''proprietary'' positions under the Commission's regulations, even if the positions would qualify as ''customer'' positions under the laws and regulations of an exempt DCO's home country. This provision would clarify that an exempt DCO may clear positions for FCMs if the positions are not ''customer'' positions under the Commission's regulations.

[39] *See* 17 CFR 22.2(f) (setting forth requirements for FCM treatment of cleared swaps and associated cleared swaps customer collateral).

[40] 7 U.S.C. 6d(f)(1). This provision establishes a customer protection regime for swaps customers that is broadly similar to the regime for futures customers and options on futures customers under sections 4d(a) and (b) of the CEA. 7 U.S.C. 6d(a) and (b).

[41] *See* 17 CFR 22.3(a) (setting forth requirements for registered DCO treatment of cleared swaps customer collateral).

[42] *See* 11 U.S.C. 766(h) (emphasis added).

[43] *See* 11 U.S.C. 766(9)(A).

[44] *See* Section 761(4)(F)(ii) of the Bankruptcy Code (referring to, ''with respect to a futures commission merchant or a clearing organization,'' a contract ''that is cleared by a clearing organization'').

[45] *See* Section 761(2) of the Bankruptcy Code, 11 U.S.C. 761(2) (defining a ''clearing organization'' as a derivatives clearing organization registered under the CEA). *See also* § 190.01(f) of the Commission's regulations, 17 CFR 190.01(f) (stating that, for purposes of the Commission's part 190 bankruptcy rules, ''clearing organization'' has the same meaning as that set forth in section 761(2) of the Bankruptcy Code).

''commodity contract'' may be applicable to exempt DCOs.[46] The Commission continues to consider and evaluate this issue, and, as discussed below, requests public comment to assist in that regard.

The Commission is proposing to require in § 39.6(b)(2) that an exempt DCO have rules that require any clearing member proposing to clear for a U.S. person to provide written notice to, and obtain acknowledgement from, the U.S. person prior to clearing that the clearing member is not a registered FCM, the DCO is exempt from registration, and the protections of the U.S. Bankruptcy Code do not apply to the U.S. person's funds. The notice must explicitly compare the protections available to the U.S. person under U.S. law and the exempt DCO's home country regulatory regime. This requirement would serve as notice to U.S. persons of the standards and risks that would apply in the exempt DCO's home country with respect to clearing through the non-FCM clearing member and the exempt DCO.[47]

Furthermore, § 39.6(b)(6) as previously proposed would require that an exempt DCO provide an annual certification that it continues to observe the PFMIs in all material respects, within 60 days following the end of its fiscal year. The Commission is proposing in this release to modify this condition, proposed to be renumbered as § 39.6(b)(7), to specify the information that an exempt DCO must provide to the Commission if it is unable to provide an unconditional certification that it continues to observe the PFMIs in all material respects. Specifically, the exempt DCO would be required to identify the underlying material non-observance of the PFMIs and explain whether and how such non-observance has been or is being resolved by the exempt DCO. The Commission has encountered issues with conditional certifications and believes this supplemental proposal would provide greater regulatory certainty to an exempt DCO that has identified an issue with its compliance with the PFMIs, while also providing the Commission with the assurance it requires regarding the exempt DCO's observance of the PFMIs.

Lastly, under proposed § 39.6(b)(9), the Commission may condition an exemption on any other facts and circumstances it deems relevant. In doing so, the Commission would be mindful of principles of international comity. For example, the Commission could take into account the extent to which the relevant foreign regulatory authorities defer to the Commission with respect to oversight of registered DCOs organized in the United States. This approach would advance the goal of regulatory harmonization, consistent with the express directive of Congress that the Commission coordinate and cooperate with foreign regulatory authorities on matters related to the regulation of swaps.[48]

3. Regulation 39.6(c)—General Reporting Requirements

As previously proposed, § 39.6(c)(1) sets forth general reporting requirements pursuant to which an exempt DCO would have to provide certain information directly to the Commission: (1) On a periodic basis (daily or quarterly); and (2) after the occurrence of a specified event, each in accordance with the submission requirements of § 39.19(b).[49] The Commission is proposing in this release to modify the daily and quarterly reporting requirements for exempt DCOs to include only information necessary for the Commission to evaluate the continued eligibility of the exempt DCO for exemption and to assess the extent to which U.S. business is being cleared by each exempt DCO.

Specifically, proposed § 39.6(c)(2)(i) would require an exempt DCO to compile a report as of the end of each trading day, and submit it to the Commission by 10:00 a.m. U.S. Central time on the following business day, containing with respect to swaps: (A) Total initial margin requirements for all clearing members; (B) initial margin requirements and initial margin on deposit for each U.S. clearing member,[50] by house origin and by each customer origin, and by each individual customer account; (C) with respect to an intermediary that clears swaps for a U.S. person, initial margin requirements and initial margin on deposit for each individual customer account of each U.S. person; and (D) daily variation margin, separately listing the mark-to-market amount collected from or paid to each U.S. clearing member. If a clearing member margins on a portfolio basis its own positions and the positions of its affiliates, and either the clearing member or any of its affiliates is a U.S. person, the exempt DCO would be required to separately list the mark-to-market amount collected from or paid to each such clearing member, on a combined basis. These reports would provide the Commission with information regarding the margin associated with U.S. persons clearing swaps through exempt DCOs in order to analyze the risks presented by such U.S. persons and to assess the extent to which U.S. business is being cleared by each exempt DCO.[51]

Proposed § 39.6(c)(2)(ii) would require an exempt DCO to compile a report as of the last day of each fiscal quarter, and submit the report to the Commission no later than 17 business days after the end of the fiscal quarter, containing a list of U.S. persons and FCMs[52] that are either clearing members or affiliates of any clearing member, with respect to the clearing of swaps, as of the last day of the fiscal quarter. This information would enable the Commission, in conducting risk surveillance of U.S. persons and swaps markets more broadly, to better understand and evaluate the nature and extent of the cleared swaps activity of U.S. persons. The Commission is no

[46] *See* FIA/SIFMA White Paper at 27–29, attached as Appendix A to FIA/SIFMA comment letter (Oct. 12, 2018) (discussing the fact that, in amending the ''commodity contract'' definition in the Bankruptcy Code in the Dodd-Frank Act, Congress retained the prong covering ''any other contract, option, agreement, or transaction that is similar to a contract, option, agreement, or transaction referred to in [the definition of commodity contract],'' as well as discussing related Dodd-Frank Act amendments to the CEA).

[47] By way of comparison, a registered FCM accepting U.S. customer funds for trading foreign futures or options on a registered foreign board of trade must provide its customers (which may include retail customers, *i.e.,* customers that are not eligible contract participants) with a disclosure statement addressing the risks of trading in foreign markets under § 30.6(a). 17 CFR 30.6(a).

[48] In order to promote effective and consistent global regulation of swaps, section 752 of the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of swaps, among other things. Section 752 of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010), codified at 15 U.S.C. 8325.

[49] Regulation 39.19(b), 17 CFR 39.19(b), requires that a registered DCO submit reports electronically and in a format and manner specified by the Commission and establishes the relevant time zone for any stated time, unless otherwise specified by the Commission. The Commission has specified that U.S. Central time will apply with respect to the daily reports that must be filed by exempt DCOs pursuant to proposed § 39.6(c)(2)(i).

[50] The Commission is proposing to define ''U.S. clearing member,'' for purposes of proposed § 39.6, to mean a clearing member organized in the United States or whose parent company is organized in the United States, or an FCM.

[51] These requirements are similar to reporting requirements in § 39.19(c)(1)(i)(A) and (B) that apply to registered DCOs and similar to reporting requirements in proposed § 39.51(c)(2)(i) that would apply to registered DCOs subject to alternative compliance. *See* 17 CFR 39.19(c)(1)(i)(A) and (c)(1)(i)(B). *See also* Registration with Alternative Compliance for Non-U.S. Derivatives Clearing Organizations, approved on July 11, 2019 (discussing similar reporting requirements for registered DCOs subject to alternative compliance).

[52] Such FCMs may or may not be U.S. persons. The Commission has a supervisory interest in receiving information regarding which of its registered FCMs are clearing members or affiliates of clearing members, with respect to the clearing of swaps on an exempt DCO.

longer proposing to require exempt DCOs to report the aggregate clearing volume of U.S. persons during the fiscal quarter, or the average open interest of U.S. persons during the fiscal quarter.

As previously proposed, § 39.6(c)(2)(vii) would require an exempt DCO to provide immediate notice to the Commission in the event of a default (as defined by the exempt DCO in its rules) by a U.S. person or FCM clearing swaps, including the name of the U.S. person or FCM, a list of the positions held by the U.S. person or FCM, and the amount of the U.S. person's or FCM's financial obligation. The Commission is supplementing this proposal to require immediate notice in the event of a default by any clearing member, including the amount of the clearing member's financial obligation. The Commission recognizes that the default of any clearing member may impact U.S. clearing members and U.S. persons clearing at the exempt DCO. If the defaulting clearing member is a U.S. clearing member, or clears for a U.S. person, the notice must also include the name of the defaulting clearing member and, as applicable, the name(s) of the U.S. person(s) for whom the clearing member clears and a list of the positions it held.

4. Regulation 39.6(e)—Application Procedures

Proposed § 39.6(e) sets forth the application procedures for a clearing organization that seeks to be exempt from DCO registration. As previously proposed, § 39.6(e)(2) would require an applicant to submit a complete application, including all applicable information and documentation as detailed therein. In this supplemental proposal, the application procedures and associated materials remain mostly as previously proposed. The only changes the Commission is proposing in this release relate to § 39.6(e)(2)(vii), which would require that an applicant for exemption submit a copy of its rules that: Meet the open access requirements in § 39.6(b)(2) (proposed to be renumbered as § 39.6(b)(3)); meet the swap data reporting requirements in § 39.6(d); and provide written notice of protections available to U.S. persons (per newly proposed § 39.6(b)(2)). The Commission is proposing to additionally require a draft of the notice that meets the requirements of newly proposed § 39.6(b)(2), as applicable, as part of the application.

As previously proposed, § 39.6(e)(5) identifies those sections of an application for exemption from registration that would be made public. The Commission is proposing in this release to add the draft rules proposed to be included in § 39.6(e)(2)(vii), as discussed above.

5. Regulation 39.6(f)—Modification or Termination of Exemption Upon Commission Initiative

As previously proposed, § 39.6(f) would provide that the Commission may modify the terms and conditions of an order of exemption, either at the request of the exempt DCO or on the Commission's own initiative, based on changes to or omissions in material facts or circumstances pursuant to which the order of exemption was issued, or for any reason in the Commission's discretion. This is a further expression of the Commission's discretionary authority under section 5b(h) of the CEA to exempt a clearing organization from registration ''conditionally or unconditionally,'' and it reflects the Commission's authority to act with flexibility in responding to changed circumstances affecting an exempt DCO. The Commission is now proposing to supplement this proposed provision to permit the Commission to terminate an exemption upon its own initiative, and also to set forth the process by which the Commission may issue such a modification or termination. Proposed § 39.6(f) would provide that the Commission may modify or terminate an exemption from DCO registration, in its discretion and upon its own initiative, if the Commission determines that any of the terms and conditions of its order of exemption, including compliance with § 39.6, are not met.

For example, the Commission could modify or terminate an exemption upon a determination that an exempt DCO has failed to observe the PFMIs in any material respect. The Commission may receive information regarding the failure of the exempt DCO to comply with any of the terms and conditions of its order of exemption from a variety of sources, including, but not limited to, assessments conducted by a home country regulator or other national authority, or an international financial institution or international organization, or information otherwise received from a home country (or other) regulator.

The Commission could also modify or terminate an exemption upon its determination that the exempt DCO is no longer subject to ''comparable, comprehensive supervision and regulation'' by its home country regulator. As the Commission is statutorily required to determine that a non-U.S. clearing organization is subject to ''comparable, comprehensive supervision and regulation'' by a home country regulator to be eligible for an exemption from DCO registration,[53] the Commission would be required to modify or terminate an exemption upon a subsequent determination that the home country regulator's supervision and regulation no longer meets that standard.

Further, the Commission could modify or terminate an exemption upon its determination that the exempt DCO poses substantial risk to the U.S financial system. The reporting requirements for exempt DCOs would provide the Commission with information regarding the margin associated with U.S. persons clearing swaps through an exempt DCO in order for the Commission to assess the risk exposure of U.S. persons and the extent of the exempt DCO's U.S. clearing activity. To the extent that an exempt DCO's cleared swaps activity for U.S. persons reaches a level such that the exempt DCO would pose substantial risk to the U.S. financial system, the Commission may find that it does not qualify for an exemption from DCO registration.

Proposed §§ 39.6(f)(2), (f)(3), and (f)(4) would set forth the process for modification or termination of an exemption upon the Commission's initiative. Proposed § 39.6(f)(2) would require the Commission to first provide written notification to an exempt DCO that the Commission is considering whether to modify or terminate the DCO's exemption and the basis for that consideration.

Proposed § 39.6(f)(3) would permit an exempt DCO to respond to such a notification in writing no later than 30 business days following receipt of the Commission's notification, or at such later time as the Commission may permit in writing. The Commission believes that a minimum 30-business day timeframe would allow the Commission to take timely action to protect its regulatory interests while providing the exempt DCO with sufficient time to develop its response.

Proposed § 39.6(f)(4) would provide that, following receipt of a response from the exempt DCO, or after expiration of the time permitted for a response, the Commission may either: (i) Issue an order terminating the exemption as of a date specified in the order; (ii) issue an amended order of exemption that modifies the terms and conditions of the exemption; or (iii) provide written notification to the exempt DCO that the Commission has determined to neither modify nor terminate the exemption. The date for termination specified in a termination

[53] Section 5b(h) of the CEA, 7 U.S.C. 7a–1(h).

order would provide the exempt DCO with a reasonable amount of time to wind down its swap clearing services for U.S. persons, including the liquidation or transfer of the positions and related collateral of U.S. persons, as necessary.

Lastly, the Commission is proposing a technical change to proposed § 39.6(g), which relates to a termination of exemption upon request by an exempt DCO. Specifically, as previously proposed, § 39.6(g)(1)(iii) provides that an exempt DCO may petition the Commission to terminate its exemption if, in conjunction with the petition, the exempt DCO submits a completed Form DCO to become registered as a DCO pursuant to section 5b(a) of the CEA. To provide for the alternative compliance process that would be set forth in proposed § 39.3(a)(3),[54] the Commission is proposing in this release to instead refer to an application for registration in accordance with § 39.3(a)(2) or § 39.3(a)(3), as applicable.

IV. Proposed Amendments to Part 140

The Commission previously proposed amendments to § 140.94 to delegate authority to the Division of Clearing and Risk (DCR) for all functions reserved to the Commission in proposed § 39.6, subject to certain exceptions. Specifically, the Commission did not propose to delegate its authority to grant, modify, or terminate an exemption or prescribe conditions to an exemption order. Consistent with that proposal, the Commission is proposing in this release to supplement its delegation to DCR to include certain functions related to the modification or termination of an exemption order upon the Commission's initiative. These functions would include, but would not be limited to, sending an exempt DCO notice of an intention to modify or terminate its exemption order. However, the Commission alone would retain the authority to modify or terminate the exemption order. The Commission is proposing an additional amendment to § 140.94(c)(4) to reflect this change.

V. Request for Comments

In addition to the specific requests for comment noted elsewhere, the Commission generally requests comments on all aspects of the rules proposed in the 2018 Proposal and the supplemental rules proposed in this release. The Commission also requests comments on the following specific issues:

1. Due to uncertainty regarding the applicability of the Bankruptcy Code in the event of an insolvency of an FCM clearing for customers directly at, or through a foreign member of, the exempt DCO, the proposed regulations would permit U.S. customer positions to be cleared at an exempt DCO but only through a foreign intermediary that is not registered as an FCM.

a. Can the Bankruptcy Code be read to permit swaps customer funds to be deposited at an exempt DCO by an FCM directly, or through a foreign member of the exempt DCO, and still receive the same protections as swaps customer funds deposited at a registered DCO? Why or why not?

b. Does the Bankruptcy Code or other relevant laws distinguish swaps customer funds of U.S. persons from non-U.S. persons that are deposited at an exempt DCO by an FCM for purposes of distribution of such funds to the U.S. and non-U.S. persons in the event of the FCM's insolvency? If so, please explain which laws are relevant and how such laws address the distribution of customer funds of U.S. and non-U.S. persons.

c. Should the Commission permit FCMs to clear swaps for U.S. customers that are eligible contract participants at exempt DCOs despite uncertainty of bankruptcy protection in such arrangements? Why or why not?

d. Can any concerns regarding uncertainty with respect to U.S. customers whose transactions are cleared by an FCM directly or indirectly at an exempt DCO be sufficiently addressed by—

(1) Requiring, similar to the requirement in proposed § 39.6(b)(2), that an exempt DCO have rules that require an FCM seeking to clear swaps for a U.S. customer to provide written notice to, and obtain acknowledgement from, the U.S. customer prior to clearing that the exempt DCO is exempt from registration with the Commission, and that the protections of the Bankruptcy Code may not apply to the U.S. customer's funds? Why or why not?

(2) Limiting clearing of swap positions by U.S. customers at exempt DCOs through FCMs to only a specified subset(s) of eligible contract participants? Why or why not?

e. Can any concerns regarding potential uncertainty with respect to other U.S. customers (*i.e.,* customers who limit their activities to transactions cleared at registered DCOs) of an FCM that clears transactions for customers at an exempt DCO be sufficiently addressed through disclosure or other means? Why or why not? In this regard, please address the potential of (1) a bankruptcy court in an FCM bankruptcy proceeding delaying the transfer of all swaps customer positions to another FCM to address potential legal challenges to the bankruptcy status of customer positions cleared at an exempt DCO, resulting in the need to close out customer positions, or (2) a shortfall in swaps customer funds affecting all swaps customers of the FCM due to the bankruptcy of an affiliated foreign clearing member of the FCM through which the FCM clears customer transactions at the exempt DCO?

f. Does the proposal strike the right balance between customer protection and providing greater access to swaps clearing? Are there additional measures the Commission should take to enhance customer protection?

2. Commenters also suggested a regime for swaps similar to that of futures, in which a distinct set of Commission regulations—part 30—governs ''foreign futures'' traded outside of the United States.[55] The Commission notes that the foreign futures regime is expressly contemplated by the CEA. Section 4(b)(2) of the CEA,[56] for example, authorizes the Commission to adopt rules and regulations requiring the ''safeguarding of customers' funds'' by any person located inside the United States who engages in the offer or sale of a futures contract made on or subject to the rules of a board of trade, exchange, or market located outside the United States. The CEA does not include similar provisions for swaps, however. Similarly, the Bankruptcy Code establishes separate protections for foreign futures, traded on or subject to the rules of, a board of trade outside the United States, through a ''foreign futures commission merchant,'' but has no similar provisions for swaps.[57] Although these statutory distinctions do not necessarily preclude the Commission from constructing a ''part 30-type'' regime for swaps, the Commission is not proposing to do so at this time. However, the Commission is requesting additional comment on constructing a ''part 30-type'' regime for swaps.

3. As proposed, § 39.6(d) would require that if a clearing member clears through an exempt DCO a swap that has been reported to a registered swap data repository (SDR) pursuant to part 45 of the Commission's regulations, the exempt DCO must report to an SDR data regarding the two swaps resulting from the novation of the original swap that had been submitted to the exempt DCO

[54] Registration with Alternative Compliance for Non-U.S. Derivatives Clearing Organizations, approved on July 11, 2019.

[55] FIA/SIFMA comment letter (Oct. 12, 2018).

[56] 7 U.S.C. 6(b)(2).

[57] 11 U.S.C. 761(4)(a), (11), and (12).

for clearing. In addition, an exempt DCO would be required to report the termination of the original swap accepted for clearing by the exempt DCO to the SDR to which the original swap was reported. Further, in order to avoid duplicative reporting for such transactions, an exempt DCO would be required to have rules that prohibit the part 45 reporting of the two new swaps by the counterparties to the original swap. The Commission notes that the intention would be to apply this requirement to U.S. customer trades cleared at an exempt DCO; however, the Commission requests comment as to whether this would pose challenges. Furthermore, should the Commission consider removing this requirement altogether?

4. Is the proposed test for ''substantial risk to the U.S. financial system'' the best measure of such risk? If not, please explain why, and if there is a better measure/metric that the Commission should use when implementing the exempt DCO regime, please provide a rationale and supporting data, if available.

5. What is the frequency with which the Commission should reassess an exempt DCO's ''risk to the U.S. financial system'' for purposes of the test, and across what time period?

6. With respect to the written notice of protections available to U.S. persons required by proposed § 39.6(b)(2), the Commission invites comment as to the elements that should be required in any such disclosure, and how detailed such a disclosure should be in describing the relevant bankruptcy regimes.

7. The Commission requests that non-U.S. clearing organizations provide estimates of the percentage of initial margin deposited with the clearing organization that is attributable to clearing members that have a U.S. parent company.

8. The Commission requests that U.S. swaps market participants provide examples of swaps that they would like to clear at non-U.S. clearing organizations. Relatedly, to the extent that U.S. swaps market participants currently are engaging in these swaps on an uncleared basis, the Commission requests information about whether counterparties to these swaps are predominantly financial entities or commercial end-users.

9. The Commission requests information concerning legal, operational, or other impediments, if any, to (1) FCMs becoming members of exempt DCOs, and (2) exempt DCOs, and non-U.S. clearing organizations that may choose to become exempt DCOs, complying with cleared swaps customer funds protection and segregation rules set forth in parts 1, 22, 39, and 190 of the Commission's regulations.

10. The Commission requests estimates from swap dealers, FCMs, and their affiliates of the percentages of their swap business, measured in terms of initial margin, that they estimate is cleared at particular non-U.S. DCOs, either registered or exempt.

11. In the 2018 Proposal, the Commission proposed to define ''good regulatory standing'' to mean that either there has been no finding by the home country regulator of material non-observance of the PFMIs or other relevant home country legal requirements, or there has been such a finding by the home country regulator, but it has been or is being resolved to the satisfaction of the home country regulator by means of corrective action taken by the exempt DCO.[58] Although the Commission proposed to limit this to instances of ''material'' non-observance of the PFMIs or other relevant home country legal requirements, the Commission requests comment as to whether it should instead require all instances of non-observance.

12. Commenters suggested the Commission should clarify that a non-U.S. clearing organization clearing swaps does not trigger registration as a DCO solely because it permits participation (direct or indirect) by foreign branches of U.S. bank swap dealers (foreign branches).[59] The commenters argued that because such participation takes place outside the United States, it does not involve use of U.S. jurisdictional means by the non-U.S. clearing organization. The commenters noted that the Commission has recognized in other contexts that applying the Dodd-Frank Act's registration requirements to parties transacting with foreign branches would result in competitive disparities that are not necessary to mitigate risk to the United States.[60] The commenters also noted that subjecting non-U.S. clearing organizations clearing swaps to registration as DCOs when they permit participation by foreign branches discourages those non-U.S. clearing organizations from permitting such participation, and that, to access those non-U.S. clearing organizations, U.S. banks must incur the costs, including the additional regulatory burden, of ''subsidiarizing'' their local clearing operations.[61] To date, the Commission has not addressed directly the scope of the DCO registration requirement for non-U.S. clearing organizations clearing swaps in the specific context of foreign branches, and the Commission declines to do so at this time. However, the Commission requests additional comment on whether the Commission should address the scope of the registration requirement under section 2(i) with respect to foreign branches, as suggested by the commenters.

13. The Commission currently does not require non-U.S. customers clearing foreign futures or swaps at registered non-U.S. DCOs to clear through FCMs. In addition, the Commission is proposing in this release to permit U.S. customers to clear swaps through non-FCMs at exempt DCOs. In light of this, should the Commission consider permitting non-U.S. customers to clear futures and swaps through non-FCMs at U.S. registered DCOs? In other words, should the Commission give non-U.S. customers the option of choosing to clear futures and swaps through local intermediaries that are clearing members of U.S. registered DCOs, instead of requiring them to clear, directly or indirectly, through FCMs at U.S. registered DCOs?

14. Until now, it has been the Commission's policy to allow U.S. customers' swap positions to be cleared only through registered FCMs at registered DCOs. However, the Commission understands that an FCM may be reluctant to participate as a direct member of a registered non-U.S. DCO if the FCM's affiliate is also a member of the DCO, due to duplicative requirements that would be borne by the two affiliates. The Commission requests comment as to alternatives to address concerns with this approach.

For example, where consistent with the rules of a registered DCO, an FCM could potentially participate as a ''special'' member whose obligations to the DCO could be guaranteed by its non-FCM affiliate acting as a ''traditional'' member of the DCO. All customer funds would flow directly from the FCM to the registered DCO, *i.e.,* they would *not* pass through the non-FCM affiliate.

[58] *See* 2018 Proposal, 83 FR at 39924–39925.

[59] *See* FIA/SIFMA White Paper at 36–38, attached as Appendix A to FIA/SIFMA comment letter (Oct. 12, 2018).

[60] *See id.* at 37 (citing the 2013 Cross-Border Guidance at 45,324 (''The Commission understands that commenters are concerned that foreign entities, in order to avoid swap dealer status, may decrease their swap dealing business with foreign branches of U.S. registered swap dealers and guaranteed affiliates that are swap dealers. Therefore, the Commission's policy, based on its interpretation of Section 2(i) of the CEA, will be that swap dealing transactions with a foreign branch of a U.S. swap dealer or with guaranteed affiliates that are swap dealers should generally be excluded from the *de minimis* calculations of non-U.S. persons that are not guaranteed or conduit affiliates'').

[61] *See id.*

Similarly, in the event of the default of a customer of the FCM, the FCM would, nonetheless, be responsible in the first instance for making prompt payment in full of all obligations under contracts cleared through the FCM at the registered DCO. The guarantor affiliate's responsibility to perform on the guarantee would only be activated in the event that the FCM fails promptly to perform in full with respect to the positions it clears. In guaranteeing the FCM's obligations, the non-FCM affiliate would need a (subordinated) security interest in the collateral held at the registered DCO to enable it to protect its own interests if it is called upon to perform under that guarantee.[62] Such a security interest with respect to customer collateral generally, and, in the case of cleared swaps collateral specifically, would necessarily be subject to the limitation that the guarantor could access no more of the collateral than the registered DCO could use under section 4d of the CEA and the Commissions regulations thereunder (including, with respect to cleared swaps customer collateral, Part 22).

The Commission requests comment as to whether this approach is viable, and the extent to which there would need to be protections in place for the FCM, the non-FCM affiliate, FCM customers, and the registered DCO, and, if so, what protections would be appropriate.

In particular, the Commission further requests comment as to whether there would need to be modifications to § 22.2(d)(2), which provides that an FCM may not impose or permit the imposition of a lien on cleared swaps customer collateral, to accommodate this approach, and, if so, what modifications would be most appropriate (including providing appropriate protection for customer funds).

15. Considering the increased demand for swap clearing and the declining number of FCMs, are there other operational structures that the Commission should consider to better ensure availability of swap clearing services at both registered and exempt DCOs without jeopardizing U.S. customer protections? If so, please describe in detail.

[62] It would arguably be consistent with such a model for other responsibilities—*e.g.,* payments under a mutualized guaranty fund, assessments, participation in end-of-day closing price determination exercises, and/or participation in default management activities—to be performed by the guarantor affiliate.

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis on the impact.[63] The regulations proposed by the Commission will affect only clearing organizations. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[64] The Commission has previously determined that clearing organizations are not small entities for the purpose of the RFA.[65] Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA)[66] provides that Federal agencies, including the Commission, may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number from the Office of Management and Budget (OMB). This proposed rulemaking contains reporting requirements that are collections of information within the meaning of the PRA. The Commission is requesting a new OMB control number for the collection of information in proposed § 39.6. The responses to the collection of information would be necessary to obtain exemption from DCO registration.

1. Application for Exemption from DCO Registration Under Proposed § 39.6

Based on its experience in addressing petitions for exemption, the Commission anticipates receiving one application for exemption per year, and one request for termination of an exemption every three years.[67] Burden hours and costs were estimated based on existing information collections for DCO registration and reporting, adjusted to reflect the significantly lower burden of the proposed regulations. The Commission has estimated the burden hours for this proposed collection of information as follows:

- Application for Exemption, Including All Exhibits, Supplements and Amendments

Estimated number of respondents: 1.
Estimated number of reports per respondent: 1.
Average number of hours per report: 40.
Estimated gross annual reporting burden: 40.

- Termination of Exemption

Estimated number of respondents: 1.
Estimated number of reports per respondent: 0.33.
Average number of hours per report: 2.
Estimated gross annual reporting burden: 0.66.

- Notice to Clearing Members of Termination of Exemption

Estimated number of respondents: 1.
Estimated number of reports per respondent: 10.33.
Average number of hours per report: 0.1.
Estimated gross annual reporting burden: 1.033.

2. Reporting by Exempt DCOs

The number of respondents for the daily and quarterly reporting and annual certification requirements is conservatively estimated at a maximum of seven, based on the number of existing exempt DCOs (4) and one application for exemption each year. Reporting of specific events is expected to occur infrequently. The burden is estimated conservatively at four per year for event-specific reporting:

- Daily Reporting

Estimated number of respondents: 7.
Estimated number of reports per respondent: 250.
Average number of hours per report: 0.1.
Estimated gross annual reporting burden: 175.

- Quarterly Reporting

Estimated number of respondents: 7.
Estimated number of reports per respondent: 4.
Average number of hours per report: 1.
Estimated gross annual reporting burden: 28.

- Event-Specific Reporting

Estimated number of respondents: 4.
Estimated number of reports per respondent: 1.

[63] 5 U.S.C. 601 *et seq.*

[64] 47 FR 18618 (Apr. 30, 1982).

[65] *See* 66 FR 45604, 45609 (Aug. 29, 2001).

[66] 44 U.S.C. 3501 *et seq.*

[67] The Commission has determined that one termination every three years is a more appropriate estimate than one per year, which was used in the information burden estimate for the 2018 Proposal.

Average number of hours per report: 0.5.

Estimated gross annual reporting burden: 2.

• Annual Certification

Estimated number of respondents: 7.

Estimated number of reports per respondent: 1.

Average number of hours per report: 1.5.

Estimated gross annual reporting burden: 10.5.

3. Third-Party Reporting by Clearing Members Clearing for Unaffiliated U.S. Persons Through Exempt DCOs

Proposed § 39.6(b)(2) would require an exempt DCO to have rules that require any clearing member seeking to clear for an unaffiliated U.S. person to provide written notice to, and obtain acknowledgement from, the U.S. person prior to clearing that the clearing member is not a registered FCM, the exempt DCO is exempt from registration with the Commission, and the protections of the Bankruptcy Code, as defined in § 190.01 of this chapter, do not apply to the U.S. person's funds. The notice must explicitly compare the protections available to the U.S. person under U.S. law and the exempt DCO's home country regulatory regime. The estimated burden for this requirement is based on the average number of clearing members at four existing exempt DCOs and three potential exempt DCOs (estimated at one applicant per year over the next three years), clearing for an average of 10 unaffiliated U.S. persons:

• Clearing Members Providing Written Notice to, and Obtaining Acknowledgement From, Unaffiliated U.S. Persons

Estimated number of respondents: 217.

Estimated number of reports per respondent: 10.

Average number of hours per report: 0.2.

Estimated gross annual reporting burden: 430.

4. Reporting by Exempt DCOs in Accordance With Part 45

Proposed § 39.6(d) would require an exempt DCO to report data regarding the two swaps resulting from the novation of an original swap to a registered SDR, if the original swap had been reported to a registered SDR pursuant to part 45 of the Commission's regulations. The Commission is proposing to revise the information collection for part 45 to add exempt DCOs as an additional category of reporting entity. The burden for exempt DCOs reporting in accordance with part 45 is estimated to be approximately one-quarter of the burden for registered DCOs with respect to both non-recurring and recurring costs because exempt DCOs will not be required to report all swaps, only those that result from the novation of original swaps that have been reported to an SDR.[68] Consequently, the burden hours for the proposed collection of information in this rulemaking have been estimated as follows:

• Reporting in Accordance With Part 45

Estimated number of respondents: 7.

Estimated number of reports per respondent: 1987.

Average number of hours per report: 0.1.

Estimated gross annual reporting burden: 1393.

The proposed exemption for foreign intermediaries from registration as an FCM in § 3.10(c)(7) will not impose any new recordkeeping or information collection requirements, or other collections of information that require approval of the OMB under the PRA.

C. Cost-Benefit Considerations

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[69] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

The baseline for the Commission's consideration of the costs and benefits of this proposed rulemaking are: (1) The current status, where the Commission has implemented a set of conditions and procedures for granting exemptions from DCO registration, and has proposed, but not yet codified, those conditions and procedures under Commission regulations;[70] (2) the core principles applicable to registered DCOs set forth in the CEA;[71] (3) the general provisions applicable to registered DCOs under subparts A and B of Part 39; (4) Form DCO in Appendix A to Part 39; (5) Parts 1, 22, and 40 of the Commission's regulations; and (6) § 3.10.

The Commission notes that this consideration is based on its understanding that the swaps market functions internationally with (1) transactions that involve U.S. firms occurring across different international jurisdictions; (2) some entities organized outside of the United States that are prospective Commission registrants; and (3) some entities that typically operate both within and outside the United States and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of the proposed regulations on all relevant swaps activity, whether based on their actual occurrence in the United States or on their connection with activities in, or effect on, U.S. commerce pursuant to section 2(i) of the CEA.[72]

The Commission recognizes that the proposed rules may impose costs. The Commission has endeavored to assess the expected costs and benefits of the proposed rulemaking in quantitative terms, including PRA-related costs, where possible. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable proposed rules in qualitative terms. The lack of data and information to estimate those costs is attributable in part to the nature of the proposed rules. Additionally, the initial and recurring compliance costs for any particular exempt DCO will depend on the size, existing infrastructure, level of clearing activity, practices, and cost structure of the DCO.

Finally, the costs and benefits of this proposal may be affected by the Commission's proposal to adopt a registration regime with alternative

[68] Details of the estimated burden related to non-recurring and recurring costs under part 45 are discussed in the part 45 adopting release. *See* Swap Data Recordkeeping and Reporting Requirements, 77 FR at 2171—2176.

[69] 7 U.S.C. 19(a).

[70] The Commission notes that the costs and benefits of the proposed changes in the 2018 Proposal were discussed within that release. Only the costs and benefits of the changes proposed in this release are discussed in this release.

[71] 7 U.S.C. 7a–1(c)(2)(A).

[72] Pursuant to section 2(i) of the CEA, activities outside of the United States are not subject to the swap provisions of the CEA, including any rules prescribed or regulations promulgated thereunder, unless those activities either have a direct and significant connection with activities in, or effect on, commerce of the United States; or contravene any rule or regulation established to prevent evasion of a CEA provision enacted under the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376. 7 U.S.C. 2(i).

compliance[73] under which an already registered non-U.S. DCOs would have the option of seeking an exemption from registration or applying for registration under registration procedures with alternative compliance. These clearing organizations would need to compare the costs and benefits of an exemption with the costs and benefits of registration with alternative compliance.

2. Proposed Amendments to Part 39

a. Summary

Section 5b(h) of the CEA permits the Commission to exempt a non-U.S. clearing organization from DCO registration for the clearing of swaps to the extent that the Commission determines that such clearing organization is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organization's home country. Pursuant to this authority, the Commission has exempted four non-U.S. clearing organizations from DCO registration. An exempt DCO is currently permitted to clear only proprietary positions of U.S. persons and FCMs, and not customer positions. The proposed regulations, however, would permit an exempt DCO to clear U.S. customer positions under certain conditions, thereby providing more clearing options for swaps customers.

b. Benefits and Costs

The proposed amendments to § 39.6 would allow U.S. customer positions to be cleared at an exempt DCO, provided that they are not cleared through a clearing member that is registered as an FCM. The Commission believes this would increase the number of non-U.S. clearing organizations available to clear swaps for U.S. customers and would afford clearing members and their customers more clearing options. Access to more clearing organizations may encourage more clearing of swaps, while reducing the concentration risk among registered and exempt DCOs. With this proposal and the proposal to adopt an alternative compliance regime, U.S. persons could have even more choices for interacting with non-U.S. clearing organizations.

A U.S. customer clearing at an exempt DCO under proposed § 39.6 would not be protected under the provisions of the Bankruptcy Code. However, this cost is potentially mitigated by two factors. First, the exempt DCO's home country may have a bankruptcy regime that would provide similar protections and be applicable in that situation. Second, because proposed § 39.6(b)(2) would require an exempt DCO to have rules that require any clearing member seeking to clear for an unaffiliated U.S. person to provide written notice to, and obtain acknowledgement from, the U.S. person prior to clearing that the protections of the Bankruptcy Code would not apply to the U.S. person's funds, a U.S. person seeking to clear through an exempt DCO would know in advance that it is not protected by the Bankruptcy Code. The notice would be required to explicitly compare the protections available to the U.S. person under U.S. law and the exempt DCO's home country regulatory regime. This would allow the U.S. person to consider the pros and cons of that bankruptcy regime prior to making a decision to clear at a given exempt DCO.

The possibility of U.S. customer business at exempt DCOs may encourage non-U.S. clearing organizations that are not currently registered or exempt DCOs to apply to become an exempt DCO. Although there are costs involved with preparing an application for an exemption from DCO registration as well as ongoing compliance costs for exempt DCOs, such costs are significantly lower than the corresponding costs applicable to registered DCOs. Because proposed § 39.6 would allow an exempt DCO to clear for U.S. customers who are currently permitted to clear only through registered DCOs (provided that U.S. customers do not clear through a registered FCM), the Commission anticipates that some non-U.S. clearing organizations that are currently registered DCOs, or that would otherwise apply to register in the future, may choose to apply to become an exempt DCO, thus lowering their ongoing compliance costs. Some of these cost savings may be passed on to clearing members and customers.

The Commission notes that, if this proposal and the proposal to adopt an alternative compliance regime are adopted as proposed, eligible non-U.S. clearing organizations would have a choice between seeking an exemption from registration and registering under the alternative compliance regime. They would also retain the option of registering under the traditional registration procedures. Each clearing organization would need to compare the costs and benefits of an exemption with the costs and benefits of registration. Both alternative compliance and exemption from registration are significantly less costly than traditional registration. The Commission expects that alternative compliance would be somewhat more costly than an exemption from registration. In the PRA analyses of the two proposals, the Commission estimated that it would take about 100 hours to register under the alternative procedures as compared to 40 hours to apply for an exemption. The daily, quarterly, and event-specific reporting requirements are estimated to impose the same hourly burden for both categories with the exception of swap data reporting under part 45. Registered DCOs subject to alternative compliance would be subject to the same part 45 reporting requirements as other registered DCOs, while exempt DCOs would only have to report data regarding the two swaps resulting from the novation of an original swap previously reported to an SDR. In the PRA section for this release, the Commission estimates that the part 45 reporting burden for an exempt DCO would be about one quarter as much as the burden on a registered DCO. Both exempt DCOs and registered DCOs subject to alternative compliance would primarily be subject to their home country regulatory regimes, but registered DCOs subject to alternative compliance would also be held to certain requirements set forth in the CEA and Commission regulations, including, for example, subpart A of part 39 and § 39.15. The extent to which these additional requirements would increase costs on registered DCOs subject to alternative compliance would depend on the extent to which these requirements would exceed the legal requirements of their home countries and the extent to which registered DCOs subject to alternative compliance would have to change their practices.

While the alternative compliance regime is more costly than an exemption, it would provide benefits that are not currently available to exempt DCOs or those that clear through an exempt DCO. For example, a DCO subject to alternative compliance would be permitted to clear for U.S. persons clearing through an FCM, and such U.S. persons would have the benefit of U.S. bankruptcy protection. Therefore, unlike exempt DCOs, DCOs subject to alternative compliance and their clearing members would not incur the costs associated with proposed § 39.6(b)(2) under which exempt DCOs would be required to have rules requiring their clearing members to provide written notice of the bankruptcy protections available to U.S. persons. An eligible clearing organization may choose to register under the alternative compliance regime over seeking an exemption if it determines that the

[73] Registration with Alternative Compliance for Non-U.S. Derivatives Clearing Organizations, approved on July 11, 2019.

benefits of FCM customer clearing would justify the extra costs of alternative compliance relative to an exemption.

Registered DCOs may face a competitive disadvantage as a result of this proposal (as is the case with the proposal to adopt an alternative compliance regime). A registered DCO subject to full Commission regulation and oversight may have higher ongoing compliance costs than an exempt DCO. This competitive disadvantage is mitigated by the fact that exempt DCOs would, as a precondition of such exemption, be required to be subject to comparable, comprehensive supervision and regulation by a home country regulator that is likely to impose costs similar to those associated with Commission regulation. Such exempt DCOs, then, may have compliance costs in their home countries that registered DCOs might not.

FCMs may also face a competitive disadvantage as a result of this proposal, as they would not be permitted to clear customer trades at an exempt DCO. To the extent that their customers shift their clearing activity from registered DCOs to exempt DCOs, or otherwise reduce their clearing activity at registered DCOs as a result of this proposal, FCMs would lose business. As discussed above, however, the Commission believes there may be costs to customers if they were permitted to clear through an FCM at an exempt DCO, due to the uncertainty as to the bankruptcy protection customers would receive. The Commission believes that the exempt DCO framework would provide U.S. persons with additional options regarding the trading and clearing of swap transactions. The ability of U.S. persons to use foreign intermediaries to carry their accounts for clearing at exempt DCOs under proposed § 3.10(c)(7) would potentially expand the number of intermediaries that currently clear swaps for U.S. persons. The expansion of the exempt DCO framework to include foreign intermediaries clearing for customers has the potential for increasing the number of market intermediaries clearing for U.S. persons and reducing the concentration of U.S. customer funds in a small number of FCMs.

The proposal would also provide U.S. customers with access to swaps that are cleared in foreign jurisdictions that the U.S. customers otherwise would not be able to access. As discussed above, U.S. customers' access to foreign cleared swaps markets is restricted to foreign swaps cleared by registered DCOs.

The Commission does not anticipate that the proposal would impose costs on non-FCM clearing members or customers. The proposal could increase the number of exempt DCOs [74] and permit some registered DCOs that wish to clear for U.S. customers to seek an exemption from registration, which may allow them to pass on cost savings to clearing members and customers. Therefore, the Commission believes that non-FCM clearing members and customers may face reduced costs as a result of this proposal. To the extent that exempt DCOs do not save costs relative to registered DCOs, or do not pass cost savings to their clearing members or customers, the Commission notes that clearing members and customers could simply continue clearing through traditionally registered DCOs, likely without any change in costs.

The Commission does not believe that the proposal would materially increase the risk to the U.S. financial system. Registered DCOs that pose substantial risk to the U.S. financial system would not be eligible for an exemption from registration.[75] Furthermore, a non-U.S. clearing organization cannot obtain an exemption from registration unless the Commission determines that it is subject to comparable, comprehensive supervision and regulation by its home country regulator, meaning that the non-U.S. clearing organization would be subject to regulation comparable to that imposed on registered DCOs. An MOU or similar arrangement must be in effect between the Commission and the exempt DCO's home country regulator, allowing the Commission to receive information from the home country regulator to help monitor the exempt DCO's continuing compliance with its legal obligations. The Commission also notes that foreign regulators have a strong incentive to ensure the safety and soundness of the clearing organizations that they regulate, and their oversight, combined with the DCO exemption regime, will enable the Commission to more efficiently allocate its own resources to the oversight of traditionally registered DCOs.

Finally, the proposed regulations would promote and perhaps encourage international comity by showing deference to non-U.S. regulators in the oversight of non-U.S. clearing organizations that clear for U.S. customers. If regulators in other countries similarly defer to U.S. oversight of U.S. registered DCOs active in overseas markets, the reduced registration and compliance burdens on such DCOs would be an additional benefit of the proposed regulations.

3. Section 15(a) Factors

a. Protection of Market Participants and the Public

The proposed regulations would not materially reduce the protections available to market participants and the public because they would, among other things: (i) Require that an exempt DCO not pose substantial risk to the U.S. financial system; (ii) require that an exempt DCO's clearing members provide written notice to, and obtain acknowledgement from, their U.S. customers prior to clearing that the protections of the Bankruptcy Code do not apply to the U.S. customer's funds; and (iii) explicitly authorize the Commission to modify or terminate an order of exemption on its own initiative if it determines that there are changes to or omissions in material facts or circumstances pursuant to which the order of exemption was issued, or that any of the terms and conditions of the order of exemption have not been met. Collectively, these provisions, along with previously proposed regulations, would protect market participants and the public by ensuring that exempt DCOs would be subject to the internationally-recognized PFMI standards and do not pose substantial risk to the U.S. financial system. Although U.S. persons clearing through an exempt DCO would not have the protections of the Bankruptcy Code, such persons would be required to acknowledge this in advance, allowing them to conduct the necessary due diligence to determine whether it is worth giving up such protections in exchange for those that may be offered under the applicable foreign bankruptcy regime. Although the Commission acknowledges the possibility that some foreign regulatory regimes may ultimately prove to be less effective than that of the United States, the Commission believes that this risk is mitigated for the reasons discussed above.

[74] Any increase in the number of exempt DCOs would depend in part on the extent to which eligible clearing organizations choose to seek an exemption over registering under the alternative compliance regime (assuming both proposals are adopted).

[75] It may also be possible that the Commission's proposed test for ''substantial risk to the U.S. financial system'' may not be properly calibrated, allowing certain exempt DCOs to operate in U.S. markets when they may pose sufficient risk to the U.S. financial system to warrant greater oversight by the Commission. However, the Commission believes that even if these exempt DCOs are permitted to clear for U.S. customers, this risk will be mitigated by the Commission's determination that the exempt DCO is subject to comparable, comprehensive supervision and regulation by its home country regulator, as discussed above, and the Commission's access to certain daily and periodic reports regarding the exempt DCO.

b. Efficiency, Competitiveness, and Financial Integrity

The proposed regulations would promote operational efficiency by permitting exempt DCOs to clear swaps for U.S. customers without having to prepare and submit an application for DCO registration, which involves the submission of extensive documentation to the Commission. In addition, adopting the proposed regulations might prompt other regulators to adopt similar rules that would defer to the Commission in the regulation of U.S. registered DCOs operating outside the United States, which could increase competitiveness by reducing the regulatory burdens on such DCOs.

The proposed regulations may also promote competition among non-U.S. clearing organizations because they would hold exempt DCOs to the internationally-recognized standards set forth in the PFMIs. This would allow such clearing organizations to compete with each other under comparable regulatory regimes. Furthermore, by allowing exempt DCOs to clear for U.S. customers, the proposed regulations would promote competition by increasing the number of DCOs available to clear for U.S. customers. As noted above, however, the proposed regulations may reduce competition among intermediaries that would otherwise clear for U.S. customers, as FCMs would be prohibited from clearing customer trades at an exempt DCO.

The proposed regulations would be expected to maintain the financial integrity of swap transactions cleared by exempt DCOs because such DCOs would be subject to supervision and regulation by their home country regulator within a legal framework that is comparable to that applicable to registered DCOs under the CEA and Commission regulations and that is comprehensive. In addition, the proposed regulations may contribute to the financial integrity of the broader financial system by spreading the potential risk of particular swaps among a greater number of registered and exempt DCOs, thus reducing concentration risk. However, the Commission acknowledges that foreign intermediaries clearing for customers at an exempt DCO may not be subject to the same level of effective supervision as an FCM.

c. Price Discovery

Price discovery is the process of determining the price level for an asset through the interaction of buyers and sellers and based on supply and demand conditions. The Commission has not identified any impact that the proposed regulations would have on price discovery. This is because price discovery occurs before a transaction is submitted for clearing through the interaction of bids and offers on a trading system or platform, or in the over-the-counter market. The proposed rule would not impact requirements under the CEA or Commission regulations regarding price discovery.

d. Sound Risk Management Practices

The proposed regulations would continue to encourage sound risk management practices because exempt DCOs would be subject to the risk management standards set forth in the PFMIs. In addition, a non-U.S. clearing organization that poses substantial risk to the U.S. financial system would not be eligible for an exemption from registration.

e. Other Public Interest Considerations

The Commission notes the public interest in access to clearing organizations outside of the United States in light of the international nature of many swap transactions. The proposed regulations might encourage international comity by deferring, under certain conditions, to the regulators of other countries in the oversight of home country clearing organizations. The Commission expects that such regulators will defer to the Commission in the supervision and regulation of registered DCOs domiciled in the United States, thereby reducing the regulatory and compliance burdens to which such DCOs are subject.

4. Consideration of Alternatives

The Commission considered alternatives suggested by commenters on the 2018 Proposal for allowing U.S. customers to clear through exempt DCOs. One commenter suggested that the Commission amend the definition of ''clearing organization'' under part 190 of the Commission's regulations to provide that it has the same meaning as that set forth in section 761(2) of the Bankruptcy Code, but ''registered under the CEA'' in that statute should be read to mean ''registered *or exempt from registration* under the CEA.'' [76] In the alternative, the commenter also suggested that the Commission assert by regulation that an exempt DCO counts as a class or type of registered DCO for purposes of bankruptcy law.[77] Other commenters [78] proposed a regime for swaps similar to that for futures, including ''a clearing structure in which a U.S. customer clears through a U.S. FCM that maintains the U.S. customer's positions and margin in a customer omnibus account held by a non-U.S. clearing member that is not registered as an FCM.'' [79]

As discussed above, the Commission, at this time, is not proposing these alternatives given uncertainty as to the extent to which U.S. customers would be protected under the Bankruptcy Code in the event of an FCM bankruptcy proceeding.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation.[80]

The Commission believes that the public interest to be protected by the antitrust laws is the promotion of competition. The Commission requests comment on whether the proposed rulemaking implicates any other specific public interest to be protected by the antitrust laws. The Commission has considered the proposed rulemaking to determine whether it is anticompetitive. The Commission believes that the proposed rulemaking may promote greater competition in swap clearing because it would permit exempt DCOs to clear swaps for U.S. customers under certain circumstances, which would provide greater access to clearing and might encourage more non-U.S. clearing organizations to seek an exemption from registration to clear the same types of swaps for U.S. customers that are currently cleared by registered DCOs. The Commission is mindful of the potential competitive disadvantage for FCMs, however, as customers would not be permitted to clear through FCMs at exempt DCOs, but this is due to uncertainty of bankruptcy protection for customer funds held at an FCM. The Commission further notes that the proposal may increase the number of market intermediaries clearing for U.S. persons and reduce the concentration of U.S. customer funds in a small number of FCMs.

The Commission has not identified any less anticompetitive means of

[76] International Swaps and Derivatives Association, Inc. comment letter at 3 (Oct. 12, 2018).

[77] *Id.* at 4.

[78] FIA/SIFMA comment letter (Oct. 12, 2018); ASX Clear (Futures) Pty comment letter (Oct. 11, 2018); and Japan Securities Clearing Corporation comment letter (Oct. 10, 2018).

[79] FIA/SIFMA comment letter at 4 (Oct. 12, 2018).

[80] 7 U.S.C. 19(b).

achieving the purposes of the CEA. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting the proposed rules.

List of Subjects

17 CFR Part 3

Definitions, Consumer protection, Foreign futures, Foreign options, Registration requirements.

17 CFR Part 39

Clearing, Customer protection, Derivatives clearing organization, Exemption, Procedures, Registration, Swaps.

17 CFR Part 140

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR chapter I as follows:

PART 3—REGISTRATION

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 6a, 6b, 6b–1, 6c, 6d, 6e, 6f, 6g, 6h, 6*i*, 6k, 6m, 6n, 6*o*, 6p, 6s, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

■ 2. Amend § 3.10 by reserving paragraph (c)(6) and adding paragraph (c)(7) to read as follows:

§ 3.10 Registration of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, swap dealers, major swap participants and leverage transaction merchants.

* * * * *

(c) * * *

(6) [Reserved].

(7)(i) A person located outside the United States, its territories or possessions is not required to register as a futures commission merchant if it accepts funds from a U.S. person to margin, guarantee, or secure swap transactions that are cleared by a derivatives clearing organization that is exempt from registration pursuant to section 5b(h) of the Act and § 39.6 of this chapter.

(ii) A person exempt from registering as a futures commission merchant in accordance with paragraph (c)(7)(i) of this section is not required to comply with those provisions of the Act and of the rules, regulations, or orders thereunder applicable solely to any registered futures commission merchant or any person required to be so registered.

(iii) A person exempt from registering as a futures commission merchant in accordance with paragraph (c)(7)(i) of this section may not engage in other activities requiring registration as a futures commission merchant or voluntarily register as a futures commission merchant.

(iv) A person exempt from registering as a futures commission merchant in accordance with paragraph (c)(7)(i) of this section must be a clearing member of an exempt derivatives clearing organization and must directly clear the swap transactions of the U.S. person at an exempt derivatives clearing organization.

(v) A person exempt from registering as a futures commission merchant in accordance with paragraph (c)(7)(i) of this section may provide commodity trading advice to U.S. persons without registering as a commodity trading advisor, provided that, the commodity trading advice is provided solely with respect to swap transactions that are cleared by an exempt derivatives clearing organization.

* * * * *

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

■ 3. The authority citation for part 39 is revised to read as follows:

Authority: 7 U.S.C. 2, 7a–1, and 12a(5); 12 U.S.C. 5464; 15 U.S.C. 8325; Section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, title VII, § 752, July 21, 2010, 124 Stat. 1749.

■ 4. Revise § 39.1 to read as follows:

§ 39.1 Scope.

The provisions of this subpart A apply to any derivatives clearing organization, as defined under section 1a(15) of the Act and § 1.3 of this chapter, that is registered or is required to register with the Commission as a derivatives clearing organization pursuant to section 5b(a) of the Act, or that is applying for an exemption from registration pursuant to section 5b(h) of the Act.

■ 5. In § 39.2, add the definitions of ''Exempt derivatives clearing organization,'' ''Good regulatory standing,'' ''Home country,'' ''Home country regulator,'' ''Principles for Financial Market Infrastructures,'' and ''Substantial risk to the U.S. financial system'' in alphabetical order to read as follows:

§ 39.2 Definitions.

* * * * *

Exempt derivatives clearing organization means a derivatives clearing organization that the Commission has exempted from registration under section 5b(a) of the Act, pursuant to section 5b(h) of the Act and § 39.6 of this chapter.

* * * * *

Good regulatory standing means, with respect to a derivatives clearing organization that is organized outside of the United States, and is licensed, registered, or otherwise authorized to act as a clearing organization in its home country, that:

(1) In the case of an exempt derivatives clearing organization, either there has been no finding by the home country regulator of material non-observance of the Principles for Financial Market Infrastructures or other relevant home country legal requirements, or there has been a finding by the home country regulator of material non-observance of the Principles for Financial Market Infrastructures or other relevant home country legal requirements but any such finding has been or is being resolved to the satisfaction of the home country regulator by means of corrective action taken by the derivatives clearing organization; or

(2) In the case of a derivatives clearing organization registered through the process described in § 39.3(a)(3) of this part, either there has been no finding by the home country regulator of material non-observance of the relevant home country legal requirements, or there has been a finding by the home country regulator of material non-observance of the relevant home country legal requirements but any such finding has been or is being resolved to the satisfaction of the home country regulator by means of corrective action taken by the derivatives clearing organization.

* * * * *

Home country means, with respect to a derivatives clearing organization that is organized outside of the United States, the jurisdiction in which the derivatives clearing organization is organized.

* * * * *

Home country regulator means, with respect to a derivatives clearing organization that is organized outside of the United States, an appropriate government authority which licenses, regulates, supervises, or oversees the derivatives clearing organization's clearing activities in the home country.

* * * * *

Principles for Financial Market Infrastructures means the Principles for Financial Market Infrastructures jointly published by the Committee on

Payments and Market Infrastructures and the Technical Committee of the International Organization of Securities Commissions in April 2012.

* * * * *

Substantial risk to the U.S. financial system means, with respect to a derivatives clearing organization organized outside of the United States, that (1) the derivatives clearing organization holds 20% or more of the required initial margin of U.S. clearing members for swaps across all registered and exempt derivatives clearing organizations; and (2) 20% or more of the initial margin requirements for swaps at that derivatives clearing organization is attributable to U.S. clearing members; *provided, however,* where one or both of these thresholds are close to 20%, the Commission may exercise discretion in determining whether the derivatives clearing organization poses substantial risk to the U.S. financial system. For purposes of this definition and §§ 39.6 and 39.51 of this chapter, *U.S. clearing member* means a clearing member organized in the United States, a clearing member whose parent company is organized in the United States, or a futures commission merchant.

* * * * *

■ 6. Add § 39.6 to read as follows:

§ 39.6 Exemption from derivatives clearing organization registration.

(a) *Eligibility for exemption.* The Commission may exempt a derivatives clearing organization that is organized outside of the United States, from registration as a derivatives clearing organization for the clearing of swaps for U.S. persons, and thereby exempt such derivatives clearing organization from compliance with provisions of the Act and Commission regulations applicable to derivatives clearing organizations, if:

(1) The derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by a home country regulator as demonstrated by the following:

(i) The derivatives clearing organization is organized in a jurisdiction in which a home country regulator applies to the derivatives clearing organization, on an ongoing basis, statutes, rules, regulations, policies, or a combination thereof that, taken together, are consistent with the Principles for Financial Market Infrastructures;

(ii) The derivatives clearing organization observes the Principles for Financial Market Infrastructures in all material respects; and

(iii) The derivatives clearing organization is in good regulatory standing in its home country;

(2) The derivatives clearing organization does not pose substantial risk to the U.S. financial system, as determined by the Commission; and

(3) A memorandum of understanding or similar arrangement satisfactory to the Commission is in effect between the Commission and the derivatives clearing organization's home country regulator, pursuant to which, among other things, the home country regulator agrees to provide to the Commission any information that the Commission deems necessary to evaluate the initial and continued eligibility of the derivatives clearing organization for exemption from registration or to review its compliance with any conditions of such exemption.

(b) *Conditions of exemption.* An exemption from registration as a derivatives clearing organization shall be subject to any conditions the Commission may prescribe including, but not limited to:

(1) *Clearing for U.S. persons.* The exempt derivatives clearing organization shall have rules providing that:

(i) An intermediary that clears swaps for a U.S. person may not be registered with the Commission as a futures commission merchant; and

(ii) An entity that is registered with the Commission as a futures commission merchant may be a clearing member of the exempt derivatives clearing organization, or otherwise maintain an account with an affiliated broker that is a clearing member, for the purpose of clearing swaps for itself and those persons identified in the definition of ''proprietary account'' set forth in § 1.3 of this chapter.

(2) *Notice of protections available to U.S. persons.* The exempt derivatives clearing organization shall have rules that require any clearing member seeking to clear for an unaffiliated U.S. person to provide written notice to, and obtain acknowledgement from, the U.S. person prior to clearing that the clearing member is not a registered futures commission merchant, the exempt derivatives clearing organization is exempt from registration with the Commission, and the protections of the Bankruptcy Code, as defined in § 190.01(c) of this chapter, do not apply to the U.S. person's funds. The notice must explicitly compare the protections available to the U.S. person under U.S. law and the exempt derivatives clearing organization's home country regulatory regime.

(3) *Open access.* The exempt derivatives clearing organization shall have rules with respect to swaps to which one or more of the counterparties is a U.S. person that shall:

(i) Provide that all swaps with the same terms and conditions, as defined by product specifications established under the exempt derivatives clearing organization's rules, submitted to the exempt derivatives clearing organization for clearing are economically equivalent within the exempt derivatives clearing organization and may be offset with each other within the exempt derivatives clearing organization, to the extent offsetting is permitted by the exempt derivatives clearing organization's rules; and

(ii) Provide that there shall be non-discriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated electronic matching platform or trade execution facility.

(4) *Consent to jurisdiction; designation of agent for service of process.* The exempt derivatives clearing organization shall:

(i) Consent to jurisdiction in the United States;

(ii) Designate, authorize, and identify to the Commission, an agent in the United States who shall accept any notice or service of process, pleadings, or other documents, including any summons, complaint, order, subpoena, request for information, or any other written or electronic documentation or correspondence issued by or on behalf of the Commission or the United States Department of Justice to the exempt derivatives clearing organization, in connection with any actions or proceedings brought against, or investigations relating to, the exempt derivatives clearing organization or any U.S. person or futures commission merchant that is a clearing member, or that clears swaps through a clearing member, of the exempt derivatives clearing organization; and

(iii) Promptly inform the Commission of any change in its designated and authorized agent.

(5) *Compliance.* The exempt derivatives clearing organization shall comply, and shall demonstrate compliance as requested by the Commission, with any condition of its exemption.

(6) *Inspection of books and records.* The exempt derivatives clearing organization shall make all documents, books, records, reports, and other information related to its operation as an exempt derivatives clearing organization open to inspection and copying by any representative of the Commission; and in response to a request by any representative of the

Commission, the exempt derivatives clearing organization shall, promptly and in the form specified, make the requested books and records available and provide them directly to Commission representatives.

(7) *Observance of the Principles for Financial Market Infrastructures.* On an annual basis, within 60 days following the end of its fiscal year, the exempt derivatives clearing organization shall provide to the Commission a certification that it continues to observe the Principles for Financial Market Infrastructures in all material respects. To the extent the exempt derivatives clearing organization is unable to provide to the Commission an unconditional certification, it must identify the underlying material non-observance of the Principles for Financial Market Infrastructures and identify whether and how such non-observance has been or is being resolved by means of corrective action taken by the exempt derivatives clearing organization.

(8) *Representation of good regulatory standing.* On an annual basis, within 60 days following the end of its fiscal year, an exempt derivatives clearing organization shall request and the Commission must receive from a home country regulator a written representation that the exempt derivatives clearing organization is in good regulatory standing.

(9) *Other conditions.* The Commission may condition an exemption on any other facts and circumstances it deems relevant.

(c) *General reporting requirements.* (1) An exempt derivatives clearing organization shall provide to the Commission the information specified in this paragraph and any other information that the Commission deems necessary, including, but not limited to, information for the purpose of the Commission evaluating the continued eligibility of the exempt derivatives clearing organization for exemption from registration, reviewing compliance by the exempt derivatives clearing organization with any conditions of the exemption, or conducting oversight of U.S. persons and their affiliates, and the swaps that are cleared by such persons through the exempt derivatives clearing organization. Information provided to the Commission under this paragraph shall be submitted in accordance with § 39.19(b) of this chapter.

(2) Each exempt derivatives clearing organization shall provide to the Commission the following information:

(i) A report compiled as of the end of each trading day and submitted to the Commission by 10:00 a.m. U.S. Central time on the following business day, containing with respect to swaps:

(A) Total initial margin requirements for all clearing members;

(B) Initial margin requirements and initial margin on deposit for each U.S. clearing member, by house origin and by each customer origin, and by each individual customer account;

(C) With respect to an intermediary that clears swaps for a U.S. person, initial margin requirements and initial margin on deposit for each individual customer account of each U.S. person; and

(D) Daily variation margin, separately listing the mark-to-market amount collected from or paid to each U.S. clearing member, by house origin and by each customer origin, and by each individual customer account; *provided, however,* if a clearing member margins on a portfolio basis its own positions and the positions of its affiliates, and either the clearing member or any of its affiliates is a U.S. person, the exempt derivatives clearing organization shall separately list the mark-to-market amount collected from or paid to each such clearing member, on a combined basis.

(ii) A report compiled as of the last day of each fiscal quarter of the exempt derivatives clearing organization and submitted to the Commission no later than 17 business days after the end of the exempt derivatives clearing organization's fiscal quarter, containing a list of U.S. persons and futures commission merchants that are either clearing members or affiliates of any clearing member, with respect to the clearing of swaps.

(iii) Prompt notice regarding any change in the home country regulatory regime that is material to the exempt derivatives clearing organization's continuing observance of the Principles for Financial Market Infrastructures or compliance with any of the requirements set forth in this section or in the order of exemption issued by the Commission;

(iv) As available to the exempt derivatives clearing organization, any assessment of the exempt derivatives clearing organization's or the home country regulator's observance of the Principles for Financial Market Infrastructures, or any portion thereof, by a home country regulator or other national authority, or an international financial institution or international organization;

(v) As available to the exempt derivatives clearing organization, any examination report, examination findings, or notification of the commencement of any enforcement or disciplinary action by a home country regulator;

(vi) Immediate notice of any change with respect to the exempt derivatives clearing organization's licensure, registration, or other authorization to act as a derivatives clearing organization in its home country;

(vii) In the event of a default by a clearing member clearing swaps, with such event of default determined in accordance with the rules of the exempt derivatives clearing organization, immediate notice of the default including the amount of the clearing member's financial obligation; *provided, however,* if the defaulting clearing member is a U.S. clearing member, or clears for a U.S. person, the notice shall also include the name of the defaulting clearing member and, as applicable, the name(s) of the U.S. person(s) for whom the clearing member clears, and a list of the positions held by the defaulting clearing member and, as applicable, the positions held by the U.S. person(s) for whom the clearing member clears; and

(viii) Notice of action taken against a U.S. clearing member by an exempt derivatives clearing organization, no later than two business days after the exempt derivatives clearing organization takes such action against a U.S. person or futures commission merchant.

(d) *Swap data reporting requirements.* If a clearing member clears through an exempt derivatives clearing organization a swap that has been reported to a registered swap data repository pursuant to part 45 of this chapter, the exempt derivatives clearing organization shall report to a registered swap data repository data regarding the two swaps resulting from the novation of the original swap that had been submitted to the exempt derivatives clearing organization for clearing. The exempt derivatives clearing organization shall also report the termination of the original swap accepted for clearing by the exempt derivatives clearing organization, to the swap data repository to which the original swap was reported. In order to avoid duplicative reporting for such transactions, the exempt derivatives clearing organization shall have rules that prohibit the reporting, pursuant to part 45 of this chapter, of the two new swaps by the original counterparties to the original swap.

(e) *Application procedures.* (1) An entity seeking to be exempt from registration as a derivatives clearing organization shall file an application for exemption with the Secretary of the Commission in the format and manner specified by the Commission. The Commission will review the application

for exemption and may approve or deny the application or, if deemed appropriate, exempt the applicant from registration as a derivatives clearing organization subject to conditions in addition to those set forth in paragraph (b) of this section.

(2) *Application.* An applicant for exemption from registration as a derivatives clearing organization shall submit to the Commission the information and documentation described in this section. Such information and documentation shall be clearly labeled as outlined in this section. The Commission will not commence processing an application unless the applicant has filed a complete application. Upon its own initiative, an applicant may file with its completed application for exemption additional information that may be necessary or helpful to the Commission in processing the application. The application shall include:

(i) A cover letter containing the following information:

(A) Exact name of applicant as specified in its charter, and the name under which business will be conducted (including acronyms);

(B) Address of applicant's principal office;

(C) List of principal office(s) and address(es) where clearing activities are/will be conducted;

(D) A list of all regulatory licenses or registrations of the applicant (or exemptions from any licensing requirement) and the regulator granting such license or registration;

(E) Date of the applicant's fiscal year end;

(F) Contact information for the person or persons to whom the Commission should address questions and correspondence regarding the application; and

(G) A signature and date by a duly authorized representative of the applicant.

(ii) A description of the applicant's business plan for providing clearing services as an exempt derivatives clearing organization, including information as to the classes of swaps that will be cleared and whether the swaps are subject to a clearing requirement issued by the Commission or the applicant's home country regulator;

(iii) Documents that demonstrate that the applicant is organized in a jurisdiction in which its home country regulator applies to the applicant, on an ongoing basis, statutes, rules, regulations, policies, or a combination thereof that, taken together, are consistent with the Principles for Financial Market Infrastructures;

(iv) A written representation from the applicant's home country regulator that the applicant is in good regulatory standing;

(v) Copies of the applicant's most recent disclosures that are necessary to observe the Principles for Financial Market Infrastructures, including the financial market infrastructure disclosure template set forth in Annex A to the Disclosure Framework and Assessment Methodology for the Principles for Financial Market Infrastructures, any other such disclosure framework issued under the authority of the International Organization of Securities Commissions that is required for observance of the Principles for Financial Market Infrastructures, and the URL to the specific page(s) on the applicant's website where such disclosures may be found;

(vi) A representation that the applicant will comply with each of the requirements and conditions of exemption set forth in paragraphs (b), (c), and (d) of this section, and the terms and conditions of its order of exemption as issued by the Commission;

(vii) A draft of the applicant's rules that meet the requirements of paragraphs (b)(1), (b)(2), (b)(3), and (d) of this section, and a draft of the notice that meets the requirements of paragraph (b)(2) of this section, as applicable; and

(viii) The applicant's consent to jurisdiction in the United States, and the name and address of the applicant's designated agent in the United States, pursuant to paragraph (b)(4) of this section.

(3) *Submission of supplemental information.* At any time during its review of the application for exemption from registration as a derivatives clearing organization, the Commission may request that the applicant submit supplemental information in order for the Commission to process the application, and the applicant shall file such supplemental information in the format and manner specified by the Commission.

(4) *Amendments to pending application.* An applicant for exemption from registration as a derivatives clearing organization shall promptly amend its application if it discovers a material omission or error, or if there is a material change in the information provided to the Commission in the application or other information provided in connection with the application.

(5) *Public information.* The following sections of an application for exemption from registration as a derivatives clearing organization will be public: The cover letter set forth in paragraph (e)(2)(i) of this section; the documentation required in paragraphs (e)(2)(iii) and (e)(2)(v) of this section; draft rules that meet the requirements of paragraphs (b)(1), (b)(2), (b)(3), and (d) of this section, as applicable; the draft notice that meets the requirements of paragraph (b)(2) of this section, as applicable; and any other part of the application not covered by a request for confidential treatment, subject to § 145.9 of this chapter.

(f) *Modification or termination of exemption upon Commission initiative.* (1) The Commission may, in its discretion and upon its own initiative, terminate or modify the terms and conditions of an order of exemption from derivatives clearing organization registration if the Commission determines that there are changes to or omissions in material facts or circumstances pursuant to which the order of exemption was issued, or that any of the terms and conditions of its order of exemption have not been met, including, but not limited to, the requirement that:

(i) The exempt derivatives clearing organization observes the Principles for Financial Market Infrastructures in all material respects;

(ii) The exempt derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by its home country regulator; or

(iii) The exempt derivatives clearing organization does not pose substantial risk to the U.S. financial system.

(2) The Commission shall provide written notification to an exempt derivatives clearing organization that it is considering whether to terminate or modify an exemption pursuant to this paragraph and the basis for that consideration.

(3) The exempt derivatives clearing organization may respond to the notification in writing no later than 30 business days following receipt of the notification, or at such later time as the Commission permits in writing.

(4) Following receipt of a response from the exempt derivatives clearing organization, or after expiration of the time permitted for a response, the Commission may:

(i) Issue an order of termination, effective as of a date to be specified therein. Such specified date shall be intended to provide the exempt derivatives clearing organization with a reasonable amount of time to wind

down its swap clearing services for U.S. persons;

(ii) Issue an amended order of exemption that modifies the terms and conditions of the exemption; or

(iii) Provide written notification to the exempt derivatives clearing organization that the exemption will remain in effect without modification to the terms and conditions of the exemption.

(g) *Termination of exemption upon request by an exempt derivatives clearing organization.* (1) An exempt derivatives clearing organization may petition the Commission to terminate its exemption if:

(i) Changed circumstances result in the exempt derivatives clearing organization no longer qualifying for an exemption;

(ii) The exempt derivatives clearing organization intends to cease clearing swaps for U.S. persons; or

(iii) In conjunction with the petition, the exempt derivatives clearing organization submits an application for registration in accordance with § 39.3(a)(2) or § 39.3(a)(3), as applicable, to become a registered derivatives clearing organization pursuant to section 5b(a) of the Act.

(2) The petition for termination of exemption shall include a detailed explanation of the facts and circumstances supporting the request and the exempt derivatives clearing organization's plans for, as may be applicable, the liquidation or transfer of the swaps positions and related collateral of U.S. persons.

(3) The Commission shall issue an order of termination within a reasonable time appropriate to the circumstances or, as applicable, in conjunction with the issuance of an order of registration.

(h) *Notice to clearing members of termination of exemption.* Following the Commission's issuance of an order of termination (unless issued in conjunction with the issuance of an order of registration), the exempt derivatives clearing organization shall provide immediate notice of such termination to its clearing members. Such notice shall include:

(1) A copy of the Commission's order of termination;

(2) A description of the procedures for orderly disposition of any open swaps positions that were cleared for U.S. persons; and

(3) An instruction to clearing members, requiring that they provide the exempt derivatives clearing organization's notice of such termination to all U.S persons clearing swaps through such clearing members.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

■ 7. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2(a)(12), 12a, 13(c), 13(d), 13(e), and 16(b).

■ 8. Amend § 140.94 by:

■ a. Revising the introductory text of paragraph (c);

■ b. Redesignating paragraphs (c)(4) through (c)(13) as paragraphs (c)(5) through (c)(14); and

■ c. Adding new paragraph (c)(4).

The revisions and additions read as follows:

§ 140.94 Delegation of authority to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Clearing and Risk.

* * * * *

(c) The Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Division of Clearing and Risk and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time:

* * * * *

(4) All functions reserved to the Commission in § 39.6 of this chapter, except for the authority to:

(i) Grant an exemption under § 39.6(a) of this chapter;

(ii) Prescribe conditions to an exemption under § 39.6(b) of this chapter;

(iii) Modify or terminate an exemption under § 39.6(f)(4) of this chapter; and

(iv) Terminate an exemption under § 39.6(g)(3) of this chapter.

* * * * *

Issued in Washington, DC, on July 12, 2019, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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

Appendicies to Exemption From Derivatives Clearing Organization Registration—Commission Voting Summary, Chairman's Statement, and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Giancarlo, and Commissioners Quintenz and Stump voted in the affirmative. Commissioners Behnam and Berkovitz voted in the negative.

Appendix 2—Statement of Chairman J. Christopher Giancarlo

The proposal would provide a non-U.S. DCO that does not pose a substantial risk to the United States, and that is subject to ''comparable, comprehensive supervision and regulation'' by appropriate regulators in the DCO's home jurisdiction, the option to be an exempt DCO. This proposal supplements regulations proposed by the Commission in August 2018 that would codify the policies and procedures that the Commission is currently following with respect to granting exemptions from registration as a DCO.[1] The proposal is grounded in section 5b(h) of the Commodity Exchange Act,[2] which provides that non-U.S. clearing organizations that are subject to ''comparable, comprehensive supervision and regulation'' by a home country regulator are eligible for an exemption from DCO registration.[3]

Unlike the current CFTC approach to exempt DCOs, the proposal would permit exempt DCOs to offer customer clearing to U.S. eligible contract participants—*i.e.,* non-retail customers—through foreign clearing members that are not registered as FCMs. To be eligible for this exemption, the DCO and the FCM would be required, among other things, to provide clear and succinct disclosure to U.S. eligible contract participants on the bankruptcy protections that would be afforded to them under relevant non-U.S. law. To facilitate this proposal, the Commission also is proposing to allow persons located outside of the United States to accept funds from U.S. persons to margin swaps cleared at an exempt DCO, without registering as FCMs.

This proposal is similar to the CFTC's long-standing approach to foreign futures clearing, which provides U.S. customers, including retail customers, with the ability to opt out of the bankruptcy protections offered under U.S. law to foreign futures funds. I believe it is wholly appropriate to permit U.S. eligible contract participants that are institutional, not retail, investors to exercise business judgment in this area. In other words, I believe it is appropriate to afford these institutional investors the opportunity to weigh the potential economic benefits of accessing products cleared at a non-U.S. CCP through a non-U.S. intermediary that would otherwise not be available to them, with the attendant potential risks relating to the use of a non-FCM intermediary. These are risks that institutional—and potentially retail—investors in those non-U.S. markets take every day when they choose to clear swaps

[1] Exemption From Derivatives Clearing Organization Registration, 83 FR 39923 (Aug. 13, 2018).

[2] 7 U.S.C. 7a–1(h).

[3] The Commission has construed ''comparable, comprehensive supervision and regulation'' to mean that the home country's supervisory and regulatory framework should be consistent with, and achieve the same outcome as, the statutory and regulatory requirements applicable to registered DCOs. Further, the Commission has deemed a supervisory and regulatory framework that conforms to the Principles for Financial Market Infrastructures to be comparable to, and as comprehensive as, the supervisory and regulatory requirements applicable to registered DCOs.

through those non-U.S. intermediaries at non-U.S. CCPs.

Some non-U.S. DCOs that are currently exempt from registration may elect to remain exempt or register under the full registration regime with alternative compliance, discussed earlier. In either case, they would be able to offer customer clearing, but in different ways. Exempt DCOs would be able to offer customer clearing to U.S. eligible contract participants through non-U.S. intermediaries operating in their markets, while fully registered DCOs subject to alternative compliance would be able to permit customer clearing through U.S. FCMs. In both cases, in terms of regulatory oversight of the DCO, the CFTC would defer to the primary regulator or regulators of the DCO.

I thank CFTC staff for their fine work that resulted in today's proposal. I look forward to reviewing comments from the public.

Appendix 3—Statement of Commissioner Brian Quintenz

Today's supplemental proposal to permit exempt DCOs to clear swaps for U.S. customers will provide greater choice and flexibility to market participants. Currently, an exempt DCO is only authorized to clear the proprietary positions of its U.S. clearing members. Today's proposal will provide U.S. customers, like U.S. asset managers, insurance companies, and others, with increased access to foreign markets and an enhanced ability to hedge their risk.

I strongly support this proposal's inclusion of specific criteria that the Commission will use to determine whether a foreign DCO poses a ''substantial risk to the U.S. financial system,'' and would therefore be ineligible for an exemption from registration. Today's rulemaking also appropriately streamlines exempt DCO reporting requirements to focus solely on the information necessary to evaluate ''substantial risk'' and to assess the extent to which the foreign DCO is clearing U.S. business.

I look forward to receiving comments on additional possibilities for U.S. customers to clear on exempt DCOs. In particular, I am interested to hear from commenters about whether U.S. futures commission merchants (FCMs) should be permitted to provide their U.S. customers with access to exempt DCOs, and, if so, how the protection of U.S. customer funds should be addressed. I also welcome comment about whether a foreign DCO, neither registered with the CFTC nor exempted from CFTC registration, should be permitted to clear for a foreign branch of a U.S. bank that is registered with the CFTC as a swap dealer. Finally, I look forward to hearing from market participants about whether a foreign clearing member of a foreign DCO should be permitted to sponsor a U.S. FCM's membership to the foreign DCO in order to facilitate access by U.S. customers.

Appendix 4—Dissenting Statement of Commissioner Rostin Behnam

Introduction

I respectfully dissent from the Commodity Futures Trading Commission's (the ''Commission'' or ''CFTC'') supplemental notice of proposed rulemaking addressing the granting of exemptions from registration as a derivatives clearing organization (''DCO'') to non-U.S. clearing organizations and further permitting such ''exempt DCOs'' to clear swaps for U.S. customers through intermediaries that would be wholly outside the Commission's direct regulation and oversight (the ''Supplemental Proposal''). While I supported the Commission's 2018 proposal to codify its current policies and procedures for granting exemptions from DCO registration [1] as a positive step towards increased cross-border cooperation and deference to our foreign regulatory counterparts, I cannot support it in its ''supplemental'' form. The Supplemental Proposal is not the product of internal consensus and its brief history and questionable timeline signal a lack of appropriate scrutiny and evaluation of the potential consequences of taking these first steps towards diverging from the customer protection model provided by the Commodity Exchange Act (''CEA'' or ''the Act'') and U.S. Bankruptcy Code.[2]

I support the Commission's endeavor to explore ways to adapt and—if appropriate—seek to alter the current intermediary structure established under the CEA and Commission regulations to better accommodate both U.S. customer demand for increased access to clearing in foreign jurisdictions and evolving global swaps market structures. However, I cannot support the Commission's proposed use of its limited public interest exemptive authority to create a regulatory easement as a short cut to legal certainty in furtherance of such efforts and to the detriment of U.S. customers, market participants, and the financial system.

If the Commission believes it is appropriate at this time to provide U.S. customers with greater access to non-U.S. swap markets, then we can and should engage in a more careful analysis of options, assessment of alternatives, and evaluation of consequences. Policy decisions made in haste amid ongoing uncertainty undermine the regulatory process and our accountability. As I have said before, when evaluating our regulatory landscape and making critical determinations as to which parts to revisit, which to complete, and how we can guide legislation and develop regulations to address market evolution and developments—regardless of the underlying impetus, we must hold one another accountable, adhere to appropriate process, be wary of false progress, and engage in genuine dialog.[3] Today's Supplemental Proposal in its timing, in its limitations, and in its uncertainty, is at best, false progress and, at worst, the false promise of benefits that will never be realized.

The substantial revisions to the Supplemental Proposal throughout these last several weeks with their various additions and carefully crafted excerpts do little to bolster the justifications and rationales put forth in advocacy of the proposed change in policy and attendant exemptive relief that would permit U.S. customer positions to be cleared at an exempt DCO through a foreign intermediary that is not registered as a futures commission merchant (''FCM''). Nowhere is this clearer than in the Request for Comments.[4]

The Supplemental Proposal utilizes its Request for Comments primarily to explore why this proposal represents the regulatory route that will cause the least amount of harm by soliciting the public for their best arguments as to the operation of the U.S. Bankruptcy Code (and relevant laws), and to solicit feedback on eligibility elements and several conditions of the exemption for DCOs. However, it also introduces and requests comment on alternatives to the Commission's longstanding policy (consistent with longstanding interpretation of the CEA) of allowing U.S. customers' swap positions to be cleared only through registered FCMs at registered DCOs. While this is an entirely appropriate issue to raise in the context of a proposed rulemaking (or other formal request for public comment such as an advance notice of proposed rulemaking, request for input, or concept release), the effectiveness of any comments received will be largely lost in this ''supplement'' since the line of questioning fails to accentuate—or itself propose—a rule from which any final Commission action could be taken as a logical outgrowth.[5] A line of questioning that seeks to introduce potentially new policy considerations for future consideration by a Commission in the midst of changing leadership is ill-fated, detracts commenters from the critical issues at hand, and undermines the integrity of the 2018 Proposal and the Supplemental Proposal.[6]

When You Are Boxed in by Uncertainty

Though I have many concerns with the Supplemental Proposal, I am most concerned with the Commission's contorted plan to permit DCOs that it would exempt from registration to clear swaps for U.S. customers through unregistered foreign intermediaries. This juggernaut of a proposal gained momentum from the ongoing uncertainty

[1] Exemption from Derivatives Clearing Organization Registration, 83 FR 39923 (proposed Aug. 13, 2018) (the ''2018 Proposal'').

[2] The Supplemental Proposal was drafted ad hoc in a rash attempt to launch a conception of how U.S. swaps customers may fare outside the protections offered through operation of the U.S Bankruptcy Code. The critical financial, market, consumer protection, and systemic risk issues raised by the Supplemental Proposal should be considered in the context of a more fulsome and informed discussion.

[3] *See, e.g.,* Rostin Behnam, Accountability & Moving Forward, Remarks of Commissioner Rostin Behnam at the FIA Boca 2018 International Futures Industry 43rd Annual Conference, Boca Raton, Florida (Mar. 15, 2018), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam4.*

[4] Supplemental Proposal at Section V.

[5] *See, e.g. CSX Transportation, Inc.* v. *Surface Transportation Board,* 584 F.3d 1076, 1079–81 (DC Cir. 2009) (''A final rule qualifies as a logical outgrowth 'if interested parties 'should have anticipated' that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period'').

[6] It seems particularly unfortunate in this instance where some extra time and staff attention may have permitted the Commission to deliberate and vote to issue an entirely separate proposal aimed at addressing timely and emerging concerns in the FCM community.

regarding the extent to which U.S. customers' funds would be protected under the U.S. Bankruptcy Code when clearing swaps at an unregistered DCO. While the Commission's decision to put a premium on legal certainty is laudable, it is not clear to me that the Commission ought to do so if it undermines key components of the CEA's customer protection regime aimed at protecting both U.S. customers and the stability of our markets and misaligns the Commission's already questionable use of its public interest exemptive authority with the purposes of the Act.[7] It appears that in attempting to deliver on the concept of permitting exempt DCOs to clear swaps for FCM customers—introduced just months ago by the Commission as a single question in the 2018 Proposal [8]—the Commission found itself boxed in by uncertainty. The only way out would be to remove any and all doubt that a U.S. customer who seeks to clear swaps on an exempt DCO will have to do so through a foreign intermediary not subject to CFTC regulation or oversight and outside the protections of the U.S Bankruptcy Code.[9]

Ongoing Uncertainty

The Supplemental Proposal would permit U.S. customers to clear at an exempt DCO only through a foreign intermediary and not through an FCM due to uncertainty regarding the protection of U.S. customer funds in the event of an insolvency of the FCM. The Commission is continuing to consider and evaluate this issue, consider alternative approaches, and identify possible risks to customers that may result from that uncertainty. While this approach was selected as a means to provide the greatest clarity with regard to the Commission's current understanding of the U.S. Bankruptcy Code, given that it necessitates the Commission's exercise of exemptive authority to permit foreign intermediaries to accept U.S. customer funds to clear swaps without having to register as FCMs (or having to comply with Commission rules and regulations applicable solely to registered FCMs), it would seem, on its face, to be inconsistent with the customer protection regime established under the CEA and Commission regulations.[10] This should give the Commission ample reason to pause its consideration of moving forward on the Supplemental Proposal at this time. Inexplicably, it does not. And instead, the Commission is soliciting comments from the public on a number of issues involving the interpretation and applicability of the U.S. Bankruptcy Code (or other relevant laws) and the clearing of swaps customer funds deposited at an exempt DCO by an FCM directly or through a foreign member of the exempt DCO.[11]

Misuse and Abuse of Authority

In order to permit foreign intermediaries to clear swaps for U.S. persons, and to ensure that only foreign intermediaries that are not FCMs will clear U.S. customer positions on exempt DCOs, the Commission is proposing to exercise its authority under section 4(c) of the CEA to exempt foreign intermediaries from the prohibition in section 4d(f) of the CEA against accepting customer funds to clear swaps at a registered or exempting DCO without registering as FCMs. Even assuming that the Commission's exemptive authority extends to the non-U.S. clearing organizations and intermediaries that are the subject of the Supplemental Proposal,[12] the Commission's proposed justifications for the use of such authority do not align with the very purpose of the authority to promote innovation and competition without sacrificing key components of the Commission's regulatory and oversight structure.

Section 4(c) of the CEA, commonly referred to as the public interest exemption, authorizes the Commission, in order to promote responsible innovation and fair competition, by rule, regulation, or order, to exempt, among other things, any person or class of persons offering, entering into, rendering advice, or rendering other services with respect to transactions from any of the provisions of the CEA other than certain enumerated provisions.[13] When enacting section 4(c), Congress noted that the purpose of the provision is ''to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner . . . . with due regard for the continued viability of the marketplace and considerations related to systemic risk in financial markets.'' [14] Indeed, in exercising its exemptive authority under section 4(c) of the CEA, the Commission has long understood that it was Congress's intention and expectation that ''the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants.'' [15] As well, Congress, in requiring the Commission to consider any material adverse effect on regulatory or self-regulatory responsibilities, indicated that the Commission is to consider such regulatory concerns as ''market surveillance, financial integrity of participants, protection of customers, and trade practice enforcement.'' [16]

The Commission's section 4(c) proposal, which would be codified in § 3.10(c)(7) of the Commission regulations, purports to be consistent with the exempt DCO framework being proposed in that it is based on deference to the regulation and supervision of foreign intermediary's home country regulator. To qualify for the exemption, the foreign intermediary: (1) Must accept funds from a U.S. person to margin, guarantee, or secure swap transactions that are cleared by an exempt DCO; (2) may not engage in other activities requiring registration as an FCM or voluntarily register as an FCM; and (3) must be a clearing member of an exempt DCO and must directly clear the swap transactions of the U.S. person at an exempt DCO. A foreign intermediary that is exempt from registering as an FCM pursuant to the foregoing requirements is not required to comply with those provisions of the Act and of the rules, regulations, or orders thereunder applicable solely to any registered FCM and may provide commodity trading advice to U.S. persons without registering as a commodity trading advisor (''CTA''), provided that the advice is provided solely with respect to swaps that are cleared by an exempt DCO.[17]

The Commission believes the proposed exemption for foreign intermediaries promotes responsible financial innovation and fair competition, and is consistent with

[7] *See* H.R. Rep. No. 102–978, 102d Cong. 2d Sess. 80 (1992).

[8] 2018 Proposal, 83 FR at 39930.

[9] Indeed, the Commission succinctly dismisses the consideration of proposed alternatives suggested by commenters on the 2018 Proposal ''given the uncertainty as to extent to which U.S. customers would be protected under the Bankruptcy Code . . .'' Supplemental Proposal at VI.C.4.

[10] *See* Supplemental Proposal at III.C.2.

[11] See Supplemental Proposal at V. I appreciate that asking these direct questions encourages interested parties and perhaps even bankruptcy scholars to provide their best interpretations and arguments. However, it is not clear to me that the U.S. Bankruptcy Court would be obliged to defer to such interpretations—even if accepted by the Commission. And that, unless the Commission aims to seek a legislative solution to alleviate the uncertainty presented by U.S. customer clearing on exempt DCOs—which it has not presented as a viable alternative in this Supplemental Proposal, I cannot appreciate the value of this exercise at this time when our immediate goal should be to codify policies and procedures for granting exemptions from DCO registration.

[12] Section 4(c) of the CEA, 7 U.S.C. 6(c), provides the Commission may exempt any agreement, contract, or transaction (including any persons offering, entering into, rendering advice or rendering other services with respect thereto) from the exchange trading requirements of section 4(a), or any other provision of the Act (subject to express limitations identified in section 4(c)(1)(A)) if such transaction—or person—is subject to section 4(a). Section 4(a) includes a parenthetical indicating that it does not apply to contracts ''made on or subject to the rules of a board of trade, exchange, or market located outside the United States . . .'' The Supplemental Proposal does address this potential limitation on its exemptive authority in its reading of section 4(c) (see Supplemental Proposal at Section II, n. 14). However, the CFTC's General Counsel confirmed that the Commission's use of section 4(c) exemptive authority is within the Commission's authority in this instance during the open public meeting at which the Supplemental Proposal was deliberated. *See* Press Release Number 7967–19, CFTC, CFTC Voted on Open Meeting Agenda Items (July 11, 2019), *https://www.cftc.gov/PressRoom/PressReleases/7967-19*.

[13] 7 U.S.C. 6(c)(1). Section 4(c)(2) of the CEA further provides that the Commission may not grant exemptive relief unless it determines that: (1) The exemption would be consistent with the public interest and the purposes of the CEA; (2) the transaction will be entered into solely between ''appropriate persons'' as that term is defined in section 4(c); and (3) the exemption will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory responsibilities under the CEA. 7 U.S.C. 6(c)(2).

[14] H.R. Rep. No. 102–978, 102d Cong. 2d Sess. 80 (1992).

[15] *See* Exemption for Certain Swap Agreements, 58 FR 5587, 5592 (Jan. 22, 1993), citing H.R. Rep. No. 102–978, 102d Cong. 2d Sess. 80 (1992).

[16] *See* Exemption for Certain Swap Agreements, 58 FR 5587, 5592 (Jan. 22, 1993), citing H.R. Rep. No. 102–978, 102d Cong. 2d Sess. 79 (1992).

[17] See Supplemental Proposal at Section II.

the public interest and purposes of the CEA. In support of these beliefs, the Commission focuses on: (1) The provision allowing U.S. persons additional options for trading and clearing swap transactions and the concomitant expansion of available intermediaries, which has the potential to reduce the current concentration of U.S. customer funds in a small number of FCMs and (2) increased access for U.S. persons to swaps that are cleared in foreign jurisdictions, which may provide for greater hedging opportunities and increased liquidity in more standardized, cleared contracts.[18] However, these rationales ignore that this approach removes U.S. customers from the protections of the U.S. Bankruptcy Code and puts both FCMs and registered DCOs at a competitive disadvantage and with respect to clearing in non-U.S. swaps markets. While the Commission puts forth mitigating factors in response to the loss of U.S. Bankruptcy Code protections, as discussed below, its solution can only be said to promote ''responsible'' innovation if we assume that individual U.S. Customers need nothing more than notice of their lack of protections to engage responsibly in foreign financial markets to prevent harm to themselves and to the larger financial system. It is my belief that history has not demonstrated that this is the case. Regarding the competitive disadvantage to FCMs and registered DCOs, the Commission admits that this is a cost of its proposal,[19] but makes no arguments regarding fairness beyond briefly discussing the economics of being regulated as a clearing organization in any jurisdiction.

The Commission also concludes that the proposed exemption will be limited to appropriate persons, ''as only U.S. persons that are eligible contract participants (''ECPs'') would be permitted to maintain accounts with a foreign intermediary for swaps cleared at an exempt DCO'' and cites CEA section 2(e) which makes it unlawful for any person, other than an ECP, to enter into a swap unless the swap is entered on or subject to the rules of a designated contract market.[20] Of note, the Commission makes no reference to whether or how the foreign intermediary will comply with this limitation and the proposed conditions of exemption for DCOs do not require the DCO to have rules that would limit a foreign intermediary's ability to solicit and accept U.S. customers that are not ECPs. Similarly, it is unclear as to whether the Exempt DCO or the foreign intermediary's home regulator will ensure that the foreign intermediary does not solicit or provide trading advice to U.S. customers warranting CTA registration beyond the trading advice permitted by the exemption. It is difficult to even evaluate whether the Commission considered the adverse effect on its regulatory responsibilities, in terms of market surveillance, financial integrity of participants, protection of customers, and trade practice enforcement.

The Commission acknowledges that (1) some foreign regulatory regimes may prove to be less effective than the United States and (2) that foreign intermediaries clearing for customers at an exempt DCO may not be subject to the same level of effective supervision as an FCM.[21] However, it does not elaborate on the obvious concerns that ought to be raised by these assertions. Rather, the Commission maintains that any risks to U.S. customers from clearing swaps traded on exempt DCOs through foreign intermediaries that are not registered as FCMs would be mitigated under the Supplemental Proposal's requirements for exempt DCOs in two key ways.[22] First, the exempt DCOs must be in good regulatory standing in their home country jurisdictions, and subject to comparable, comprehensive supervision and regulation that includes a regulatory structure consistent with the PFMIs. Second, an exempt DCO must require a foreign intermediary to provide written notice to, and obtain acknowledgement from, a U.S. person in advance of engaging in any clearing on their behalf that: (1) The clearing member is not a registered FCM; (2) that the exempt DCO is not registered with the CFTC; and (3) that the protections of the U.S. Bankruptcy Code do not apply to the U.S. person's funds. The notice must also explicitly compare the protections available to the U.S. person under U.S. law and the laws of the exempt DCO's home country regulatory regime.

There is much to be said for the views of the Commission in this regard, but in the interest of brevity, this approach favors what amounts to wholesale deregulation in the interest of deference absent any analysis of the potential individual customer and systemic consequences. Congress did not intend for the Commission to use its section 4(c) exemptive authority to engage in ''wide scale deregulation of markets falling within the ambit of the Act,''[23] so it seems even more egregious that it would attempt to reach beyond the Act to empower U.S. customers to act outside of the Commission's jurisdiction as conduits of risk. Indeed, given the Commission's own struggles with the application of the U.S. Bankruptcy Code, I am especially curious to hear from U.S customers seeking to hedge risk or access non-U.S. swaps markets as to whether the Commission's proposed ''caveat emptor'' notice model would satisfy the rigors of internal risk management.

Conclusion

In issuing this dissent, I have only touched upon the many issues of concern raised by the Supplemental Proposal. With each reading, I find myself questioning how the 2018 Proposal morphed from a ''Project Kiss'' initiative[24] to codify the policies and procedures currently followed by the Commission with respect to granting exemptions from DCO registration—which we have historically used sparingly—into a quest to capture a concept of how U.S. swaps customers may fare outside the protections offered through operation of the U.S Bankruptcy Code and protections offered by the CEA and Commission regulations. I believe that the Commission has acted in haste, without due consideration of the risks to individuals and the financial system, and outside its authority. I remain hopeful that the public comment period will provide ample time and opportunity for thoughtful consideration and response to the critical questions posed directly and issues raised by the Supplemental Proposal.

Despite today's dissent, and as I have said many times before,[25] I look forward to working with my colleagues on cross-border policies that will meet our core responsibilities of promoting safe, transparent and fair markets, while supporting global market access through responsible rule-makings that further harmonize our rules with international partners.

Appendix 5—Statement of Commissioner Dawn D. Stump

Overview

In responding to the financial crisis, both the Group of 20 Nations (G–20) and the U.S. Congress recognized that the derivatives markets are global and in doing so provided for international coordination and a practical application of regulatory deference. I want to commend the Chairman for his leadership in reminding us of the global commitments made in 2009 and the subsequent efforts Congress made to encourage global regulatory harmonization. Specifically, the G–20 leaders stated the clear responsibility we have ''to take action at the national and international level to raise standards together so that our national authorities implement global standards consistently in a way that ensures a level playing field and avoids fragmentation of markets, protectionism, and regulatory arbitrage.''[1] More directly related to the subjects before us today, Congress, in the Dodd-Frank Act, amended the Commodity Exchange Act to provide: ''The Commission may exempt, conditionally or unconditionally, a derivatives clearing organization from registration . . . for the clearing of swaps if the Commission determines that the derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by . . . the appropriate government authorities in the home country of the organization.''[2]

I believe deference to comparable regulatory regimes is essential. Historically, such deference has been the guiding principle of the CFTC's approach to regulating cross-border derivatives. We cannot effectively supervise central

[18] *Id.*

[19] Supplemental Proposal at Section VI.C.2.b.

[20] *Id.*

[21] Supplemental Proposal at Section VI.C.3.a.

[22] Supplemental Proposal at Section II.

[23] H.R. Rep. No. 102–978, 102d Cong. 2d Sess. 80 (1992).

[24] *See* 2018 Proposal, 83 FR at 39923.

[25] *See, e.g.,* Rostin Behnam, Sowing the Seeds of Success in 2020, Remarks of CFTC Commissioner Rostin Behnam at the ISDA 34th Annual General Meeting, Grand Hyatt Hong Kong, Hong Kong (Apr. 10, 2019), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam13.*

[1] Leaders' Statement from the 2009 G–20 Summit in Pittsburgh, Pa. 7 (Sept. 24–25, 2009), *http://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.*

[2] 7 U.S.C. 7a–1(h) (2012).

counterparties (CCPs) in every corner of the world. We can, however, evaluate the regulatory requirements in a CCP's home country to determine if they are sufficiently commensurate to our own. We will never have the exact same rules around the globe. We should rather strive to minimize the frequency and impact of duplicative regulatory oversight while also demanding high comparable standards, just as Congress intended.

Had we previously established a more comprehensive structure for those comparably-regulated, foreign CCPs seeking to offer swaps clearing to U.S. customers, then CCPs wishing to seek an exemption would have been able to do so under a regime that Congress provided for in the Dodd-Frank Act. Alternatively, those that wanted to register as a DCO would have done so voluntarily in response to a business rationale demanded by their clearing members and customers. However, by not having previously established an exemption process, the CFTC left only one path for customer clearing on non-U.S. DCOs, which resulted in compelling several non-U.S. CCPs to become dually registered with both their home country regulator and the CFTC.

As a result, relationships with our global regulatory counterparts became strained, and there have been many unfortunate consequences such that now we must provide new ground rules. So today, we are advancing an overdue conversation on applying international regulatory deference through the establishment of a test to identify non-U.S. CCPs that pose substantial risk to the U.S. financial system. To be clear, neither of the proposals we are considering today would be available to DCOs that pose such risk. I fear that this point may be lost or confused by the fact that we are presenting these as two separate rulemakings. While I would have preferred a single rulemaking to alleviate any confusion, I want to make clear that we are simply proposing two regulatory options, each of which is only available to those DCOs that do NOT pose substantial risk to the U.S. financial system under the proposed test. I encourage commenters to provide input on the proposals as if they are a single package, particularly where the request for comments in one proposal may be relevant or more applicable to consideration of the other proposal.

These proposals are a step towards achieving the goals established in 2009—an effort I wholeheartedly support. However, I have concerns that these proposals may be a bit too rigid to pragmatically facilitate increased swaps clearing by U.S. customers, as we are committed to do by the original G–20 and Congressional directives. Under the Alternative Compliance proposal, non-U.S. DCOs can permit customer access only if a futures commission merchant (FCM) is directly facilitating the clearing while the other available option—provided for in the Exempt DCO proposal—completely disallows the FCM from being involved in customer clearing. While I recognize that the blunt nature of these bright line distinctions makes it easier to regulate, I worry that it may not be workable in practice. I support putting these proposals out for public comment in hopes that those who participate in these markets and who are expected to apply the new swap clearing mandates will be able to lend their voices to the discussion. However, I anticipate that the elements left unaddressed in these proposals, which are detailed in the requests for comments, may require a re-proposal at some future date. Nonetheless, if that is to occur we will be well served to have that discussion with the benefit of public comments.

Exemption From DCO Registration

The CFTC implemented the clearing elements of the G–20 principles before other regulatory jurisdictions, and in that context determined that any non-U.S. CCP wishing to clear swap products for U.S. customers must become a fully registered DCO. Today, we can re-assess based on fellow international regulatory authorities having now implemented their own comparable reforms, thus aligning many of our regulatory principles, just as the G–20 envisioned. Notably, in authorizing the CFTC to implement these G–20 principles, Congress recognized that consistency, not duplication, is the goal and therefore provided authority in the Dodd-Frank Act to exempt, conditionally or unconditionally, a non-U.S. CCP from registration as a DCO if the CFTC determines that the entity is subject to comparable, comprehensive supervision and regulation by its home country authorities. Certainly, individual CCPs around the world should be able to seek registration with the CFTC to clear swaps for U.S. customers if they determine that is appropriate based on their individual commercial interests and the demands of their clearing members and end users; but, it is time to revisit the policy rationale of compelled DCO registration for comparably and comprehensively regulated non-U.S. CCPs.

Under this proposal, non-U.S. CCPs that do not pose substantial risk to the U.S. financial system will have another option for offering swap clearing services to U.S. customers in that they may request an exemption from registration, as provided by the Dodd-Frank Act. I appreciate that this may raise concerns by some, and I welcome public input on how best to address any such concerns. However, I would be remiss if I failed to point out that the G–20 leaders recognized in 2009 that we should not ignore the global nature of derivatives markets, a fact even more relevant today as U.S. persons increasingly need access to clearinghouses around the world. Contributing to this increased demand is the fact that during the past decade international regulatory bodies, including the CFTC and pursuant to the G–20 principles, have expanded the obligations for market participants to utilize clearing. It is not fair that we mandate and encourage the adoption of derivatives clearing and then limit access to, or severely hamper efficient operation of, such clearing services.

While I am therefore pleased to see this exemption process advancing, I maintain reservations about the lack of optionality for registered FCMs to engage in clearing services for their customers at an Exempt DCO. Once our agency has determined that an Exempt DCO is subject to regulation that is comprehensive and comparable to our own, then the arrangement by which a U.S. person may access the Exempt DCO should be a business decision between the customer and their preferred clearing member, which may well be an FCM. I very much want to hear from commenters on how we might accomplish this going forward. We have extensive history in allowing such arrangements for U.S. futures clients of CFTC-registered FCMs to access non-U.S. DCOs. I am certain that the public input will assist us in determining how a clearing structure that works for futures customers might sensibly be extended to swaps customers.

I would remind commenters that only sophisticated market participants qualify as eligible contract participants able to enter into swaps (other than on a designated contract market). We need to assist these qualified U.S. market participants and their clearing members not only by providing access, but by pragmatically preserving their ability to enter into prudent business arrangements that they deem most appropriate for their operations and business needs. While prohibiting FCM participation on Exempt DCOs, as we are proposing today, is designed for simplicity, the realities of clearing arrangements and the bankruptcy treatment that applies to them are complex. I fear that ignoring that fact may render the Exempt DCO option with less appeal than I believe it is due and that Congress contemplated. I am confident that the tremendous institutional knowledge at this agency, coupled with public input, will enable us to design a workable solution, but it may not be the bright line test envisioned by this proposal.

Closing

At the beginning of this year I penned an opinion piece in the Financial Times [3] in which I attempted to appeal to our international regulatory partners to recommit to a coordinated approach, ensuring that our alliance remains strong rather than fractured. Regulatory conflicts are at odds with our shared mission and do a disservice to global market participants. I am committed to advancing a coordinated approach, and I believe the proposals we are putting forward today are a first step in that process. There is, however, more work to be done both in the way of the CFTC extending deference to other jurisdictions and vice versa. I hope our international regulatory partners will also take the opportunity to reset and recognize that our shared interest of advancing derivatives clearing is best achieved by respecting each jurisdiction's successful implementation of the principles agreed to ten years ago. Otherwise, it might unfortunately become challenging to advance the concept of deference under consideration today to the next stage of the process.

Appendix 6—Dissenting Statement of Commissioner Dan M. Berkovitz

I dissent from the proposal to exempt certain foreign clearinghouses from the

[3] Dawn DeBerry Stump, Opinion, We Must Rethink Our Clearinghouse Rules, Fin. Times (Jan. 24, 2019).

derivatives clearing organization (''DCO'') registration requirements. The proposal would jeopardize U.S. customers, create systemic risks to the U.S. financial system, promote the use of foreign intermediaries at the expense of U.S. firms, and exceed this agency's limited exemptive authority.[1]

The Commodity Futures Trading Commission (''Commission'') previously has permitted the clearing of proprietary swap positions at a limited number of foreign clearinghouses that it has exempted from the DCO registration requirement.[2] The proposed rule before us today (''Exempt DCO Proposal'' or ''Proposal'') would permit, for the first time, exempt DCOs to clear positions of U.S. customers.[3] To accomplish this, the Proposal disregards key protections for U.S. customers and the U.S. financial system provided by the U.S. Bankruptcy Code, the CEA, and CFTC regulations.

The Exempt DCO Proposal would permit U.S. customers to clear swaps at exempt non-U.S. DCOs without the protections afforded to swap customers under the Bankruptcy Code or CFTC regulations. It would enable U.S. customers to trade at these exempt DCOs through non-registered foreign intermediaries who would not be covered by the U.S. Bankruptcy Code or subject to the CFTC's customer protection requirements. Enabling U.S. customers to trade swaps and amass large positions in non-U.S. markets without these protections not only poses risks to those customers, but also presents systemic risks to the U.S. financial system.

The Exempt DCO Proposal also would prohibit U.S. FCMs that are registered with the CFTC from providing clearing services at exempt DCOs. The Exempt DCO Proposal thus requires that which the CEA prohibits (clearing by a non-registered intermediary), and prohibits that which the CEA requires (clearing by a registered FCM). The Proposal creates a Bizarro World[4] for U.S. swaps customers in which the CFTC does not regulate derivative clearing organizations, only unregistered foreign firms are allowed to serve U.S. customers, and U.S. customers get none of the protections provided by U.S. law.

The CFTC does not have the superpowers to fashion its own de-regulatory planet. It must stay within the orbit of the laws prescribed by the Congress. It cannot bypass any provision of the CEA that it considers an impediment to a global swaps market. Congress has not provided the CFTC's with unlimited exemptive authority. In particular, the CFTC's limited exemptive authority under CEA section 4(c) does not extend to instruments that are not subject to the exchange-trading requirement of section 4(a), such as non-U.S. swaps traded in markets located outside the United States.[5] By seeking to exempt non-U.S. intermediaries who provide clearing services to U.S. swap customers in overseas markets from the registration requirement for FCMs,[6] the Proposal exceeds the Commission's authority.

No Customer Protections

The Exempt DCO Proposal would eliminate the important protections afforded to U.S. swaps customers provided by Congress and the CFTC's regulations.[7] Many of these protections result from the provisions in the Bankruptcy Code applicable to FCMs and the regulatory requirements imposed on the FCMs regarding the handling of customer funds. Section 4d(f) of the Act, which was added by the Dodd-Frank Act, provides that only registered FCMs may accept customer monies to margin cleared swaps. It also requires FCMs to segregate customer cleared swaps funds, and prohibits the comingling of customer and proprietary funds.[8] In addition, all FCMs must implement systems and procedures to address conflicts of interest, and they must each designate a chief compliance officer to fulfill specified duties and responsibilities.

In the event that a registered FCM becomes insolvent, swaps customers are protected if their funds reside in segregated accounts as required by the Act and Commission regulations,[9] are carried by an FCM, and are deposited with a registered DCO. Segregation helps to ensure that swaps customer funds are not comingled with an FCM's proprietary funds, while registration helps ensure that they meet applicable definitions in the Bankruptcy Code to fall under its protections.

Customer protections under the Bankruptcy Code include safe harbors for certain derivatives contracts that allow non-defaulting counterparties in a bankruptcy proceeding to quickly terminate and net their swaps. The safe harbors override the Bankruptcy Code's automatic stays that would otherwise foreclose any action to liquidate collateral and collect debts from a defaulting party.[10] Swap customer funds are given priority treatment and not included in the bankruptcy estate that is subject to other creditors of the bankrupt firm. These protections facilitate the prompt transfer of customer positions away from an insolvent FCM, which can avoid a forced liquidation at potentially depressed valuations. In the event that an FCM becomes insolvent, the Bankruptcy Code also entitles the FCM's customers to a pro rata distribution of customer assets ahead of any other creditors of the FCM.

The Exempt DCO Proposal would circumvent these fundamental swaps customer protections by permitting foreign intermediaries to accept U.S. customer funds to margin cleared swaps at exempt DCOs without registering as an FCM. It would free foreign intermediaries from all of the regulatory requirements that apply to U.S. FCMs, including requirements providing for the protection of customer funds, financial safeguards, and operational soundness. At the same time, it would prohibit CFTC-registered FCMs—the entities which are subject to these customer protection requirements—from acting as FCMs for U.S. customers at exempt DCOs. The Proposal thus legally ensures that U.S. customers will not receive the customer protections required by the CEA, CFTC regulations for swap transactions, and the Bankruptcy Code.

Absent these protections, U.S. swaps customers potentially face a range of financial and market risks. U.S. customers may find that foreign bankruptcy laws fail to provide priority treatment for derivatives and could include their funds in the general bankruptcy estate for all creditors of the insolvent firm. Uncertainty over the treatment of customer funds held at an exempt DCO or a foreign intermediary, as well as over the portability of open positions at the DCO could also lead counterparties to quickly terminate their swaps. The cascading effects on market prices, liquidity, the value of open positions, and perceived counterparty credit risk could quickly become a systemic event.

Systemic Risks

In the U.S., the segregation requirements for margin funds held at an FCM protect the funds of the customer in the event that the FCM becomes insolvent. If there are no similar segregation requirements, then the failure of the clearing intermediary could result in significant losses to the intermediary's customers. These losses could impair one or more customers' ability to maintain its trades with its other counterparties, not just those at the affected non-U.S. DCO. Such other counterparties may seek to terminate their trades with the affected U.S. persons to avoid potential losses that could arise in these circumstances. The losses of one or more U.S. entities due to the bankruptcy of another entity or intermediary in a non-U.S. jurisdiction without equivalent bankruptcy laws thus could rapidly escalate into a more widespread market event involving numerous other persons within the U.S.[11]

[1] *See* Commodity Exchange Act (''CEA'') section 4(c), 7 U.S.C. 6(c) (2018).

[2] *Id.* Section 5b(h), 7 U.S.C. 7a–1(h), which permits the Commission to exempt a DCO from registration if the Commission determines that it is subject to ''comparable, comprehensive supervision and regulation'' by its home country regulator. The Exempt DCO Proposal would add an additional requirement that the DCO not pose a ''substantial risk to the U.S. financial system.'' *See* Exempt DCO Proposal, section III.A. To date, the Commission has exempted four foreign clearinghouses from the requirement to register as DCOs for the clearing of proprietary swap positions.

[3] *See* Exempt DCO Proposal, section III.C.

[4] ''In popular culture, 'Bizarro World' has come to mean a situation or setting which is weirdly inverted or opposite to expectations.'' *See Bizarro World, Wikipedia (July 10, 2019), https://en.wikipedia.org/wiki/Bizarro_World.*

[5] *See* Commodity Exchange Act section 4(c), 7 U.S.C. 6(c).

[6] The FCM registration requirement is at Commodity Exchange Act section 4d(f), 7 U.S.C. 6d(f).

[7] In lieu of the Act's and Commission regulation's extensive customer protection provisions, the Exempt DCO Proposal would require that each foreign intermediary provide its U.S. customers with notice that the intermediary is not an FCM, that the clearinghouse is not a registered DCO, and that the protections of the U.S Bankruptcy Code do not apply. *See* Exempt DCO Proposal, § 39.6(b)(2).

[8] *See* Commodity Exchange Act section 4d(f)(1)–(2), 7 U.S.C. 6d(f)(1)–(2).

[9] *Id.* section 4d(f)(2), 7 U.S.C. 6d(f)(2); 17 CFR 22 (2019).

[10] *See* Stephen Adams, *Derivatives Safe Harbors in Bankruptcy and Dodd-Frank: A Structural Analysis* (Apr. 30, 2013), *http://nrs.harvard.edu/urn-3:HUL.InstRepos:10985175.*

[11] The Report of the President's Working Group on Financial Markets on Hedge Funds, Leverage,

The Proposal contains no discussion or analysis of the potential systemic consequences if a foreign intermediary holding significant assets from large U.S. swaps customers were to fail. Similarly, it fails to examine the impact to the U.S. financial system if the overseas assets of large U.S. swaps customers were to become entangled—or potentially entangled—in foreign bankruptcy proceedings.

Exclusion of U.S. FCMs

The Exempt DCO Proposal would prohibit U.S. FCMs from providing clearing services to U.S. swaps customers at exempt DCOs.[12] By itself, this prohibition would not be problematic, as it is consistent with the Commission's interpretation of the CEA and longstanding policy. The Proposal veers off course by coupling this prohibition with permitting non-registered foreign intermediaries to provide those same services without any protections for U.S. customers.

In last year's initial proposal to establish a framework for exempt DCOs, the Commission proposed to prohibit FCMs from clearing customer swaps at exempt DCOs. At that time, the Commission explained:

Section 4d(f)(1) of the CEA makes it unlawful for any person to accept money, securities, or property (*i.e.,* funds) from a swaps customer to margin a swap cleared through a DCO unless the person is registered as an FCM. Any swaps customer funds held by a DCO are also subject to the segregation requirements of section 4df(2) of the CEA, and in order for a customer to receive protection under this regime, particularly in an insolvency context, its funds must be carried by an FCM, and deposited with a registered DCO. Absent that chain of registration, the swaps customer's funds may not be treated as customer property under the U.S. Bankruptcy Code and the Commission's regulations. Because of this, it has been the Commission's policy to allow exempt DCOs to clear only proprietary positions of U.S. persons and FCMs.[13]

In its zeal to enable U.S. customers to access non-U.S. swap markets, the Commission seeks to sidestep these issues with the Bankruptcy Code by jettisoning the entire bankruptcy regime as it applies to U.S. swaps. It would accomplish this by permitting non-registered, non-U.S. intermediaries to clear swaps through exempt DCOs. But this approach leaves U.S. customers without any bankruptcy protection and competitively disadvantages U.S. FCMs with respect to clearing in non-U.S. swaps markets. In the cost/benefit considerations, the Commission acknowledges, ''FCMs may . . . face a competitive disadvantage as a result of this proposal, as they would not be permitted to clear customer trades at an exempt DCO. To the extent that their customers shift their clearing activity at registered DCOs to exempt DCOs, or otherwise reduce their clearing activity at registered DCOs as a result of this proposal, FCMs would lose business.'' [14]

Not only would the Proposal place FCMs at a competitive disadvantage, the Proposal recognizes that this also would place registered DCOs at a competitive disadvantage. The Commission states in the cost/benefit considerations that it ''anticipates that some non-U.S. clearing organizations that are currently registered DCOs, or that would otherwise apply to register in the future, may choose to apply to become exempt an DCO, thus lowering their ongoing compliance costs.'' [15]

A better approach would be to prohibit exempt DCOs from providing clearing services to U.S. customers—as the Commission proposed last year—and permit customer clearing only at registered DCOs, through registered FCMs. This would preserve the competitiveness of U.S. FCMs in the global swaps markets and maintain the bankruptcy and other protections for U.S. customers. Today's companion proposed rule, providing for registration with alternative compliance for DCOs that would be eligible for an exemption, would provide a second mechanism—in addition to full DCO registration—for non-U.S. DCOs to provide for clearing services to U.S. customers. The Commission does not explain why either the existing option for full registration, or the proposed alternative compliance mechanism, are insufficient to enable U.S. customers to access clearing services as non-U.S. DCOs.[16]

The Commission asserts that by expanding the pool of available intermediaries and clearinghouses to include unregistered or exempt non-U.S. entities, the Proposal may ''reduc[e] the concentration of U.S. customer funds in a small number of FCMs,'' [17] and may also ''reduc[e] the concentration risk among registered and exempt DCOs.'' [18] The exclusion of registered FCMs from non-U.S. swap markets, however, will in no way reduce the currently high levels of concentration amongst registered FCMs at registered DCOs serving the U.S. market. It is the high levels of concentration of registered FCMs at registered DCOs that pose potentially systemic risks to the U.S. financial system. The Commission should be working to enable greater FCM competition in U.S. swap markets, not precluding U.S. FCMs from competing in non-U.S. markets.

I strongly support efforts to increase competition and reduce concentration amongst registered, U.S. FCMs in the U.S. swaps markets. It is a topsy-turvy argument that this is best accomplished by prohibiting U.S. FCMs from participating in non-U.S. markets and enabling non-registered non-U.S. FCMs to take this business away from those U.S. FCMs.

Absence of Exemptive Authority

The Proposal relies on CEA Section 4(c) for authority to exempt non-U.S. intermediaries that provide customer clearing at exempt DCOs from the FCM registration requirement and the regulations applicable to registered FCMs.[19] Section 4(c), however, provides the Commission with limited exemptive authority, applicable to specified classes of instruments and markets. It does not provide the Commission with the ability to waive any provision of the CEA that it deems inconvenient.[20] The Commission's limited authority does not extend to the non-U.S. cleared swaps markets that are the subject of this rulemaking.

Section 4(c) provides that the Commission may exempt any agreement, contract, or transaction from the requirements of section 4(a) (which requires that contracts for future delivery be traded on a designated contract market) or any other provision of the Act if such agreement, contract, or transaction is, in the first instance, subject to section 4(a).[21] Notably, however, section 4(a) does not apply to contracts ''made on or subject to the rules

and the Long-Term Capital Management (1999), which followed the near collapse and industry bailout of the Long-Term Capital Management (LTCM) hedge fund, identifies the benefits to market stability of the provisions of the U.S. bankruptcy code and highlights the systemic issues that may arise when significant transactions of U.S. entities are subject to non-U.S. regulatory regimes that do not provide equivalent protections. LTCM was a large, U.S.-based hedge fund that at one point had gross notional amounts of over $500 billion in futures, more than $750 billion in swaps, and over $150 billion in options and other derivatives in multiple jurisdictions around the world. The LTCM Report described how the application of bankruptcy laws in these other jurisdictions to LTCM would present ''substantial uncertainty . . . for counterparties and other creditors of the Fund because bankruptcy proceedings may very well have been initiated both in the U.S. and abroad and involved resolution of complicated and novel international bankruptcy issues.'' Dept. of the Treasury, Bd. of Governors of the Federal Reserve System, Securities and Exchange Commission, Commodity Futures Trading Commission, *Hedge Funds, Leverage, and the Lessons of Long-Term Capital Management,* Report of the President's Working Group on Financial Markets (Apr. 1999), at E–1. The LTCM Report cautioned, ''While cross-border insolvencies have been characterized by growing cooperation, reliance on a case-by-case judicial approach can create unpredictability—particularly in emergency situations.'' *Id.* at E–3. Much of the discussion around LTCM occurred in the context of bilateral, OTC swaps rather than the cleared swaps that are the subject of this Proposal. However, LTCM's lessons on the protections offered by the Bankruptcy Code, and on the importance of legal certainty regarding how derivatives will be treated in an insolvency proceeding, remain current to this day.

[12] *See* Exempt DCO Proposal at § 39.6(b)(1)(i).

[13] Exemption from Derivatives Clearing Organization Registration, 83 FR 39,923, 39,926 (proposed Aug. 13, 2018).

[14] Exempt DCO Proposal, section VI.C.2.b.

[15] *Id.*

[16] To the extent that U.S. customers are not able to access clearing at non-U.S. registered DCOs due to the absence of U.S.-registered FCM services at such DCOs, the Commission should work with such non-U.S. DCOs and FCMs to identify the impediments to the provision of such FCM services.

[17] *Id.*

[18] *Id.*

[19] The Proposal also relies on Section 4(c) to exempt these foreign intermediaries from the CTA registration requirements.

[20] The Conference Report for the Futures Trading Practices Act of 1992, which codified section 4(c), stated the conferees expectation that ''the Commission generally use this [4(c)] authority sparingly . . . .'' The conferees further explained that ''[t]he goal of providing the Commission with broad exemptive powers is not to prompt a wide-scale deregulation of markets falling within the ambit of the Act. *See* H.R. Conf. Rep. 102–978, 102d Cong. (2d Sess. 1992).

[21] Commodity Exchange Act section 4(c), 7 U.S.C. 6(c).

of a board of trade, exchange, or market located outside the United States . . .'' [22] Swaps traded on a non-U.S. trading facility and cleared at a non-U.S. DCO appear to fall into the category of contracts ''made on or subject to the rules of a board of trade, exchange, or market located outside the United States.'' The Commission provides no justification or analysis for asserting that section 4(c) provides exemptive authority for transactions in non-U.S. markets involving these contracts.

[22] *Id.* section 4(a), 7 U.S.C. 6(a) (emphasis added).

Conclusion

The Exempt DCO Proposal deprives U.S. customers of bankruptcy protection under U.S. law, creates systemic risks for the U.S. financial system, and promotes the use of foreign intermediaries at the expense of U.S. FCMs. It also exceeds the Commission's exemptive authority under section 4(c) of the Act. If the Commission desires to facilitate greater access by U.S. persons to foreign cleared swaps markets, it should do so within the framework of registered DCOs, registered FCMs, and the customer protections provided by the U.S. bankruptcy laws and CFTC regulations. It should not do so at the expense of protections for U.S. customers and the U.S. financial system. Accordingly, I dissent.

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Part III

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Test Procedure for Clothes Dryers; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2014–BT–TP–0034]

RIN 1904–AD46

Energy Conservation Program: Test Procedure for Clothes Dryers

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

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to amend the test procedures for clothes dryers to provide additional direction in response to questions from manufacturers and test laboratories. DOE also proposes amendments to specify rounding requirements for all reported values; apply consistent use of nomenclature and correct typographical errors; and remove obsolete sections of the test procedures, including appendix D. DOE also seeks feedback from interested parties on issues such as consumer usage patterns and ''connected'' clothes dryer features. As part of this proposal, DOE is announcing a public meeting to solicit comments and data on its proposal. DOE also welcomes comment on changes to the test procedure to ensure that the test procedure measures the energy use of the clothes dryer during a representative average use cycle or period of use, and is not unduly burdensome to conduct.

DATES: *Comments:* Comments and information regarding this notice of proposed rulemaking (''NOPR'') will be accepted no later than September 23, 2019. See section V, ''Public Participation,'' for details. DOE will hold a public meeting on this proposed test procedure if one is requested by August 6, 2019.

Meeting: DOE will hold a webinar on Wednesday, August 14, from 10:00 a.m. to 1:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants. If no participants register for the webinar then it will be cancelled.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by ''Test Procedure NOPR for Clothes Dryers'' and by docket number EERE–2014–BT–TP–0034 and/or the regulatory information number (''RIN'') 1904–AD46, by any of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Email: ResClothesDryer2014TP0034@ee.doe.gov.* Include the docket number EERE–2014–BT–TP–0034 and/or RIN 1904–AD46 in the subject line of the message.

(3) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), 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, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on participating in the public meeting, submitting written comments, and additional information on the rulemaking process, see section V of this document.

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.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2014-BT-TP-0034.* The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V of this document for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or regarding a public meeting, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

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VI. Approval of the Office of the Secretary

I. Authority and Background

Clothes dryers are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(8)) The current DOE test procedures for clothes dryers appear at title 10 of the Code of Federal Regulations (''CFR'') part 430, subpart B, appendix D1 and appendix D2 (''appendix D1'' and ''appendix D2''). The following sections discuss DOE's authority to establish and amend test procedures for clothes dryers, as well as relevant background information regarding DOE's proposed amendments to the test procedures for this product.

A. Authority

The Energy Policy and Conservation Act of 1975, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include clothes dryers, the subject of this NOPR. (42 U.S.C. 6292(a)(8))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [3] and IEC Standard 62087 [4] as applicable. (42 U.S.C. 6295(gg)(2)(A))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including clothes dryers, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)). If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this NOPR in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Rulemaking History

DOE's existing test procedures for clothes dryers appear at appendix D1 and appendix D2. Manufacturers may use either appendix D1 or appendix D2 to show compliance with the applicable energy conservation standards, and must use a single appendix for all representations, including certifications of compliance.

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[4] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

DOE originally established the test procedure for clothes dryers at appendix D in a final rule published in the **Federal Register** on September 14, 1977. 42 FR 46145. On May 19, 1981, DOE published a final rule to amend the test procedure by establishing a field use factor [5] for clothes dryers with automatic termination controls, clarifying the test cloth specifications and clothes dryer preconditioning, and making editorial and minor technical changes. 46 FR 27324. The test procedure included provisions for determining the energy factor (''EF'') for clothes dryers, which is a measure of the total energy required to dry a standard test load of laundry to a ''bone dry'' [6] state.

On January 6, 2011, DOE published in the **Federal Register** a final rule for the clothes dryer and room air conditioner test procedure rulemaking (the ''January 2011 final rule''), in which it (1) adopted provisions for the measurement of standby mode and off mode energy use for those products along with a new energy efficiency metric for clothes dryers, combined energy factor (''CEF''), which incorporates energy use in active mode, standby mode, and off mode; and (2) adopted several amendments to the clothes dryer and room air conditioner test procedures concerning the active mode for these products. DOE created a new appendix D1 in 10 CFR part 430 subpart B that contained the amended test procedure for clothes dryers. 76 FR 972.

DOE published a final rule on August 14, 2013 (the ''August 2013 Final Rule''), amending the clothes dryer test procedure, in which it (1) amended appendix D1 to update the reference to the latest edition of IEC Standard 62301, ''Household electrical appliances–Measurement of standby power,'' Edition 2.0 2011–01 [7] (''IEC Standard 62301''); (2) amended appendix D and appendix D1 to clarify the cycle settings used for the test cycle, the requirements for the gas supply for gas clothes dryers, the installation conditions for console lights, the method for measuring the drum capacity, the maximum allowable weighing scale range, and the allowable use of a relative humidity meter; and (3) established a new appendix D2 that includes procedures reflecting the amendments discussed above as well as testing methods for measuring the effects of automatic cycle termination. 78 FR 49608. Manufacturers must use the test procedures in either appendix D1 or appendix D2 to demonstrate compliance with the current energy conservation standards for clothes dryers. Manufacturers must use a single appendix for all representations for a given model, including certifications of compliance, and may not use appendix D1 for certain representations and appendix D2 for other representations for that model.

DOE published a notice of public meeting (''NOPM'') on October 23, 2014 (the ''October 2014 NOPM'') and held the public meeting on November 13, 2014 to facilitate a discussion among interested parties about potential changes to the DOE clothes dryer test procedures to produce test results that measure energy use during a representative average use cycle without being unduly burdensome to conduct.[8] 79 FR 63336.

II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to amend appendix D1 and appendix D2, both entitled ''Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers,'' to provide additional detail in response to questions from manufacturers and test laboratories, including additional detail regarding the procedures for maintaining the required heat input rate for gas clothes dryers; additional detail for the test procedures for performing inactive and off mode power measurements; and specifications for the final remaining moisture content (''RMC'') required for testing automatic termination control dryers. In addition, DOE proposes amendments to provide further direction for additional provisions within the test procedures; specify rounding requirements for all reported values; apply consistent use of nomenclature and correct typographical errors; and remove obsolete sections of the test procedures, including appendix D. DOE also seeks feedback from interested parties on issues such as consumer usage patterns and ''connected'' clothes dryer features.

DOE has initially determined that the proposed amendments for appendix D1 and appendix D2 described in section III of this document would not alter the measured efficiency of clothes dryers.

DOE's proposed actions are summarized in Table II.1 and addressed in detail in section III of this notice of proposed rulemaking.

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE test procedure	Proposed test procedure	Attribution
Provides adjustments that can be made to maintain the required heat input rate for gas clothes dryers.	Specifies the order of adjustment, from least burdensome to most burdensome, for adjustments that can be made to maintain the required heat input rate for gas clothes dryers.	Response to test laboratory question.
Requires distinction between standby mode and off mode based on control panel functionality that may not be readily apparent to a third-party tester.	Provides simpler, clearer procedures for measuring the low-power modes of a clothes dryer based on observable characteristics of the controls.	Response to test laboratory comment.
Does not explicitly provide the RMC requirement for subsequent test runs if the prior run was deemed invalid.	Specifies that the requirement to achieve a final dryness level of 2 percent or less also applies to any subsequent run, if required.	Response to industry comment.
Silent on selection of the middle dryness level setting for clothes dryers with an even number of settings.	Seeks comment on whether to specify use of next-highest setting above or next-lowest setting below the midpoint if an even number of discrete settings are provided.	Response to test laboratory comment.

[5] Per-cycle energy consumption is multiplied by the field use factor to account for consumers over-drying loads beyond the final remaining moisture content required in the test procedure.

[6] ''Bone dry'' refers to a condition of a load of test cloths in which the change in weight of the load is 1 percent or less after two successive 10-minute drying periods. See section 1.5 of appendix D1 and section 1.6 of appendix D2.

[7] IEC Standard 62301 is available online at *https://webstore.iec.ch/publication/6789.*

[8] A transcript of the public meeting and submitted comments are available in the docket for this rulemaking and can be accessed at *https://www.regulations.gov/docket?D=EERE-2014-BT-TP-0034.*

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE—Continued

Current DOE test procedure	Proposed test procedure	Attribution
Does not include instructions for calculating annual operating cost, CEF, and other measures for clothes dryers optionally tested using appendix D2; does not include a calculation for annual energy consumption.	Adds instructions for calculating annual operating cost and CEF using appendix D2; adds annual energy consumption calculation using either appendix D1 or D2.	To provide consistency between appendices D1 and D2.
Does not specify rounding requirements for reported values.	Specifies rounding requirements for all reported values	To further specify reporting requirements.
Contains nomenclature and formatting inconsistencies and typographical errors.	Applies consistent use of nomenclature, improves formatting, and fixes typographical errors.	To improve accuracy and readability.

The Director of the Federal Register previously approved the following standards from the Association of Home Appliance Manufacturers (''AHAM'') and IEC for incorporation by reference into appendix D1 and appendix D2: AHAM HLD–1–2009, ''Household Tumble Type Clothes Dryers'', and IEC 62301, ''Household electrical appliances—Measurement of standby power'', (Edition 2.0, 2011–01).

III. Discussion

A. Scope of Coverage

The proposed amendments to DOE's clothes dryer test procedures discussed in this NOPR cover both electric and gas clothes dryers. DOE regulations define ''electric clothes dryer'' and ''gas clothes dryer'' similarly as a cabinet-like appliance designed to dry fabrics in a tumble-type drum with forced air circulation, with blower(s) driven by an electric motor(s) and either electricity or gas, respectively, as the heat source. 10 CFR 430.2. This NOPR does not propose any changes to the scope of applicability of DOE's clothes dryer test procedures.

B. Consumer Usage Patterns and Capabilities

As discussed in section I.B of this document, DOE requested comment as part of the October 2014 NOPM on potential changes to the DOE clothes dryer test procedures to produce test results that would better measure energy use during a representative average use cycle without being unduly burdensome to conduct. In response to the October 2014 NOPM, DOE received a number of comments regarding potential test procedure changes to reflect current consumer usage patterns and capabilities.

Efficiency advocates and utilities stated that DOE should investigate changes to the clothes dryer test procedure to better represent consumer use. (Ecova,[9] Public Meeting Transcript, No. 9 at p. 18;[10] Joint Efficiency Advocates,[11] No. 5 at pp. 1–2;[12] Northwest Energy Efficiency Alliance (''NEEA'') and Northwest Power and Conservation Council (''NPCC''), No. 10 at pp. 2, 8; Pacific Gas and Electric Company (''PG&E'') No. 7 at pp. 1–2; Southern California Edison (''SCE''), No. 11 at pp. 1–2; Super Efficient Dryer Initiative (''SEDI''), No. 6 at p. 2)

NEEA, NPCC, PG&E, and SCE commented that, based on their testing, clothes dryer performance under simulated ''real-world'' conditions is significantly different compared to tests conducted according to appendix D2. NEEA, NPCC, PG&E, and SCE also claimed that the relative ranking of efficiency for models in a given product category is different when tested using what they identified as real-world test conditions as compared to the current appendix D2. (NEEA & NPCC, No. 10 at p. 2; PG&E, No. 7 at pp. 3, 11; SCE, No. 11 at pp. 3, 11) Efficiency advocates and utilities stated that DOE should conduct a sufficient amount of testing to support the development of a test procedure that they believe would minimize testing burden, produce certified performance ratings that reasonably align with expected field performance, and produce appropriate relative performance rankings. (SEDI, No. 6 at pp. 2–3; NEEA & NPCC, No. 10 at p. 6; PG&E, No. 7 at p. 2; SCE, No. 11 at p. 2) The Joint Efficiency Advocates, NEEA and NPCC also commented that a more representative test procedure would result in more energy savings in the field by more accurately capturing the benefits of new technologies that could improve clothes dryer efficiency. (Joint Efficiency Advocates, No. 5 at pp. 1–2; NEEA & NPCC, No. 10 at p. 8) As discussed in the following sections, efficiency advocates and utilities identified factors related to consumer usage, such as test load composition, test load size, and test cycle settings, that they stated account for differences between measured field performance and test results obtained using appendix D2.

Conversely, manufacturers commented that DOE should maintain the current test procedure because they stated it ensures the repeatability and reproducibility of test results. (General Electric Appliances (''GE''), No. 3 at p. 1; AHAM, No. 4 at p. 2; Samsung Electronics America, Inc. (''Samsung''), No. 8 at p. 2) AHAM expressed concern that attempts to adopt test load conditions intending to more accurately reflect consumer loads would impact the repeatability and reproducibility of the test procedure. (AHAM, No. 4 at p. 2) Samsung stated that it has found it impossible to obtain repeatable and reproducible test results with a ''real-world'' test load. (Samsung, No. 8 at p. 2)

The following sections discuss these issues related to specific testing conditions in the DOE clothes dryer test procedure. Note that DOE also recently issued an RFI to seek more information on whether its test procedures are reasonably designed, as required by EPCA, to produce results that measure the energy use or efficiency of a product during a representative average use cycle or period of use. 84 FR 9721 (Mar. 18, 2019). DOE seeks comment on this

[9] Representing the California Investor Owned Utilities.

[10] A notation in the form ''Ecova, Public Meeting Transcript, No. 9 at p. 18'' identifies an oral comment that DOE received on November 13, 2014 during the public meeting, and was recorded in the public meeting transcript in the docket for this test procedure rulemaking (Docket No. EERE–2014–BT–TP–0034). This particular notation refers to a comment (1) made by Ecova during the public meeting; (2) recorded in document number 9, which is the public meeting transcript that is filed in the docket of this test procedure rulemaking; and (3) which appears on page 18 of document number 9.

[11] The Joint Efficiency Advocates are the Appliance Standards Awareness Project, Alliance to Save Energy, American Council for an Energy-Efficient Economy, Consumer Federation of America, Natural Resources Defense Council, and Northeast Energy Efficiency Partnerships.

[12] A notation in the form ''Joint Efficiency Advocates, No. 5 at pp. 1–2'' identifies a written comment: (1) made by the Joint Efficiency Advocates; (2) recorded in document number 5 that is filed in the docket of this test procedure rulemaking (Docket No. EERE–2014–BT–TP–0034) and available for review at *http://www.regulations.gov;* and (3) which appears on pages 1 through 2 of document number 5.

issue as it pertains to the test procedure for clothes dryers.

1. Test Load Composition

Section 2.6 of appendix D1 and appendix D2 specify a test load composed of a pure finished bleached cloth, made with a momie or granite weave, which is a blended fabric of 50-percent cotton and 50-percent polyester. The ''energy test cloth'' is made from material that is 24 inches by 36 inches, hemmed to 22 inches by 34 inches, and weighs within 10 percent of 5.75 ounces per square yard. Smaller ''energy stuffer cloths'' are made of material that is 12 inches by 12 inches, hemmed to 10 inches by 10 inches.[13]

In addition to the DOE test procedure clothing load, several industry test procedures specify clothing loads for measuring the drying performance of clothes dryers. American National Standards Institute (''ANSI'')/AHAM's test procedure, HLD–1–2010, ''Household Tumble Type Clothes Dryers'' (''ANSI/AHAM HLD–1–2010'') specifies the use of 100-percent cotton bed sheets, towels, and pillowcases. The bedsheets and pillowcases are plain weave linen, while the towels are huckaback weave. IEC Standard 61121, Edition 4.0 2012–02, ''Tumble dryers for household use—Methods for measuring the performance'' (''IEC Standard 61121'') incorporates by reference from IEC's consumer clothes washer test procedure two different test loads: (1) The ''Cotton test load,'' which comprises 100-percent cotton bed sheets, towels, and pillowcases consistent with ANSI/AHAM HLD–1–2010; and (2) the ''Synthetics/blends test load,'' which comprises pillowcases and buttoned men's shirts fabricated from plain weave 35-percent cotton and 65-percent polyester fabric.

Efficiency advocates and utilities urged DOE to investigate the use of a test load or test loads that more closely resemble real-world clothing, including the test load and test methods specified in the ''Utility Test Protocol'' developed by NEEA and the California Investor-Owned Utilities (''IOUs''). (Joint Efficiency Advocates, No. 5 at p. 2; NEEA, Public Meeting Transcript, No. 9 at pp. 31, 32–33; NEEA & NPCC, No. 10 at pp. 2, 4; PG&E, No. 7 at p. 13; SEDI, No. 6 at p. 2; SCE, No. 11 at p. 13) PG&E and SCE stated that the Utility Test Protocol is an investigative test method that was developed based on data collected as part of the field study conducted by NEEA in 2012[14] and is aimed at producing energy use measurements that are more representative of real-world use. PG&E and SCE noted that the Utility Test Protocol consists of one test using the current appendix D2 test procedure and four supplemental tests that use a range of test load compositions, test load sizes, and cycle settings.[15] PG&E and SCE stated that the aim of the Utility Test Protocol is to develop a test procedure that better represents real-world conditions while also minimizing test burden to the extent possible and providing repeatable results. (PG&E, No. 7 at pp. 2–3, 12; SCE, No. 11 at pp. 2–3, 12)

Efficiency advocates commented that DOE should also consider the clothing load defined in AHAM HLD–1–1992, ''Household Tumble Type Clothes Dryers,'' as a more realistic test load.[16] (Ecova, Public Meeting Transcript, No. 9 at p. 18; Jonathan Gatzke, Public Meeting Transcript, No. 9 at p. 48; Joint Efficiency Advocates, No. 5 at p. 2; SEDI, No. 6 at p. 2; NEEA & NPCC, No. 10 at p. 4)

NEEA and NPCC commented that, based on their testing, there is a 12 to 15-percent gap between tested energy consumption using appendix D2 and energy consumption observed in the NEEA field study. According to NEEA and NPCC, this discrepancy is due to the composition of the DOE test load, which they stated is representative of an unspecified fraction of the loads dried in typical households. (NEEA & NPCC, No. 10 at p. 2) NEEA and NPCC added that loads of heavier fabric for any given load size took longer to dry and, as a result, used more energy in their testing than loads consisting of the DOE test cloth. (NEEA & NPCC, No. 10 at p. 3) NEEA, NPCC, PG&E and SCE also commented that hybrid heat pump clothes dryers (*i.e.,* clothes dryers that use a heat pump along with a supplemental electric resistance heater) are more impacted based on their testing by the use of ''real-world'' test loads and have only marginally better efficiency than conventional clothes dryers when measured using the Utility Test Protocol. (NEEA & NPCC, No. 10 at p. 3; PG&E, No. 7 at p. 3; SCE, No. 11 at p. 3) PG&E and SCE noted that, based on their testing with the small, medium, and large ''real-world'' test loads, the hybrid heat pumps had lower measured efficiencies in some cases than several conventional electric clothes dryers. PG&E and SCE expressed concerned that these results may indicate that hybrid heat pump clothes dryers achieve no energy savings for consumers in practice. (PG&E, No. 7 at pp. 7–10; SCE, No. 11 at pp. 7–10)

Efficiency advocates and utilities commented that testing conducted by NEEA and the California IOUs showed that the test-to-test variation was often lower for the supplemental tests under their Utility Test Protocol using clothing test loads they claimed to be more representative of consumer use than when using the current DOE test load, ranging from 2.3 percent to 5.4 percent for their clothing test loads, compared to 5.1 percent for the current DOE test load. Efficiency advocates and utilities concluded that, based on this testing, a test load that they believe is more representative of consumer use would not introduce an unacceptable level of test-to-test variability in the certification process. (NEEA & NPCC, No. 10 at p. 4) Efficiency advocates and utilities also noted that using a weighted average of multiple tests, as with the Utility Test Protocol, reduces variability in test results compared to the single test specified in appendix D2. (Joint Efficiency Advocates, No. 5 at p. 3; NEEA, Public Meeting Transcript, No. 9 at pp. 62, 68; NEEA & NPCC, No. 10 at p. 4; PG&E, No. 7 at pp. 11–12; SCE, No. 11 at pp. 11–12) PG&E and SCE added that they did not yet have data on the reproducibility of results obtained using the test load specified in their Utility Test Protocol, and that DOE should conduct additional testing using this test method to assess reproducibility. (PG&E, No. 7 at p. 12; SCE, No. 11 at p. 12) The Joint Efficiency Advocates also encouraged DOE to consider how the certification and enforcement provisions could be amended to avoid repeatability and reproducibility concerns in an improved test procedure. (Joint Efficiency Advocates, No. 10 at p. 4)

AHAM and GE stated that it is critical to have a test procedure that produces repeatable and reproducible results. AHAM and GE expressed support for the continued use of the current DOE test load and noted that more than a

[13] The test procedure specifies that the energy stuffer cloths are to be used to adjust the test load to achieve the proper weight, but that no more than five stuffer cloths may be added per test load.

[14] The NEEA field study report can be found in the docket for this rulemaking at: *https://www.regulations.gov/document?D=EERE-2014-BT-TP-0034-0010.*

[15] The ''Utility Test Protocol'' consists of a series of five tests: (1) Using the current appendix D2 test method; (2) using a 4.22-pound real-world load with the medium temperature setting and eco mode deactivated; (3) using a 16.9-pound real-world load with the medium temperature setting and eco mode deactivated; (4) using an 8.45-pound real-world load using the most efficient setting configuration possible; and (5) using an 8.45-pound real-world load using settings that achieves the fastest rate of drying possible.

[16] The AHAM 1992 test load consists of 100% cotton items intended to represent clothes items regularly laundered, and includes sheets, tablecloths, shirts, bath towels, t-shirts, pillowcases, shorts, wash cloths, and handkerchiefs.

decade has been spent developing the DOE test load, which has been demonstrated to yield results that are repeatable and reproducible. AHAM and GE commented that developing a ''real-world'' test load that produces repeatable and reproducible results is not feasible. (AHAM, No. 4 at p. 2; GE, No. 3 at p. 1) AHAM and GE stated that the studies conducted by Oak Ridge National Laboratory (''ORNL'') [17] and Pacific Northwest National Laboratory (''PNNL'') [18] [19] showed that use of the current DOE test load produces repeatable results and is a good predictor of relative performance with other clothing loads, while the repeatability of test results decreases when the load composition is less uniform (*i.e.,* contains different fabrics and varying thicknesses). (AHAM, No. 4 at p. 2; GE, No. 3 at p. 1)

Samsung similarly supported the continued use of the DOE test load to minimize measurement uncertainty and stated that it is not possible to obtain repeatable and reproducible test results with a ''real-world'' test load. Samsung suggested that DOE consider results from the IEC technical subcommittee 59D working group, which is developing an alternate test load that is based on DOE test cloth material but includes differently sized items to better represent ''real-world'' conditions while maintaining reproducibility. (Samsung, No. 8 at p. 2)

2. Test Load Size

Section 2.7 of appendix D1 and appendix D2 specify a test load weight of 8.45 pounds ±.085 pounds for standard-sized clothes dryers (*i.e.,* with a drum capacity of 4.4 cubic feet or greater) and a test load weight of 3 pounds ±.03 pounds for compact-sized clothes dryers (*i.e.,* with a drum capacity of less than 4.4 cubic feet).

ANSI/AHAM HLD–1–2010 and IEC Standard 61121 provide a range of test load sizes, with specifications for the number of test articles within each load for a given load size (and, for IEC Standard 61121, for the selected load composition). ANSI/AHAM HLD–1–2010 specifies that a clothes dryer may be tested using loads of any or all sizes. IEC Standard 61121 requires the selection of load size according to the manufacturer's rating of the capacity of the unit.

NEEA and NPCC commented that although the average clothes dryer load size observed in the NEEA field study was reasonably close to the 8.45-pound test load currently specified in appendix D1 and appendix D2, this load size constituted only a small fraction (less than 15 percent) of all loads dried in the NEEA field study and there were a significant number of smaller loads dried by consumers in the NEEA field study data. NEEA and NPCC also stated that the load size has a significant impact on the measured efficiency under the Utility Test Protocol. According to NEEA and NPCC, the measured efficiency under the Utility Test Protocol for conventional clothes dryers using small loads of clothing, as opposed to test cloths, was about half of the measured efficiency for large loads of the same clothing. NEEA and NPCC commented that DOE should require testing with at least one small load in addition to the current load size and weighting the results to calculate CEF. (NEEA & NPCC, No. 10 at pp. 2, 4–5)

The Joint Efficiency Advocates, PG&E, SEDI, and SCE supported the investigation of additional smaller and larger test load sizes to reflect the findings of the NEEA field study and not discourage technologies that could improve the efficiency of drying different loads sizes. (Ecova, Public Meeting Transcript, No. 9 at pp. 122–123; Joint Efficiency Advocates, No. 5 at p. 2; PG&E, No. 7 at pp. 3, 13; SEDI, No. 6 at p. 2; SCE, No. 11 at pp. 3, 13) PG&E and SCE commented that the Utility Test Protocol, which was developed based on the NEEA field study data, specifies testing of a smaller 4.22-pound load and a larger 16.9-pound load, in addition to the existing 8.45-pound load for standard-size clothes dryers. (PG&E, No. 7 at p. 3; SCE, No. 11 at p. 3) Referencing the NEEA field study, Samsung similarly commented that DOE should consider adding a small load size to the test procedure to better represent consumer behavior. (Samsung, No. 8 at p. 2)

SEDI also commented that testing has shown that heat pump clothes dryers demonstrate improved efficiency when drying larger loads. (SEDI, No. 6 at p. 2) SEDI commented that DOE should include heat pump and hybrid heat pump clothes dryers in its investigative testing to ensure that the test procedure accurately assesses the performance of these new technologies, in particular when drying larger laundry loads. (SEDI, No. 6 at pp. 2, 3)

3. Test Cycle Selections

Section 3.3.2 of appendix D2 specifies that for automatic termination control dryers, the ''normal'' program shall be selected for the test cycle. For clothes dryers that do not have a ''normal'' program, the cycle recommended by the manufacturer for drying cotton or linen shall be selected. *Id.* If the drying temperature setting can be chosen independently of the program, it shall be set to the maximum. *Id.* If the dryness level setting can be chosen independently of the program, it shall be set to the ''normal'' or ''medium'' dryness level setting. *Id.* After the completion of the test cycle, the test load is removed and weighed. If the final moisture content is greater than 2 percent, the test is considered invalid and a new run shall be conducted using the highest dryness level setting. *Id.*

Industry standards address cycle selection differently from the DOE test procedure. ANSI/AHAM HLD–1–2010 specifies that the test cycle be run using the maximum temperature setting without allowing the clothes dryer to advance into the cool down period. If the required final moisture content (6 percent) cannot be met using this setting, a new test run must be conducted using a different user-selected setting that will achieve the target final moisture content. IEC Standard 61121 requires that the test cycle for a given load composition be run using the cycle program and settings specified in the manufacturer's instructions to achieve a target final moisture content, which is based on the test load composition. In the absence of any instructions from the manufacturer, or if the specified cycle program and settings do not achieve the required final moisture content, then the test shall be run using a user-selected combination of cycle program and settings that will achieve the required final moisture content.

NEEA and NPCC stated that because of the increasing use of clothes dryers with electronic controls and the proliferation of cycle options on many models, it will be difficult to define what cycles should be used with each test load composition and size to determine a CEF rating that is representative of consumer use. NEEA and NPCC commented that, based on the NEEA field study data, consumers only use two or three cycle programs for the vast majority of clothes dryer loads.

[17] K. Gluesenkamp. *Residential Clothes Dryer Performance Under Timed and Automatic Cycle Termination Test Procedures.* 2014. Oak Ridge National Laboratory. Report No. ORNL/TM–2014/431. *http://web.ornl.gov/sci/buildings/docs/2014-10-09-ORNL-DryerFinalReport-TM-2014-431.pdf.*

[18] W. TeGrotenhuis. *Clothes Dryer Automatic Termination Sensor Evaluation. Volume 1: Characterization of Energy Use in Residential Clothes Dryers.* 2014. Pacific Northwest National Laboratory. Report No. PNNL–23621. *http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23621.pdf.*

[19] W. TeGrotenhuis. *Clothes Dryer Automatic Termination Sensor Evaluation. Volume 2: Improved Sensor and Control Designs.* 2014. Pacific Northwest National Laboratory. Report No. PNNL–23616. *http://www.pnnl.gov/main/publications/external/technical_reports/PNNL-23616.pdf.*

According to NEEA and NPCC, consumers choose a cycle program based on the size and composition of the load being dried. (NEEA & NPCC, No. 10 at pp. 2, 5)

Additionally, NEEA and NPCC commented that the NEEA field study data shows that the medium or low temperature settings are used for 57.5 percent of consumer drying cycles, with the medium temperature setting accounting for 46 percent of cycles, regardless of the cycle program. Thus, NEEA and NPCC stated that the test procedure should require at least one additional test cycle using a medium temperature setting. (NEEA & NPCC, No. 10 at p. 7)

NEEA and NPCC stated that clothes dryer energy use is significantly different for a cycle with a ''normal'' dryness level setting than one with a ''more dry'' dryness level setting, with all other settings the same. According to NEEA and NPCC, this suggests that clothes dryers will behave very differently when drying loads of heavy fabrics where the ''more dry'' dryness level setting is necessary compared to drying the DOE test load using the ''normal'' dryness level setting. (NEEA & NPCC, No. 10 at pp. 5–6)

NEEA and NPCC commented that there may be a relatively small combination of cycle selections and load compositions/sizes that would fully represent the entire range of annual consumer use. NEEA and NPCC added that they will continue to conduct testing and field studies and urged DOE to conduct testing as well to determine appropriate cycle selections for the test procedure. (NEEA & NPCC, No. 10 at p. 6) As discussed in section III.B.1 of this document, PG&E and SCE commented that the Utility Test Protocol, which was developed based on the NEEA field study data, includes testing with a variety of cycle selections and corresponding load sizes and compositions. (PG&E, No. 7 at pp. 3, 25–27; SCE, No. 11 at pp. 3, 25–27)

The Joint Efficiency Advocates and SEDI similarly commented that it will be important for the test procedure to require testing of multiple cycle selections as clothes dryers continue to offer an increasing number of cycle options that can significantly impact energy consumption and performance. (Joint Efficiency Advocates, No. 5 at p. 2; SEDI, No. 6 at p. 3) The Joint Efficiency Advocates added that testing with only a single cycle program could allow for test procedure circumvention, noting that a clothes dryer could be designed with a ''normal'' program that has a very long cycle time that many consumers would never select over a cycle program with a shorter cycle time. The Joint Efficiency Advocates encouraged DOE to measure and report the cycle time for each clothes dryer it tests in each of the cycles tested, and to use this data to develop an efficiency calculation that properly weights the results from each of the tested cycle selections. (Joint Efficiency Advocates, No. 5 at p. 2)

NEEA and NPCC also commented that there has been a proliferation of models with an ''eco mode'' setting offered by most manufacturers, but that eco mode may operate differently for different manufacturers. (NEEA & NPCC, No. 10 at p. 5) PG&E and SCE stated that cycles using eco mode can be up to three times longer than the ''normal'' program without eco mode. (PG&E, No. 7 at p. 3; SCE No. 11 at p. 3) PG&E and SCE added that although an eco mode may be activated by default in the as-shipped condition, many consumers may easily disable it. (*Id.*) The Joint Efficiency Advocates encouraged DOE to develop a test procedure that would incentivize clothes dryer designs that make it more likely for consumers to use an eco mode. (Joint Efficiency Advocates, No. 5 at p. 3) The Joint Efficiency Advocates referenced two heat pump clothes dryers that have received the ENERGY STAR Emerging Technology Award, and that have efficiency ratings in their most efficient setting that are 29 percent and 13 percent higher than the efficiency ratings using the ''normal'' cycle program. (*Id.*) The Joint Efficiency Advocates stated that, as a result, energy savings associated with new clothes dryer technologies will be highly dependent on the cycle programs and settings that consumers select. (*Id.*)

Conversely, manufacturers recommended that DOE maintain the existing test cycle selections. Whirlpool Corporation (''Whirlpool'') stated that its own data indicate that consumers primarily use the ''normal'' cycle program. (Whirlpool, Public Meeting Transcript, No. 9 at p. 110) AHAM commented that there are no comprehensive data available to accurately gauge consumer behavior in terms of drying cycle selections. (AHAM, No. 4 at p. 3) GE also commented that it is not aware of any studies that categorically demonstrate that certain cycle selections will more accurately represent consumer usage across all demographics. (GE, No. 3 at p. 2) AHAM and GE both commented that the current DOE test procedure represents the upper limits of energy consumption by requiring use of the maximum temperature setting. (AHAM, No. 4 at pp. 2–3; GE, No. 3 at p. 2) AHAM stated that additional tests should not be required until there is a better understanding of consumer usage patterns and cycle selections to avoid burdensome testing and costs that would ultimately be passed on to the consumer. (AHAM, No. 4 at p. 3)

4. Remaining Moisture Content

In response to the October 2014 NOPM, DOE received comments on the initial RMC specifications in appendix D2. Sections 2.7.1 and 2.7.2 of appendix D2 specify that the initial RMC of a test load for a compact-size and standard-size clothes dryer, respectively, must be 57.5 percent ±0.33 percent. To achieve the required RMC, the test procedure specifies that the test load be dampened by agitating in water whose temperature is 60 degrees Fahrenheit (''°F'') ±5 °F and consists of 0 to 17 parts per million hardness for approximately 2 minutes to saturate the fabric. *Id.* The water is then extracted from the load by spinning until the RMC is between 52.5 and 57.5 percent of the bone-dry weight of the test load. *Id.* Final mass adjustments to achieve the specified initial RMC must be made by uniformly adding water to each test cloth using a spray bottle. *Id.*

SEDI encouraged DOE to investigate the initial RMC associated with clothes washers to more closely reflect the RMC found in ''real-world'' washing conditions. (SEDI, No. 6 at p. 3) SEDI stated that this would avoid double-counting the energy consumption and savings associated with the clothes washer and clothes dryer. (*Id.*) NEEA and NPCC commented that the NEEA field study data showed that different load compositions had different levels of RMC at the end of the washing cycle, which corresponds to the clothes dryer initial RMC. (NEEA & NPCC, No. 10 at p. 6) For example, NEEA and NPCC stated, loads with heavier fabrics had higher initial RMCs going into the clothes dryer than a load of the same size but made of lighter fabrics. (*Id.*) NEEA and NPCC stated that if DOE adopts the use of different test load compositions, the initial RMC should be different (*i.e.,* a higher initial RMC for heavier fabrics) than the initial RMC used for the current DOE test load. (NEEA & NPCC, No. 10 at p. 6) PG&E and SCE commented that the Utility Test Protocol, which was developed based on the NEEA field study data, specifies an initial RMC of 62 percent for the supplemental tests using a ''real-world'' test load. (PG&E, No. 7 at pp. 3, 24; SCE, No. 11 at pp. 3, 24)

DOE also received comments, which are discussed in the following section, regarding the final RMC specifications in appendix D2. Section 3.3.1 of appendix D2 specifies that for timer

dryers, the test load is dried until the final RMC is between 1 and 2.5 percent of the bone-dry weight of the test load. The measured energy consumption is then normalized to determine the energy consumption required to dry the test load to 2-percent RMC, with a field use factor applied to account for the over-drying energy consumption. *Id.* For automatic termination control dryers, section 3.3.2 of appendix D2 specifies that a test is considered valid if the final RMC of the test load is less than 2 percent.

NEEA, NPCC, PG&E and SCE commented that the Utility Test Protocol uses a final RMC of 4 percent for specific supplemental tests using a ''real-world'' test load, which was based on their laboratory investigations, consumer acceptability testing, and consultations with industry. (NEEA & NPCC, No. 10 at p. 6; PG&E, No. 7 at pp. 3, 25–27; SCE, No. 11 at pp. 3, 25–27) NEEA and NPCC added that the 4-percent final RMC value for ''real-world'' loads is consistent with a 2-percent final RMC for the current DOE test load when using the same automatic cycle termination drying mode. (NEEA & NPCC, No. 10 at p. 6)

Samsung commented that requiring a final RMC of 2 percent or less would tend to promote over-drying and unnecessary additional energy use because clothes that are over-dried will typically absorb moisture from ambient air and reach a final state of between 5-percent and 8-percent RMC. (Samsung No. 8 at p. 1) Samsung stated that NEEA data suggest a final RMC of about 5 percent, and the IEC standard estimates about an 8-percent moisture absorption from the ambient humidity. (*Id.*) Accordingly, Samsung commented that DOE should consider changing the target final RMC to 5 percent. (Samsung No. 8 at pp. 1–2)

5. Annual Drying Cycles and Hours per Year

Section 4.5 of appendix D1 and appendix D2 assume the representative average use for clothes dryers is 283 drying cycles per year. NEEA and NPCC commented that the data from the Energy Information Administration (''EIA'') Residential Energy Consumption Survey (''RECS'') used to develop DOE's current estimate for the number of drying cycles per year exhibit a very wide variance. (NEEA & NPCC, No. 10 at p. 7) NEEA and NPCC stated while the data from the NEEA field study may not be strictly representative of the entire United States, in the absence of additional field data, DOE should use the NEEA field study estimate of 311 cycles per year. (*Id.*) NEEA and NPCC noted that the data from the NEEA field study showed a significant number of clothes dryer loads required multiple cycles, either because the clothes washer load was split, or because the load was not dried to a satisfactory RMC. (*Id.*) NEEA and NPCC also noted that the NEEA field study data showed that nearly 94 percent of loads washed in a clothes washer were dried in a clothes dryer, compared to the 91 percent assumed in the current DOE test procedure. (*Id.*) According to NEEA and NPCC, this difference could be one source for the discrepancy in the number of annual drying cycles. (NEEA & NPCC, No. 10 at p. 8)

Additionally, NEEA and NPCC stated that the large variation in drying cycle times observed between the DOE test load and a ''real-world'' load, in addition to the discrepancy in the number of annual drying cycles discussed above, suggests that DOE's estimate of the annual active mode hours and thus, standby mode and off mode hours, is not consistent with actual field use. (NEEA & NPCC, No. 10 at p. 8) NEEA and NPCC stated that, in the absence of additional field use data, DOE should use the NEEA field study estimate of 8,463 standby and off-mode hours per year in place of the current estimate of 8,620 hours per year. (*Id.*)

6. DOE Response to Comments

As previously stated, test procedures promulgated by DOE must be reasonably designed to produce test results which measure the energy efficiency of a clothes dryer during a representative average use cycle or period of use as determined by DOE. (42 U.S.C. 6293(b)(3)) The Federal test procedure must also not be unduly burdensome to conduct. (*Id.*)

DOE appreciates the issues raised by interested parties regarding test procedure repeatability and reproducibility and consumer usage habits, as well as the field data provided by NEEA. While the NEEA field study data provides valuable information regarding the consumer usage habits for clothes dryers, DOE recognizes that these data may not be entirely representative of the consumer usage habits across the entire United States over the course of a year. For example, because the data were collected in the Pacific Northwest in the winter months, the data may reflect heavier fabrics and larger quantities of clothing items, which would also retain more moisture during the washing and drying cycles. Such fabrics and quantities may not be representative of consumer loads throughout the year, or consumer loads across varying geographical regions.

In addition, it is not clear whether the NEEA field study data presented regarding the cycle selections are an accurate reflection of consumers actively selecting certain settings. For example, NEEA and NPCC noted that the NEEA field study data showed that the medium temperature setting accounted for 46 percent of cycles, while the high temperature setting accounted for 43 percent of cycles. However, DOE observes that a common control scheme is for clothes dryers, when set to the normal cycle program, to automatically default to the medium temperature setting and not allow the consumer to change the temperature setting. It is not clear whether this control scheme occurred in the NEEA field study, and if so, to what extent. Additionally, it is unknown whether, in instances in which the consumer may adjust the temperature setting under the ''normal'' cycle program, the consumer may be selecting the highest temperature setting more frequently. Without knowledge of the controls of each clothes dryer monitored in the field study, it is difficult to draw conclusions regarding the frequency of setting selections. DOE notes that the cycle programs and settings could also be influenced by the potentially heavier clothing and larger laundry load sizes during the winter months during which the NEEA field study was conducted.

DOE also recognizes the difficulty in drawing conclusions regarding load weights along with the initial and final RMC based on the NEEA field study data. DOE notes that in the NEEA field study, a fixed correction was used to calculate the bone-dry weight and measured RMC of the laundry loads based on the load weight in ambient room conditions prior to any washing or drying. In cases where the estimated RMC of the laundry load was higher than 5 percent prior to any washing or drying, the load was assumed to be wet and the weight after the drying cycle was used as the bone-dry weight. DOE notes that different clothing materials and load sizes may retain moisture differently, and may be significantly impacted by ambient temperature and humidity conditions. DOE also notes that the clothes washer and clothes dryer for some sites monitored in the field study were located in unconditioned spaces (*e.g.,* garages or unconditioned basements), which could also have a significant impact on the amount of moisture retained in the clothing at ambient conditions. The NEEA field study data showed a wide range of final RMC values, including

negative RMC values, which suggests that a single fixed correction factor may not be an accurate reflection of the weight and RMC of the load.

DOE is also concerned about placing too much emphasis on the field study data as a means of developing representative load sizes or other test parameters because different conclusions may be drawn depending on how the data are aggregated for analysis. For example, as discussed in section III.B.2 of this document, NEEA and NPCC commented that the 8.45-pound load size is fairly representative of the average load size observed in the NEEA field study even though this load size represents less than 15 percent of all loads in the field study. However, in the NEEA field study report, loads in the 6–8 pound range and 9–11 pound range accounted for the majority (over 50 percent) of all laundry loads.[20] In addition, a 16.9-pound load was suggested as part of the Utility Test Protocol, but the NEEA field study data showed that loads over 15 pounds accounted for less than 3 percent of all laundry loads in the study.

While the NEEA field study data and comments from efficiency advocates and utilities provide valuable information regarding the consumer usage habits for clothes dryers, DOE does not have sufficient information at this time to determine appropriate changes to the test procedure.

To ensure that the test procedure measures energy use during a representative average use cycle or period of use, DOE continues to seek consumer usage data (*e.g.,* load composition and sizes, cycle selections, RMC, cycles per year) that are representative of the entire United States over the course of a year. DOE requests data on how frequently consumers select different cycle programs, temperature settings, dryness settings, and other settings that could impact energy use (*e.g.,* ''eco mode''). DOE seeks data on representative load compositions (materials, fabric, weave, *etc.*) and sizes, as well as the corresponding cycle selections chosen by consumers for each particular load. DOE also seeks consumer usage data on initial RMC and consumer-acceptable final RMC levels for varying load compositions/sizes and cycle selections.

DOE notes that the IEC is currently investigating alternative clothes dryer test methods, including alternative load compositions and sizes. IEC is in the process of qualifying alternative load compositions and sizes to develop potential revisions to IEC Standard 61121. DOE recognizes that the test method required for certification to and compliance with applicable energy conservation standards must be designed to measure energy use during a representative average use cycle or period of use, and not unduly burdensome to conduct. DOE will consider any available information developed for the revised IEC Standard 61121 as IEC's development program progresses.

For the reasons discussed, DOE is not proposing to amend the test load composition and size, test cycle selections, RMC, and cycles per year in its test procedures at this time.

DOE seeks comment on whether requiring the drying temperature setting to be set to the maximum, if it can be chosen independently of the program, is representative of the energy use of the clothes dryer during a representative use cycle or period of use, or whether a lower temperature setting would meet this statutory criterion. DOE also seeks comment on whether a 2-percent final RMC under DOE test conditions is representative of the energy use during an average use cycle or period of use for clothes dryers with automatic termination controls, or whether a different RMC meets this statutory criterion; and on whether any other test conditions should be revised so that the test procedure meets the applicable EPCA requirements.

DOE will continue to review and consider consumer usage data as it becomes available and engage with stakeholders to collect additional information regarding potential amendments to the DOE clothes dryer test procedure to better represent consumer use. DOE expects that continued work in this area will include collaboration with stakeholders, including industry stakeholders, to determine if there are test load composition and size specifications that may be more representative of actual load composition and size, while providing sufficient repeatability and reproducibility of test results and that are not unduly burdensome. DOE would expect any such updated conditions to be considered in future test procedure rulemakings and potentially to provide the basis for evaluating amended energy conservation standards following the current evaluation initiated through the Request for Information published on March 27, 2015. 80 FR 16309.

C. Other Comments

1. Energy Use Metric

PG&E and SCE commented that when the performance of gas and electric clothes dryers are compared on a site energy basis, gas clothes dryers appear less efficient than electric clothes dryers because losses associated with electricity generation are not considered. (PG&E, No. 7 at p. 3; SCE, No. 11 at p. 3) According to PG&E and SCE, based on their testing, using a metric based on carbon dioxide emissions that they state fully accounts for losses of electricity generation would result in gas clothes dryer efficiencies being higher than those for all other clothes dryer types, including heat pump clothes dryers. (PG&E, No. 7 at pp. 4–5, 12; SCE, No. 11 at pp. 4–5, 12)

As DOE has explained in the context of test procedures for other products, *i.e.,* residential furnaces and boilers, the test procedure is not the appropriate vehicle for deriving a full fuel cycle (''FFC'') energy use metric, such as carbon dioxide emissions, for clothes dryers. See, 81 FR 2628, 2638–2639 (Jan. 15, 2016). DOE may estimate the FFC energy savings as part of any concurrent energy conservation standards rulemaking for clothes dryers and take those savings into account in proposing amended standards.

2. Effects of Clothes Dryers on Heating, Ventilation, and Air Conditioning Energy Use

SEDI commented that DOE should investigate the effect of clothes dryers on residential heating, ventilation, and air conditioning (''HVAC'') energy consumption. (SEDI, No. 6 at p. 3) SEDI stated that vented clothes dryers expel air from the house, causing make-up air to be drawn from outside the house that must be conditioned (either by heating or cooling), which consumes energy as a direct consequence of the clothes dryer operation, and that clothes dryers themselves also heat and add moisture directly to the air inside a house. (*Id.*) According to SEDI, these effects are significant in comparison to the energy consumed by the clothes dryer and cause the energy performance of ventless clothes dryers to be rated inaccurately in relation to vented clothes dryers. (SEDI, No. 6 at pp. 3–4)

As described, EPCA requires that any prescribed or amended test procedures be reasonably designed to produce test results that measure energy efficiency, energy use, water use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(3)) In prior clothes dryer energy

[20] *Dryer Field Study*. 2014. Northwest Energy Efficiency Alliance. Report No. E14–287. Pg. 29. *https://www.neea.org/docs/default-source/reports/neea-clothes-dryer-field-study.pdf.*

conservation standards and test procedure rulemakings, DOE considered the issue SEDI raises here, and concluded that ''accounting for the effects of clothes dryers on HVAC energy use is inconsistent with the EPCA requirement that a test procedure measure the energy efficiency, energy use, or estimated annual operating cost of a covered product. As a result, DOE did not revise the clothes dryer test procedure to account for HVAC energy use in the TP Final Rule and does not account for HVAC energy use in these standards.'' 76 FR 22454, 22474 (Apr. 21, 2011); see also 76 FR 972, 1004–1005 (Jan. 6, 2011) (test procedure final rule) For the same reasons, DOE is not proposing in this rulemaking to amend its clothes dryer test procedure to account for the clothes dryer impacts on HVAC energy use.

3. Washer-Dryer Test Procedure

PG&E and SCE commented that DOE should consider an integrated washer-dryer test procedure in which the test load would be transferred directly from the clothes washer at the end of the wash cycle to the clothes dryer. (PG&E, No. 7 at p. 12; SCE, No. 11 at p. 12) PG&E and SCE stated that development of an integrated washer-dryer test procedure would provide additional data on clothes washer performance, allow for a better understanding of ''synergies'' between the clothes washer and clothes dryer in terms of energy efficiency and cycle times, and reduce test burden by eliminating the step of wetting the clothing to tight tolerances prior to running the clothes dryer test cycle, which they deemed to be labor intensive. (*Id.*) NEEA and NPCC similarly commented that DOE should consider an integrated test procedure in which the clothes washer and matching clothes dryer are tested as a pair. (NEEA & NPCC, No. 10 at p. 7) NEEA and NPCC stated that the NEEA field study data show that the initial RMC for the drying cycle depends substantially on the type of clothes washer, with clothes dryer loads having an average initial RMC of 61 percent in homes with a horizontal-axis clothes washer and 74 percent in homes with a vertical-axis clothes washer. (NEEA & NPCC, No. 10 at p. 7) NEEA and NPCC added that this large difference significantly impacts clothes dryer energy use. (*Id.*)

EPCA requires DOE to establish test procedures that measure the energy use or efficiency ''of a covered product'' during a representative average use cycle or period of use. 42 U.S.C. 6293(b)(3). EPCA does not authorize DOE to establish test procedures that measure the energy use of two covered products when paired together. In addition, different clothes washer models spin clothing loads to different RMC levels, which in turn would affect the clothes dryer initial RMC and the amount of moisture needed to be removed during the drying cycle. As such, the measured efficiency of a clothes dryer could be significantly impacted by the clothes washer with which it is paired for the purpose of testing. Whether a clothes dryer would comply with the energy conservation standard would be dependent, in part, on the performance of the paired clothes washer.

SEDI commented that DOE should investigate test procedures for combination washer-dryers so that the test procedure measures the total energy consumption of the unit during a complete washing and drying cycle. (SEDI, No. 6 at p. 4) SEDI commented that the total energy consumption could then be allocated between the clothes washer and clothes dryer energy use metrics based on an assumed RMC value between the cycles. (*Id.*) SEDI stated that this would avoid giving combination washer-dryers either an unfair advantage or disadvantage compared to stand-alone clothes washers and clothes dryers. (*Id.*)

For combination washer-dryers, the clothes washer component is required to demonstrate compliance with the current energy conservation standards for consumer clothes washers using the clothes washer test procedure at 10 CFR part 430, subpart B, appendix J2 (''appendix J2''). The clothes dryer component of a combination washer-dryer is required to demonstrate compliance with the current energy conservation standards for clothes dryers using the clothes dryer test procedures in either appendix D1 or appendix D2. EPCA similarly does not authorize DOE to establish a single test procedure for combination washer-dryers that would measure the total energy consumption of the unit during a complete washing and drying cycle. 42 U.S.C. 6293(b)(3).

D. ''Connected'' Clothes Dryers

DOE is currently aware of a growing number of ''connected'' clothes dryer models on the market, from at least six major manufacturers. These products offer wireless network connectivity to enable features such as remote monitoring and control via smartphone, as well as demand response features [21] available through partnerships with a small number of local electric utilities. DOE observes a variety of implementations of these connected features across different brands, and that the design and operation of these features is continuously evolving as the market continues to grow for these products.

DOE notes that the ENERGY STAR program has incorporated connected criteria into version 1.1 of the Product Specification for Clothes Dryers.[22] Products that qualify as ''connected'' [23] are eligible for a bonus of 5 percent applied to the model's CEF rating, which is required to be measured using appendix D2.

If the availability of ''connected'' features on a clothes dryer affects its standby mode power consumption (*e.g.,* by energizing a wireless communication chip on the circuit board) in the as-shipped configuration, such impact would be measured by the current test procedure provisions in section 3.6 of appendices D1 and D2 for measuring standby mode and off mode power. Whereas, if the standby power consumption is not affected unless the consumer actively enables the connected functionality on the unit, any incremental standby power consumption resulting from the connected features would not be measured by the current test procedure because the test procedure does not include instructions for activating any such features before performing the standby mode and off mode measurement. Similarly, any incremental energy consumption in active mode, or any other modes of operation impacted by the product's connected features, would not be measured as part of the DOE test procedure, because the test cycle requirements within section 3.3 of appendices D1 and D2 do not include instructions for activating any such features before performing the active mode drying cycle measurements.

DOE recently published a request for information (RFI) on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for

[21] ''Demand response features'' refers to product functionality that can be controlled by the ''smart grid'' to improve the overall operation of the electrical grid, for example by reducing energy consumption during peak periods and/or shifting power consumption to off-peak periods.

[22] ENERGY STAR criteria for clothes dryers are available at *https://www.energystar.gov/products/appliances/clothes_dryers/partners.*

[23] The ENERGY STAR criteria define a ''connected clothes dryer system'' as including a base appliance plus all hardware and software elements required to enable communication in response to consumer-authorized energy related commands.

appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. In this NOPR, consistent with the September 2018 RFI, DOE proposes to specify in section 3.3 of appendix D1, and sections 3.3.1 and 3.3.2 of appendix D2, that units with network capabilities be tested with the network-connected functions in the ''off'' position.

DOE seeks comment on the proposal to specify that units with network capabilities be tested with the network-connected functions in the ''off'' position and on the issues presented in the September 2018 RFI as they may be applicable to clothes dryers.

DOE also seeks the following information regarding connected clothes dryers that could inform future test procedure considerations:

DOE requests feedback on its characterization of connected clothes dryers currently on the market. Specifically, DOE requests input on the types of features or functionality enabled by connected clothes dryers that exist on the market or that are under development.

DOE requests data on the percentage of users purchasing connected clothes dryers, and, for those users, the percentage of the time when the connected functionality of the clothes dryer is used.

DOE requests feedback on the types of impacts that should be included in any future assessments of features associated with connected clothes dryers.

DOE requests data on the amount of additional or reduced energy use of connected clothes dryers.

DOE requests data on the pattern of additional or reduced energy use of connected clothes dryers; for example, whether it is constant, periodic, or triggered by the user.

DOE requests information on any existing testing protocols that account for connected features of clothes dryers, as well as any testing protocols that may be under development within the industry.

E. Maintaining Hourly Btu Rating for Gas Clothes Dryers

Section 2.3.2.1 of appendix D1 and appendix D2 provides requirements for natural gas clothes dryers for maintaining the hourly British thermal unit (''Btu'') rating of the burner during testing to within ±5 percent of the hourly Btu rating specified by the manufacturer.[24] Section 2.3.2.2 provides analogous requirements for propane clothes dryers. The intent of these requirements is to provide repeatable test conditions, recognizing that the rate of heat input into a clothes dryer can significantly affect its performance. Both sections provide instructions regarding tolerances and adjustments that can be made to the inlet gas pressure,[25] gas pressure regulator setpoint,[26] and/or modifications to the orifice,[27] in order to maintain the hourly Btu rating within ±5 percent of the rating specified by the manufacturer.

DOE has received questions regarding the order for considering adjustments to either the regulator setpoint or inlet gas pressure, or modifying the orifice. The test procedures currently provide for modifying the orifice of the gas burner as necessary if the required hourly Btu rating cannot be achieved under the allowable range in gas inlet pressure, indicating that adjustments to the gas inlet pressure should be made before considering modifications to the orifice. However, the large majority of clothes dryers on the market include a gas pressure regulator, which is situated between the gas inlet and the orifice. Since the purpose of a gas pressure regulator is to provide a constant output pressure regardless of fluctuations in upstream supply pressure, adjusting the gas inlet pressure upstream of a pressure regulator will typically have no impact on the pressure of the gas exiting the regulator and entering the orifice, or likewise the hourly Btu rating.

To provide further direction applicable to the large majority of clothes dryers on the market that include a gas pressure regulator, DOE proposes to specify that the order of adjustment for maintaining the hourly Btu rating within specification is as follows: (first) adjust the supply gas pressure, (second) adjust the pressure regulator setpoint, or (third) modify the orifice as necessary. This proposed order specifies using an approach with the least amount of test burden necessary to achieve the specified test conditions. This also corresponds to the least amount of modification to the unit that would be necessary to achieve the specified test conditions. Adjusting the supply gas inlet pressure requires no modifications to the clothes dryer itself. Adjusting the pressure regulator setpoint typically requires removing an access panel on the clothes dryer and tightening or loosening a screw on the regulator. Modifying the orifice typically requires removing an access panel on the clothes dryer, disassembling the burner, removing the orifice, modifying the orifice (*e.g.,* by drilling a larger-diameter outlet hole), reinstalling the orifice, and finally reassembling the burner.

In DOE's testing experience, any deviation of the hourly Btu rating beyond ±5 percent of the rated value can be remedied with a minor adjustment to the gas pressure regulator (within the allowable range of ±10 percent of the recommended pressure level). Based on DOE's experience with third-party test laboratories, preferentially starting with the least burdensome adjustments before trying progressively more burdensome adjustments is generally consistent with industry practice.

DOE proposes to provide this direction in a new section 2.3.2.3 in both appendix D1 and appendix D2, which would apply to both natural gas and propane clothes dryers. In conjunction, DOE proposes simplifying the existing provisions within sections 2.3.2.1 and 2.3.2.2 to reduce duplication with provisions that would be included in the new section 2.3.2.3, and therefore improve the overall readability of the test procedures.

DOE requests comment on its proposal to specify that the order of adjustment for maintaining the hourly Btu rating within specification is as follows: (first) adjust the supply gas pressure, (second) adjust the pressure regulator setpoint, or (third) modify the orifice as necessary.

F. Inactive and Off Mode Power Measurements

Section 3.6 of appendix D1 and appendix D2 [28] provides the

[24] The hourly Btu rating of a gas clothes dryer is typically specified on the product's nameplate sticker.

[25] For natural gas clothes dryers, section 2.3.2.1 specifies maintaining the gas supply pressure immediately ahead of all controls within a range of 7 to 10 inches of water column. For propane clothes dryers, section 2.3.2.2 specifies maintaining the gas supply pressure immediately ahead of all controls within a range of 11 to 13 inches of water column.

[26] For both natural gas and propane clothes dryers, if the clothes dryer is equipped with a gas appliance pressure regulator for which the manufacturer specifies an outlet pressure, the regulator outlet pressure must be maintained within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model.

[27] The orifice is an attachment that typically screws into the outlet of the gas pressure regulator and has a small-diameter outlet hole, through which the gas flows into the burner. For both natural gas and propane clothes dryers, the test procedures provide for modifying the orifice of the gas burner as necessary if the required hourly Btu rating cannot be achieved under the allowable range in gas inlet pressure.

[28] As proposed in this NOPR, section 3.6 of appendix D2 would be renumbered as section 3.5, as a result of removing obsolete provisions from the

instructions for measuring standby [29] (''inactive'' [30]) mode and off mode [31] power on the clothes dryer. The per-cycle combined total energy consumption of a clothes dryer includes the combined representative measures of inactive mode and off mode power. Appendix D1, sections 4.5 and 4.6; appendix D2, sections 4.5 and 4.6. The test procedure distinguishes between inactive mode and off-mode. *Id.* However, when only one of the low-power modes is present, regardless of whether the low-power mode is considered inactive mode or off mode, the same measurement and calculation is performed.[32] *Id.*

DOE has received questions from interested parties regarding difficulties in determining whether the low-power mode on certain products, including clothes dryers, is considered inactive mode or off mode when only one of the modes is present. Because the test procedure calculation treats both modes in the same manner, requiring this distinction creates unnecessary test burden. DOE addressed a similar issue in the final rule published August 5, 2015 (the ''August 2015 Final Rule'') amending the clothes washer test procedure. 80 FR 46730, 46747–46749.

As discussed in the August 2015 Final Rule, a third-party laboratory stated that the ''off'' state on some appliances is achieved through a software/firmware action (*i.e.,* through a ''soft switch'') rather than a hard on/off switch (*i.e.,* a switch that physically breaks the connection to the mains power supply), and that it is not clear whether the product is providing any active mode or standby function while in the ''off'' state. 80 FR 46730, 46748. Another third-party laboratory described the difficulty for an independent third-party laboratory to determine if the on/off button is a hard switch or a soft switch. *Id.* According to the commenter, if the third-party laboratory is unable to obtain this information from the manufacturer, the next best option is to review the product's electrical schematic; however, the schematic is often located somewhere inside the machine, such as behind the console. *Id.* The commenter further questioned whether a third-party laboratory could remove the console during testing to determine if the switch is a hard switch or soft switch; or, alternatively, if the machine must not be disassembled, whether DOE could specify another method to determine the type of switch. *Id.*

The current procedure for measuring inactive and/or off mode power is as follows. Section 3.6.1 of appendix D1 and appendix D2 instructs the testing party to measure the inactive mode power, if the clothes dryer has an inactive mode. Similarly, section 3.6.2 of both appendices instructs the testing party to measure the off mode power, if the clothes dryer has an off mode. In section 4.5 of both appendices, if a clothes dryer has either inactive mode or off mode (but not both), the measured power is multiplied by 8,620, representing the combined annual hours that the clothes dryer is not in active mode (*i.e.,* idle). Alternatively, if a clothes dryer has both inactive mode and off mode (*e.g.,* an electronic control panel that also provides a hard off switch that can completely disconnect all power to the product), the power of each mode is measured and multiplied by one-half of 8,620 (*i.e.,* 4,310), and the results are summed.[33] As these sections are currently structured, the test laboratory must first determine whether the low-power mode(s) that exists on the clothes dryer meets the definition of inactive mode or off mode—even though the same calculation applies, yielding the same end result, regardless of the distinction.

As discussed, it may be difficult to determine whether a product is providing any active mode or standby function while in the idle low-power state. To avoid the unnecessary burden associated with potentially needing to remove a product's console to access the electrical schematic and/or determine if the switch is a ''hard'' switch or ''soft'' electronic switch, DOE is proposing to amend the test provisions in appendix D1 and appendix D2 for measuring inactive mode [34] and off mode using nomenclature based on observable and measurable characteristics of the clothes dryer, rather than based on knowledge of the control panel switch type or internal functionality of the clothes dryer.

The proposed approach would not change what energy is measured. This proposed approach would still measure inactive mode and off mode energy use to the extent that a product has one or both modes, but would not require specifying the specific mode being measured when only one is present, as the calculation treats both modes the same. This proposal is similar to the approach DOE adopted for the clothes washer test procedures. 10 CFR part 430 subpart B appendix J2 section 3.9; 80 FR 46730, 46747–46749.

Currently, sections 3.6.1 and sections 3.6.2 of appendix D1 and appendix D2 provide separate symbol designations for the inactive mode and off mode power measurements: P_{IA} and P_{OFF}, respectively. If a clothes dryer has either inactive mode or off mode (but not both), the average power consumption of the available mode is measured and labeled as either P_{IA} or P_{OFF}, accordingly. *Id.* As described, regardless of whether the average low-power measurement is designated as P_{IA} or P_{OFF}, section 4.5 of both appendices applies the total 8,620 annual hours to the measurement. If both inactive mode and off mode are available on the clothes dryer, section 4.5 applies 4,310 hours to each of the two average power measurements. *Id.*

In this NOPR, DOE is proposing to amend the testing methodology in section 3.6 of appendix D1 and newly renumbered section 3.5 of appendix D2 and the calculations in section 4.5 of both appendix D1 and appendix D2 by revising the nomenclature and symbols used for the standby and off mode measurements. DOE proposes to change these symbols, P_{IA} and P_{OFF}, to $P_{default}$ and P_{lowest}, and the assignment of each symbol to its respective measurement

test procedures. See section III.K.5 of this notice for additional details.

[29] Section 1.17 of appendix D1 and section 1.18 of appendix D2 define ''standby mode'' as any mode in which the product is connected to a mains power source and offers one or more of the following user-oriented or protective functions that may persist for an indefinite period of time: (1) A function that facilitates the activation of other modes (including activation or deactivation of active mode) by remote switch (including remote control), internal sensor, or timer; or (2) continuous functions, including information or status displays (including clocks) or sensor-based functions. The definition also specifies that a timer is a continuous clock function (which may or may not be associated with a display) that provides regular, scheduled tasks (*e.g.,* switching) and that operates on a continuous basis.

[30] Section 1.12 of appendix D1 and section 1.13 of appendix D2 define ''inactive mode'' as a standby mode that facilitates the activation of active mode by remote switch (including remote control), internal sensor, or timer, or that provides continuous status display.

[31] Section 1.15 of appendix D1 and section 1.16 of appendix D2 define ''off mode'' as a mode in which the clothes dryer is connected to a mains power source and is not providing any active mode or standby function, and where the mode may persist for an indefinite period of time. The definition further states that an indicator that only shows the user that the product is in the off position is included within the classification of an off mode.

[32] Distinguishing inactive mode from off mode is not an issue when both are present. When both modes are present, inactive mode and off mode can be distinguished from each other based on the measured energy use; *i.e.,* inactive mode will result in a higher measured energy use than off mode.

[33] This calculation represents an estimate that such a clothes dryer would spend half of its low-power mode hours in inactive mode, and the other half of its low-power mode hours in off mode.

[34] Inactive mode is the only type of standby mode required to be measured in appendix D1 and appendix D2.

would be based on observable and measurable characteristics of the clothes dryer rather than the control panel switch type or internal functionality of the clothes dryer. If only inactive mode or off mode is available, the measured average energy use would be represented by $P_{default}$. If both inactive mode and off mode are available, $P_{default}$ would represent the average measured energy use of inactive mode and P_{lowest} would represent the measured energy use of off mode. In addition, DOE is proposing to revise the wording of the testing instructions in section 3.6 of appendix D1 and in newly renumbered section 3.5 of appendix D2 to specify how the procedure corresponds to the sequence of events as they would be performed during testing. This proposed procedure would produce test results that yield the same measured energy as in section 3.6 of the current procedures for all clothes dryer types currently on the market.

The proposed amendments would revise the current structure of section 3.6 in both appendix D1 and appendix D2. Section 3.6 of appendix D1 and newly renumbered section 3.5 of appendix D2 would state that for a clothes dryer that takes some time to automatically enter a stable inactive/off mode state from a higher power state, as discussed in Section 5, Paragraph 5.1, note 1 of IEC Standard 62301, allow sufficient time for the clothes dryer to automatically reach the default inactive/off mode state before proceeding with the test measurement. The revised wording would replace the currently used term ''lower power state'' with ''default standby/off mode state,'' recognizing that the lower power state that the clothes dryer reaches by default may be either a standby (inactive) mode or an off mode.

The proposed amendment would also include the procedural instructions for performing the power measurement, with the calculation symbols revised, in section 3.6.1 of appendix D1 and 3.5.1 of appendix D2. The proposed instructions would state that once the stable inactive/off mode state has been reached, the default inactive/off mode power, $P_{default}$, in watts, is measured and recorded following the test procedure for the sampling method specified in Section 5, Paragraph 5.3.2 of IEC Standard 62301.

For clothes dryers with both an inactive mode and off mode as contemplated in the current test procedure (*i.e,* clothes dryers with electronic controls that offer an optional switch (or other means) that can be selected by the end user to achieve a lower power state than the default inactive/off mode state),[35] the proposed section 3.6.2 of appendix D1 and 3.5.2 of appendix D2 would require that, after performing the measurement in section 3.6.1 of appendix D1 or 3.5.1 of appendix D2, the switch (or other means) be activated to the position resulting in the lowest power consumption and the measurement procedure described in section 3.6.1 and 3.5.1, respectively, be repeated. The average power consumption would be measured and recorded as the lowest standby/off mode power, P_{lowest}, in watts.

The proposed revisions to section 4.5 of both appendix D1 and appendix D2 would apply annual hours to the average power measurement(s) performed in section 3.6 of both appendix D1 and appendix D2, consistent with the current test procedure. For those clothes dryers with a single low-power mode average power consumption measurement (newly labeled as $P_{default}$), the calculation would apply the total 8,620 annual hours to this measurement. For those clothes dryers with two average power measurements (relabeled as $P_{default}$ and P_{lowest}), section 4.5 would apply 4,310 hours to each of the two measurements.

In addition, DOE testing suggests that testing a clothes dryer's standby or off mode power consumption directly after connecting the clothes dryer to the electrical energy supply is not always representative of the standby or off mode power consumption after its first use. Therefore, DOE proposes to specify that standby mode and off mode testing in section 3.6 of appendix D1 and newly renumbered section 3.5 of appendix D2 be performed after completion of an active mode drying cycle; after removing the test load; without changing the control panel settings used for the active mode drying cycle; with the door closed; and without disconnecting the electrical energy supply to the clothes dryer between completion of the active mode drying cycle and the start of standby mode and off mode testing. This specification would preclude performing standby mode and off mode testing directly after connecting the clothes dryer to the electrical energy supply. DOE notes that the order of sections within the clothes dryer test procedures suggests that the standby mode and off mode measurement (section 3.6 of appendix D1 and section 3.5 of appendix D2) is performed after the active mode test cycle (sections 3.3 through 3.5 of appendix D1 and sections 3.3 and 3.4 of appendix D2); therefore, the proposed approach likely reflects current practice within the industry. This revision also would ensure that the results of the standby mode and off mode testing accurately represent the conditions most likely to be experienced during a representative average use cycle or period of use. These changes would be consistent with the approach that was adopted as part of the August 2015 Final Rule amending the DOE clothes washer test procedure. 80 FR 46730, 46747–46749.

DOE requests comments on whether the order of sections within the test procedure reflects the order in which test laboratories perform the test. Specifically, DOE requests comments on whether performing the standby mode and off mode testing after the active mode testing reflects current practice by test laboratories.

The proposed revisions to sections 3.6 of appendix D1 and 3.5 of appendix D2 are intended to provide a clearer set of procedural instructions for performing the standby mode and off mode measurements required in sections 3.6 of the current test procedures. Under the proposed sections 3.6 of appendix D1 and 3.5 of appendix D2, the same sequence of measurements would be performed as in the current sections 3.6, and thus would yield the same power measurement(s) for clothes dryers with inactive mode, off mode, or both. Further, the same annual hours as are currently specified would be applied to the average power measurement(s) in section 4.5 of both appendix D1 and appendix D2. Therefore, DOE has initially determined that these proposed amendments to sections 3.6 and 4.5 of both appendix D1 and appendix D2 would not impact the measured efficiency of clothes dryers.

DOE requests comments on its proposal to amend the methods for measuring inactive mode and off mode power consumption of clothes dryers.

G. Final RMC Requirements for Automatic Termination Control Dryers

Section 3.3.2 of appendix D2 specifies that for automatic termination control dryers, a ''normal'' program must be selected for the test cycle. In addition, where the temperature and dryness level settings can be chosen independently of the program, the test procedure specifies that they be set to maximum temperature setting and the ''normal'' or ''medium'' dryness level setting, respectively. *Id.* The clothes dryer is then operated until the completion of the programmed cycle, including the cool down period. *Id.* The

[35] Such a feature could be labeled on the control panel as a ''master power'' or ''on/off'' switch, for example.

test procedure provides that, if the final RMC is greater than 2 percent, the test is invalid and that a new run must be conducted using the highest dryness level setting. *Id.*

DOE received an inquiry regarding whether any second test run using the highest dryness level setting must also result in a final RMC of 2 percent or less for the test to be considered valid.

DOE notes that, as part of the August 2013 Final Rule, interested parties submitted a joint comment presenting test results that demonstrate that a final RMC of 2 percent using the DOE test cloth is representative of the consumer-accepted dryness level after completion of a drying cycle. 78 FR 49608, 49614. DOE agreed with this conclusion and adopted provisions that specify that a test conducted on the ''normal'' or ''medium'' dryness setting is considered valid only if the final RMC is 2 percent or lower. 78 FR 49608, 49621, 49624. DOE interprets that the 2-percent final RMC threshold for a valid test should apply to all test cycles run according to section 3.3.2 of appendix D2, including test runs using the highest dryness level setting, so that the energy consumption of the clothes dryer will be measured for drying the load to the consumer-accepted dryness level. DOE provided this interpretation in guidance issued on January 10, 2017.[36] This approach is consistent with the EPCA requirements that test procedures must be ''reasonably designed to produce test results'' that measure energy use ''during a representative average use cycle.'' 42 U.S.C. 6293(b)(3). Based on the information presented during the prior rulemaking, during the representative average use of a clothes dryer, clothes are dried to a final RMC that is equivalent to 2-percent RMC in the DOE test load.

In this NOPR, DOE is proposing to amend section 3.3.2 of appendix D2 to explicitly specify that any second test run using the highest dryness level setting must result in a final RMC of 2 percent or less for the test to be considered valid. As discussed, DOE has applied the final RMC value of 2 percent as representative of the energy use during an average use cycle or period of use. If the basic model under test fails to achieve an RMC of 2 percent or less when tested at the highest dryness level setting, the dryer has not sufficiently dried the clothes and the test results may not be used for certification of compliance with energy conservation standards. Further, DOE proposes to amend the nomenclature of sections 4.1 through 4.4 of appendix D2 to clarify that the measured energy consumption values represented by E_{ce}, E_{ge}, E_{gg}, and E_{cg}, respectively, reflect the energy required to achieve a final RMC of 2 percent or less.

DOE requests comments on its proposal to specify explicitly that any second test run using the highest dryness level setting must result in a final RMC of 2 percent or less for the test to be considered valid, and its proposal to amend the nomenclature of sections 4.1 through 4.4 of appendix D2 to clarify that the measured energy consumption represented by E_{ce}, E_{ge}, E_{gg}, and E_{cg}, respectively, reflects the energy required to achieve a final RMC of 2 percent or less. DOE also requests comment on whether a different final RMC would more appropriately represent the consumer-acceptable end point of an average use cycle.

H. Dryness Level Selection for Automatic Termination Control Dryers

Section 3.3.2 of appendix D2 states that where the dryness level setting can be chosen independently of the program, it shall be set to the ''normal'' or ''medium'' dryness level setting. If such designation is not provided, then the dryness level is set at the mid-point between the minimum and maximum settings. *Id.* DOE has received inquiries from third-party test laboratories regarding clothes dryers that have four dryness settings, such that a single mid-point between the minimum and maximum settings is not available.

DOE is proposing to specify in section 3.3.2 of appendix D2 that if an even number of discrete settings are provided, the next-highest setting above the midpoint, in the direction of the maximum dryness setting, or the next-lowest setting below the midpoint, in the direction of the minimum dryness setting, should be used.

DOE requests comment on its proposal to specify the dryness setting for clothes dryers that provide an even number of discrete dryness settings that can be chosen independently of the program.

I. General Test Procedure Provisions at 10 CFR 430.23(d)

The general test procedure provisions for clothes dryers in 10 CFR 430.23(d) include methods for calculating the estimated annual operating cost, CEF, and other useful measures of energy consumption using appendix D1. In this NOPR, DOE is proposing to amend 10 CFR 430.23(d) to also allow for calculating each of these metrics using appendix D2, to accommodate clothes dryers that are optionally tested using appendix D2.

DOE recognizes that consumers may also value information about clothes dryer annual energy use, in addition to annual operating cost. Therefore, DOE is proposing to include methods for calculating the estimated annual energy use, which would be calculated as the product of the number of drying cycles per year and the per-cycle combined total energy consumption, in kilowatt-hours (''kWh'').[37] Both of these factors are already included in the existing calculation of annual operating cost. This new calculation would be inserted at 10 CFR 430.23(d)(1), with existing paragraph (d)(1) renumbered as (d)(2) accordingly.

DOE requests comment on its proposal to allow for calculating each useful measure of energy consumption in 10 CFR 430.23(d) using appendix D2, to accommodate clothes dryers that are optionally tested using appendix D2. DOE also requests comment on its proposal to include a new method for calculating estimated annual energy use of a clothes dryer.

J. Rounding Requirements for Reported Values

DOE proposes adding a new section at 10 CFR 429.21(c) to specify the rounding requirements of all numeric reported values for clothes dryers as follows: CEF to the nearest 0.01 pound per kilowatt hour (lb/kWh), capacity to the nearest 0.1 cubic feet (cu.ft.), voltage to the nearest volt, and hourly Btu rating to the nearest Btu. Similarly, DOE proposes adding the same rounding requirement for the capacity measurement in section 3.1 of both appendix D1 and D2, which would add specificity to the measurement of drum capacity as it relates to determining whether a compact-size load (for a drum capacity less than 4.4 cu.ft.) or standard-size load must be used for testing.

The proposed rounding requirements for CEF, capacity, voltage, and Btu rating would maintain consistency with the level of precision currently provided in DOE's Compliance Certification Management System.

DOE also proposes to specify the rounding instructions provided at 10 CFR 430.23(d)(1) (renumbered to paragraph (d)(2) as proposed in this document) pertaining to estimated annual operating cost. Currently, the rounding instructions for an electric

[36] Clothes Dryer Final Guidance issued January 10, 2017. Available at *https://www1.eere.energy.gov/guidance/detail_search.aspx?IDQuestion=665&pid=2&spid=1.*

[37] For gas clothes dryers, the gas dryer per-cycle gas energy consumption is converted from Btu to kWh and then added to the per-cycle gas dryer electrical energy consumption to calculate the per-cycle combined total energy consumption in kWh.

clothes dryer are embedded within paragraph (d)(1)(i)(C). DOE proposes moving the rounding instructions to paragraph (d)(1)(i) to clarify that the rounding provision applies to the product of all three factors multiplied in paragraphs (d)(1)(i)(A), (B), and (C). Similarly, for gas clothes dryers, DOE proposed to move the rounding instructions from its current location embedded within paragraph (d)(1)(ii)(B) to the higher-level paragraph at (d)(1)(ii).

DOE requests comment on the appropriateness of its proposed rounding requirements of all numeric reported values and estimated annual operating cost for clothes dryers.

K. Formatting Changes and Typographical Errors

In an effort to improve the readability of the text in certain sections of appendix D1 and appendix D2, DOE is proposing to make minor typographical corrections and formatting modifications as follows. These minor proposed modifications are not intended to change the substance of the test methods or descriptions provided in these sections.

1. ''Conventional'' and ''Vented'' Nomenclature

Appendix D1 and appendix D2 define the term ''conventional clothes dryer'' as a clothes dryer that exhausts the evaporated moisture from the cabinet. This definition is synonymous with a ''vented clothes dryer.'' Conversely, ''ventless clothes dryer'' is defined as a clothes dryer that uses a closed-loop system with an internal condenser to remove the evaporated moisture from the heated air. The moist air is not discharged from the cabinet.

DOE's product class definitions for clothes dryers use the terms ''vented clothes dryer'' and ''ventless clothes dryer'' to refer to the different methods used by the clothes dryer to remove moisture from the cabinet. To provide consistency between DOE's product class definitions and the terminology used in the clothes dryer test procedures, DOE is proposing to replace the word ''conventional'' with ''vented'' throughout both appendix D1 and appendix D2. This change would affect the nomenclature only and would not affect the classification of clothes dryers or conduct of the test procedure for any clothes dryers.

2. Symbol Definitions

Appendix D1 and appendix D2 include inconsistent use of symbol definitions for the measured bone-dry weight and moisture content values. DOE is proposing to add the symbol definition for bone-dry weight ($W_{bonedry}$) to section 3.4.1 of both appendices, where it is first referenced. DOE is proposing to change the symbol definitions for moisture content of the wet test load (currently W_w) and moisture content of the dry test load (currently W_d) to MC_w and MC_d, respectively, to better differentiate these percentage values from $W_{bonedry}$, which is a weight value. Similarly, DOE also proposes to add the symbol definitions MC_w and MC_d to sections 3.4.2 and 3.4.3, respectively, where they are first referenced in both appendix D1 and appendix D2. These revised symbol definitions would also be updated throughout section 4 of both appendices in each calculation in which they are used. The addition and revision of these symbol definitions will more readily provide an understanding of the measured values associated with each of these symbols, as well as improve the readability of subsequent sections of the test procedures where these symbols are referenced.

3. Removal of Duplicate Instructions for Test Load Preparation

Sections 2.7.1 and 2.7.2 of both appendix D1 and appendix D2 include duplicative instructions for preparing a damp test load before loading. DOE is proposing to remove this duplication by creating one new section that defines the test load sizes and one new section that describes test load preparation. For both appendices, the revised section 2.7.1 would include a table showing the required test loads for standard-size and compact-size clothes dryers, in addition to the requirement that each test load must consist of energy test cloths and no more than five energy stuffer cloths. For both appendices, the revised section 2.7.2 would provide the procedure for dampening the test load. These amendments would not change the conduct of the test procedure for either appendix D1 or appendix D2, but would provide improved readability of the test procedures.

4. Typographical Errors

DOE proposes to correct the following typographical errors in appendix D1 and appendix D2:

Sections 1.5 and 2.6 of appendix D1 and sections 1.6, 2.7.1, and 2.7.2 of appendix D2 use the term ''test clothes,'' where ''test cloths'' should be used instead. Section 1.16 of appendix D2 misspells the term ''classification'' in the definition of ''off mode.''

Section 2.4.1 of both appendix D1 and appendix D2 contain section numbering errors. Currently, section 2.4.1 is titled *Weighing scale for test cloth* and includes specifications for the scale used to weigh the test loads, and the section that follows is incorrectly numbered as 2.4.1.2 *Weighing scale for drum capacity measurements.* DOE is proposing to correct this in both appendix D1 and appendix D2 by inserting a new title section 2.4.1 *Weighing scales* and renumbering existing section 2.4.1 *Weighing scale for test cloth* as 2.4.1.1.

The calculation of the total per-cycle electric dryer energy consumption in section 4.1 of appendix D1 references an undefined symbol ''E_{tt}'', which should instead be ''E_t'', the total energy consumed during the test cycle as recorded in section 3.4.5 of appendix D1. The word ''for'' is also missing from the wording of the 1.04 field use factor.

In addition, section 4.3 of both appendix D1 and appendix D2 reference the symbol ''E_{ge}'', which should instead be ''E_{gg}'', the calculated gas dryer gas energy consumption per cycle.

5. Removal of Obsolete Provisions

Section 1.14 of appendix D1 and section 1.15 of appendix D2 provide a definition for ''moisture sensing control'' [38]; similarly, section 1.18 of appendix D1 and section 1.19 of appendix D2 provide a definition for ''temperature sensing control.'' [39] Both of these definitions are obsolete, having been incorporated into a broader term ''automatic termination control'' [40] in section 1.4 of both appendices as part of the January 2011 final rule. 76 FR 972, 978. In addition, the terms ''moisture sensing control'' and ''temperature sensing control'' are not refenced anywhere else within appendix D1 or appendix D2. DOE therefore proposes removing these definitions from both appendices and renumbering the subsequent sections of the test procedure accordingly.

Section 3.5 of appendix D2 describes the application of a field use factor for

[38] ''Moisture sensing control'' is defined as a system which utilizes a moisture sensing element within the dryer drum that monitors the amount of moisture in the clothes and automatically terminates the dryer cycle.

[39] ''Temperature sensing control'' is defined as a system which monitors dryer exhaust air temperature and automatically terminates the dryer cycle.

[40] ''Automatic termination control'' is defined as a dryer control system with a sensor which monitors either the dryer load temperature or its moisture content and with a controller which automatically terminates the drying process. A mark, detent, or other visual indicator or detent which indicates a preferred automatic termination control setting must be present if the dryer is to be classified as having an ''automatic termination control.'' A mark is a visible single control setting on one or more dryer controls.

clothes dryers with automatic termination controls. In the August 2013 Final Rule, DOE eliminated the field use factor in appendix D2 for automatic termination control dryers, in conjunction with new procedures that directly measure any over-drying energy consumption of automatic termination control dryers. 78 FR 49608, 49611. In the August 2013 final rule, DOE erroneously omitted regulatory language to remove the obsolete section 3.5 of appendix D2. DOE therefore proposes to remove section 3.5 of appendix D2, and to adjust the numbering of subsequent sections accordingly.

Section 4.7 of both appendix D1 and appendix D2 provides the equation for calculating EF. DOE's energy conservation standards for clothes dryers were based on EF for clothes dryers manufactured on or after May 14, 1994 and before January 1, 2015. However, as of January 1, 2015, clothes dryer energy conservation standards are based on the CEF metric. Similarly, DOE's certification reporting requirements for clothes dryers at 10 CFR 429.21(b)(2) require reporting CEF when using appendix D1 or appendix D2; EF was required only when using appendix D, which is now obsolete. Furthermore, ENERGY STAR qualification is based on the CEF metric. DOE is not aware of any current regulatory programs or criteria that use the EF metric. Therefore, DOE is proposing to remove the obsolete calculation of EF in section 4.7 of both appendix D1 and appendix D2, and renumbering the subsequent sections of the test procedures accordingly, and removing EF as a measure of energy consumption described at 10 CFR 430.23(d)(2).

DOE requests comment on any potential unintended consequences of its proposals regarding minor typographical corrections and formatting modifications.

L. Removing Obsolete Appendix D

DOE is proposing to remove appendix D from 10 CFR part 430 since this version of the test procedure is no longer used. DOE is also proposing to remove the references to appendix D from 10 CFR 430.23(d), as well as in the clothes dryer certification reporting requirements in 10 CFR 429.21(b)(2).

DOE requests comment on its proposal to remove appendix D and all associated references throughout 10 CFR 429.21 and 10 CFR 430.23(d).

M. Compliance Date

EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) If DOE were to publish an amended test procedure for clothes dryers, EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the 180-day deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

In addition, DOE proposes to amend the introductory note in both appendix D1 and appendix D2 to remove reference to the optional early use of the test procedures before the compliance date of the current clothes dryer energy conservation standards, which was January 1, 2015. DOE proposes to specify that manufacturers may use either appendix D1 or appendix D2 to determine compliance with energy conservation standards for clothes dryers.

N. Test Procedure Costs, Harmonization, and Other Topics

1. Test Procedure Costs and Impact

EPCA requires that test procedures proposed by DOE not be unduly burdensome to conduct. In this NOPR, DOE proposes a number of amendments to both appendix D1 and appendix D2. As described previously in this document, the use of appendix D2 is optional. The current energy conservation standards for clothes dryers were developed based on results obtained using appendix D1. In the analysis that follows, DOE considers only the impacts to testing under appendix D1. Although DOE has initially determined that the proposed amendments to appendix D2 would not impact costs, if adopted, DOE would consider any such impacts at such time that appendix D2 becomes required for use, such as for demonstrating compliance with an amended energy conservation standard that is based on test results generated using appendix D2, should such an amendment be adopted.

None of the proposed amendments to appendix D1 would impact the scope of the test procedure (*i.e.,* the proposal would not require manufacturers to test clothes dryers that are not already required to be tested). Additionally, DOE has initially determined that none of the proposed amendments would require manufacturers to re-test or re-certify any existing models on the market that have been tested and certified using appendix D1.

Based on the discussion that follows, DOE has tentatively determined that these proposed amendments to the clothes dryer test procedures would not be unduly burdensome for manufacturers to conduct.

DOE requests comment on its initial determination that there would be no impact or costs to clothes dryer manufacturers under the proposed amendments to appendix D1 and appendix D2.

a. Maintaining Hourly Btu Rating for Gas Clothes Dryers

DOE proposes to specify the order of adjustment, from least burdensome to most burdensome, for the three types of adjustments that can be made to maintain the required heat input rate for natural gas and propane clothes dryers. As described, this proposed amendment is generally consistent with industry practice. To the extent that any deviations from this order may occur in practice, the additional direction provided by the proposed amendments would not require any manufacturers to retest or re-certify any basic models currently on the market, because the net result of maintaining the hourly Btu rating within ±5 percent of the rated value would not change; therefore, drying performance would not be impacted in comparison to results obtained under the current test procedures.

b. Final RMC Requirement

DOE proposes to explicitly specify that any second test run using the highest dryness level setting must result in a final RMC of 2 percent or less for the test to be considered valid. This amendment impacts only appendix D2, and therefore would have no impact on testing under appendix D1. As described, this amendment reflects the current practice of manufacturers and test laboratories, and therefore would not impact the cost of testing.

c. Additional Amendments

DOE has initially determined that the remainder of the amendments proposed in this NOPR would not impact test costs.

DOE proposes to provide additional direction on the dryness level setting for clothes dryers that provide an even number of discrete dryness settings. This amendment impacts only appendix

D2, and therefore would have no impact on testing under appendix D1.

DOE proposes revisions regarding the measurement and accounting of standby mode and off mode power. DOE has initially determined that these proposed revisions would potentially reduce testing costs for third-party laboratories, as the proposal would not require any disassembly of a clothes dryer to determine the appropriate application of the test procedure. However, DOE has not quantified the potential reduction in testing cost.

DOE proposes a variety of formatting and typographical corrections to both appendix D1 and appendix D2. These edits would remove confusion that may result from the errors and improve the readability of the test procedures.

DOE proposes amendments to 10 CFR 430.23(d) to include instructions for calculating estimated annual operating cost, CEF, and other useful metrics using appendix D2. These metrics are based on calculations using results generated under testing according to appendix D2, so no additional testing would be required. DOE estimates that the total cost of these calculations would be negligible for manufacturers.

Manufacturers would be able to rely on data generated under the current test procedure, should any of these additional proposed amendments be finalized.

2. Harmonization With Industry Standards

The test procedures for clothes dryers in appendix D1 and appendix D2 incorporate by reference AHAM HLD–1–2009, ''Household Tumble Type Clothes Dryers,'' (which was later certified as ANSI/AHAM HLD–1–2010) and IEC Standard 62301. Specifically, both appendices reference an exhaust simulator specified in AHAM HLD–1–2009 in their test setup instructions, and incorporate IEC Standard 62301, which provides test conditions, testing equipment, and methods for measuring standby mode and off mode power consumption. Appendices D1 and D2 also require the use of AHAM Standard Test Detergent Formula 3 for the procedure for preconditioning the test cloths. DOE has initially determined that the proposed revisions to the standby and off mode power provisions would not change the existing references to industry standards.

Industry standards address cycle selection differently from the DOE test procedure. ANSI/AHAM HLD–1–2010 specifies that the test cycle be run using the maximum temperature setting without allowing the clothes dryer to advance into the cool down period. If the required final moisture content (6 percent) cannot be met using this setting, a new test run must be conducted using a different user-selected setting that will achieve the target final moisture content. IEC Standard 61121 requires that the test cycle for a given load composition be run using the cycle program and settings specified in the manufacturer's instructions to achieve a target final moisture content, which is based on the test load composition. In the absence of any instructions from the manufacturer, or if the specified cycle program and settings do not achieve the required final moisture content, then the test shall be run using a user-selected combination of cycle program and settings that will achieve the required final moisture content.

Because each test method described above specifies a different set of cycle settings and test parameters, the measured efficiency of a clothes dryer may differ depending on which test method is used. As a result, the efficiency measured using these industry test standards may not be directly comparable to the efficiency measured using DOE's test procedure, on which the energy conservation standards are based.

DOE requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

3. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedure for clothes dryers not already addressed by the specific areas identified in this document. DOE particularly seeks information that would ensure that the test procedure measures the energy use of the clothes dryer during a representative use cycle or period of use, as well as information that would help DOE create a procedure that is not unduly burdensome to conduct. Comments regarding repeatability and reproducibility are also welcome.

DOE also requests information that would help DOE create procedures that would limit manufacturer test burden through streamlining or simplifying testing requirements. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE must manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017) (Executive Order 13771 ''Reducing Regulation and Controlling Regulatory Costs''). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to clothes dryers consistent with the requirements of EPCA.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this test procedure rulemaking does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in the OMB.

B. Review Under Executive Order 13771 and 13777

On January 30, 2017, the President issued Executive Order (''E.O.'') 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' E.O. 13771 stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. E.O. 13771 stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.

Additionally, on February 24, 2017, the President issued E.O. 13777, ''Enforcing the Regulatory Reform Agenda.'' E.O. 13777 required the head of each agency designate an agency official as its Regulatory Reform Officer (''RRO''). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) Are outdated, unnecessary, or ineffective;

(iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE initially concludes that this rulemaking, as described in Sections II and III of the preamble, is consistent with the directives set forth in these executive orders. DOE has initially determined that the proposed rule would not yield any costs or costs savings. Therefore, if finalized as proposed, this rule is expected to be an E.O. 13771 other action.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE has tentatively concluded that this proposed rule will not have a significant impact on a substantial number of small entities. The factual basis for this determination is as follows:

The Small Business Administration (''SBA'') considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers or earns less than the average annual receipts specified in 13 CFR part 121. The threshold values set forth in these regulations use size standards and codes established by the North American Industry Classification System (''NAICS'') that are available at: *https://www.sba.gov/document/support—table-size-standards.* The threshold number for NAICS classification code 335220, major household appliance manufacturing, which includes clothes dryer manufacturers, is 1,500 employees.

Most of the manufacturers supplying clothes dryers are large multinational corporations. DOE collected data from DOE's compliance certification database [41] and surveyed the AHAM member directory to identify manufacturers of clothes dryers. DOE then consulted publicly-available data, purchased company reports from vendors such as Dun and Bradstreet, and contacted manufacturers, where needed, to determine if they meet the SBA's definition of a ''small business manufacturing facility'' and have their manufacturing facilities located within the United States. Based on this analysis, DOE did not identify any small businesses that manufacture clothes dryers covered by the proposed test procedure amendments.

Additionally, as described in section III.N.1 of this document, the amendments proposed in this test procedure would not increase costs to clothes dryer manufacturers. Therefore, DOE tentatively concludes that the impacts of the test procedure amendments proposed in this NOPR would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

DOE requests comment on its findings that there are no small businesses that manufacture clothes dryers in the United States, and on DOE's conclusion that the rule would not increase costs to clothes dryer manufacturers.

D. Review Under the Paperwork Reduction Act of 1995

Manufacturers of clothes dryers must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including clothes dryers. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

E. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act of 1969 (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, Appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On

[41] *http://www.regulations.doe.gov/certification-data* (Last accessed February 2, 2019).

March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause 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 annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of clothes dryers is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy

Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

DOE is not proposing to require the use of any new commercial standards in this NOPR, so these requirements do not apply.

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar then it will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=50&action=viewlive.* Participants are responsible for ensuring their systems are compatible with the webinar software.

Additionally, you may request an in-person meeting to be held prior to the close of the request period provided in the **DATES** section of this document. Requests for an in-person meeting may be made by contacting Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *Appliance_Standards_Public_Meetings@ee.doe.gov.*

B. Submission of Comments

DOE invites all interested parties to submit in writing by September 23, 2019, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended test procedures for clothes dryers.

Submitting comments via *http://www.regualtions.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email to *ResClothesDryer2014TP0034@ee.doe.gov* or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information

provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

C. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) To ensure that the test procedure measures energy use during a representative average use cycle or period of use, DOE continues to seek consumer usage data (*e.g.,* load composition and sizes, cycle selections, RMC, cycles per year) that are representative of the entire United States over the course of a year. DOE requests data on how frequently consumers select different cycle programs, temperature settings, dryness settings, and other settings that could impact energy use (*e.g.,* ''eco mode''). DOE seeks data on representative load compositions (materials, fabric, weave, *etc.*) and sizes, as well as the corresponding cycle selections chosen by consumers for each particular load. DOE also seeks consumer usage data on initial RMC and consumer-acceptable final RMC levels for varying load compositions/sizes and cycle selections.

(2) DOE seeks comment on whether requiring the drying temperature setting to be set to the maximum, if it can be chosen independently of the program, is representative of the energy use of the clothes dryer during a representative use cycle or period of use, or whether a lower temperature setting would meet this statutory criterion. DOE also seeks comment on whether a 2-percent final RMC under DOE test conditions is representative of the energy use during an average use cycle or period of use for clothes dryers with automatic termination controls, or whether a different RMC meets this statutory criterion; and on whether any other test conditions should be revised so that the test procedure meets the applicable EPCA requirements.

(3) DOE seeks comment on the proposal to specify that units with network capabilities be tested with the network-connected functions in the ''off'' position and on the issues presented in the September 2018 RFI as they may be applicable to clothes dryers.

(4) DOE requests feedback on its characterization of connected clothes dryers currently on the market. Specifically, DOE requests input on the types of features or functionality enabled by connected clothes dryers that exist on the market or that are under development.

(5) DOE requests data on the percentage of users purchasing connected clothes dryers, and, for those users, the percentage of the time when the connected functionality of the clothes dryer is used.

(6) DOE requests feedback on the types of impacts that should be included in any future assessments of features associated with connected clothes dryers.

(7) DOE requests data on the amount of additional or reduced energy use of connected clothes dryers.

(8) DOE requests data on the pattern of additional or reduced energy use of connected clothes dryers; for example, whether it is constant, periodic, or triggered by the user.

(9) DOE requests information on any existing testing protocols that account for connected features of clothes dryers, as well as any testing protocols that may be under development within the industry.

(10) DOE requests comment on its proposal to specify that the order of adjustment for maintaining the hourly Btu rating within specification is as follows: (first) adjust the supply gas pressure, (second) adjust the pressure regulator setpoint, or (third) modify the orifice as necessary.

(11) DOE requests comments on whether the order of sections within the test procedure reflects the order in which test laboratories perform the test. Specifically, DOE requests comments on whether performing the standby mode and off mode testing after the active mode testing reflects current practice by test laboratories.

(12) DOE requests comments on its proposal to amend the methods for measuring inactive mode and off mode power consumption of clothes dryers.

(13) DOE requests comments on its proposal to specify explicitly that any second test run using the highest dryness level setting must result in a final RMC of 2 percent or less for the test to be considered valid, and its proposal to amend the nomenclature of sections 4.1 through 4.4 of appendix D2 to clarify that the measured energy consumption represented by E_{ce}, E_{ge}, E_{gg}, and E_{cg}, respectively, reflects the energy required to achieve a final RMC of 2 percent or less. DOE also requests comment on whether a different final RMC would more appropriately represent the consumer-acceptable end point of an average use cycle.

(14) DOE requests comment on its proposal to specify the dryness setting for clothes dryers that provide an even number of discrete dryness settings that can be chosen independently of the program.

(15) DOE requests comment on its proposal to allow for calculating each useful measure of energy consumption in 10 CFR 430.23(d) using appendix D2, to accommodate clothes dryers that are optionally tested using appendix D2. DOE also requests comment on its proposal to include a new method for calculating estimated annual energy use of a clothes dryer.

(16) DOE requests comment on the appropriateness of its proposed rounding requirements of all numeric reported values and estimated annual operating cost for clothes dryers.

(17) DOE requests comment on any potential unintended consequences of its proposals regarding minor typographical corrections and formatting modifications.

(18) DOE requests comment on its proposal to remove appendix D and all associated references throughout 10 CFR 429.21 and 10 CFR 430.23(d).

(19) DOE requests comment on its initial determination that there would be no impact or costs to clothes dryer manufacturers under the proposed amendments to appendix D1 and appendix D2.

(20) DOE requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

(21) In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedure for clothes dryers not already addressed by the specific areas identified in this document. DOE particularly seeks information that would ensure that the test procedure measures the energy use of the clothes dryer during a representative use cycle or period of use, as well as information that would help DOE create a procedure that is not unduly burdensome to conduct.

Comments regarding repeatability and reproducibility are also welcome.

(22) DOE also requests information that would help DOE create procedures that would limit manufacturer test burden through streamlining or simplifying testing requirements. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE must manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017) (Executive Order 13771 ''Reducing Regulation and Controlling Regulatory Costs''). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to clothes dryers consistent with the requirements of EPCA.

(23) DOE requests comment on its findings that there are no small businesses that manufacture clothes dryers in the United States, and on DOE's conclusion that the rule would not increase costs to clothes dryer manufacturers.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signed in Washington, DC, on June 28, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II of Title 10, Code of Federal Regulations as follows:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 429.21 is amended by:
■ a. Revising paragraph (b)(2); and
■ b. Adding paragraph (c).

The revision and addition read as follows:

§ 429.21 Residential clothes dryers.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: When using appendix D1, the combined energy factor in pounds per kilowatt hours (lb/kWh), the capacity in cubic feet (cu ft), the voltage in volts (V) (for electric dryers only), an indication if the dryer has automatic termination controls, and the hourly Btu rating of the burner (for gas dryers only); when using appendix D2, the combined energy factor in pounds per kilowatt hours (lb/kWh), the capacity in cubic feet (cu ft), the voltage in volts (V) (for electric dryers only), an indication if the dryer has automatic termination controls, the hourly Btu rating of the burner (for gas dryers only), and a list of the cycle setting selections for the energy test cycle as recorded in section 3.4.7 of appendix D2 to subpart B of part 430.

(c) *Reported values.* Values reported pursuant to this section must be rounded as follows: CEF to the nearest 0.01 lb/kWh, capacity to the nearest 0.1 cu ft, voltage to the nearest V, and hourly Btu rating to the nearest Btu.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.23 is amended by revising paragraph (d) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(d) *Clothes dryers.* (1) The estimated annual energy consumption for clothes dryers, expressed in kilowatt-hours per year, is the product of 283 cycles per year and the per-cycle combined total energy consumption in kilowatt-hours per cycle, determined according to section 4.6 of appendix D1 or section 4.6 of appendix D2 to this subpart, as appropriate.

(2) The estimated annual operating cost for clothes dryers shall be—

(i) For an electric clothes dryer, the product of the following three factors, with the resulting product then being rounded off to the nearest dollar per year:

(A) 283 cycles per year,

(B) The per-cycle combined total energy consumption in kilowatt-hours per cycle, determined according to section 4.6 of appendix D1 or section 4.6 of appendix D2 to this subpart, as appropriate, and

(C) The representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary; and

(ii) For a gas clothes dryer, the product of 283 cycles per year times the sum of the following three factors, with the resulting product then being rounded off to the nearest dollar per year:

(A) The product of the per-cycle gas dryer electric energy consumption in kilowatt-hours per cycle, determined according to section 4.2 of appendix D1 or section 4.2 of appendix D2 to this subpart, as appropriate, times the representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary, plus,

(B) The product of the per-cycle gas dryer gas energy consumption, in Btus per cycle, determined according to section 4.3 of appendix D1 or section 4.3 of appendix D2 to this subpart, as appropriate, times the representative average unit cost for natural gas or propane, as appropriate, in dollars per Btu as provided by the Secretary, plus,

(C) The product of the per-cycle standby mode and off mode energy consumption in kilowatt-hours per cycle, determined according to section 4.5 of appendix D1 or section 4.5 of appendix D2 to this subpart, as appropriate, times the representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary.

(3) The combined energy factor, expressed in pounds per kilowatt-hour is determined in accordance with section 4.7 of appendix D1 or section 4.7 of appendix D2 to this subpart, as appropriate, the result then being rounded off to the nearest hundredth (0.01).

(4) Other useful measures of energy consumption for clothes dryers shall be those measures of energy consumption

for clothes dryers which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix D1 or appendix D2 to this subpart, as appropriate.

* * * * *

Appendix D to Subpart B of Part 430—[Removed]

■ 5. Appendix D to subpart B of part 430 is removed.

■ 6. Appendix D1 to subpart B of part 430 is amended by:

■ a. Revising the introductory note;

■ b. In section 1.5, removing the word ''clothes'' and adding in its place ''cloths'';

■ c. Removing sections 1.7, 1.14, and 1.18;

■ d. Redesignating sections 1.8 through 1.13 as 1.7 through 1.12, sections 1.15 through 1.17 as 1.13 through 1.15, and section 1.19 as 1.17;

■ e. Adding new section 1.16;

■ f. Revising the first sentence of section 2.1.1;

■ g. Revising the first sentence of section 2.1.3;

■ h. Revising sections 2.1.2, 2.3.2.1, 2.3.2.2, 2.7.1, 2.7.2 and 2.8.1;

■ i. Adding new section 2.3.2.3;

■ j. Redesignating section 2.4.1 as 2.4.1.1;

■ k. Adding new section 2.4.1;

■ l. In section 2.6, removing the word ''clothes'' and adding in its place ''cloths'';

■ m. In section 3.1, in the last sentence, adding the text ''to the nearest 0.1 cubic foot'' following ''is calculated'';

■ n. Revising sections 3.3, 3.4.1, 3.4.2, 3.4.3, 3.6, 3.6.1 and 3.6.2;

■ o. Adding new sections 3.6.3 and 3.6.4;

■ p. Revising sections 4.1, 4.2, 4.3, and 4.5;

■ q. Removing section 4.7; and

■ r. Redesignating section 4.8 as 4.7.

The revisions and additions read as follows:

Appendix D1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Note: The procedures in either appendix D1 or appendix D2 may be used to determine compliance with energy conservation standards for clothes dryers. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D1 for certain representations and appendix D2 for other representations.

* * * * *

1.16 ''Vented clothes dryer'' means a clothes dryer that exhausts the evaporated moisture from the cabinet.

* * * * *

2.1.1 *All clothes dryers.* For both vented clothes dryers and ventless clothes dryers, install the clothes dryer in accordance with manufacturer's instructions as shipped with the unit. * * *

2.1.2 *Vented clothes dryers.* For vented clothes dryers, the dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3).

2.1.3 *Ventless clothes dryers.* For ventless clothes dryers, the dryer shall be tested without the AHAM exhaust simulator. * * *

* * * * *

2.3.2.1 *Natural gas supply.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 7 to 10 inches of water column. The natural gas supplied should have a heating value of approximately 1,025 Btus per standard cubic foot. The actual heating value, H_n2, in Btus per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements using a standard continuous flow calorimeter as described in section 2.4.6 of this appendix or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in section 2.4.6 of this appendix.

2.3.2.2. *Propane gas supply.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 11 to 13 inches of water column. The propane gas supplied should have a heating value of approximately 2,500 Btus per standard cubic foot. The actual heating value, H_p, in Btus per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements using a standard continuous flow calorimeter as described in section 2.4.6 of this appendix or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in section 2.4.6 of this appendix.

2.3.2.3. *Hourly Btu Rating.* Maintain the hourly Btu rating of the burner within ±5 percent of the rating specified by the manufacturer. If the hourly Btu rating of the burner cannot be maintained within ±5 percent of the rating specified by the manufacturer, make adjustments in the following order until an hourly Btu rating of the burner within ±5 percent of the rating specified by the manufacturer is achieved:

(1) Modify the gas inlet supply pressure within the allowable range specified in section 2.3.2.1 or 2.3.2.2 of this appendix, as applicable;

(2) If the clothes dryer is equipped with a gas pressure regulator, modify the outlet pressure of the gas pressure regulator within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model; and

(3) Modify the orifice as necessary to achieve the required hourly Btu rating.

* * * * *

2.4.1 *Weighing scales.*

* * * * *

2.7.1 *Load size.* Determine the load size for the unit under test, according to Table 1.

TABLE 1—TEST LOADS

Unit under test	Test load (bone dry weight)
Standard size clothes dryer	8.45 pounds ±.085 pounds.
Compact size clothes dryer	3.00 pounds ±.03 pounds.

Each test load must consist of energy test cloths and no more than five energy stuffer cloths.

2.7.2 *Test load preparation.* Dampen the load by agitating it in water whose temperature is 60 °F ±5 °F and consists of 0 to 17 parts per million hardness for approximately 2 minutes in order to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 54.0–61.0 percent of the bone-dry weight of the test load.

* * * * *

2.8.1 *Vented clothes dryers.* For vented clothes dryers, before any test cycle, operate the dryer without a test load in the non-heat mode for 15 minutes or until the discharge air temperature is varying less than 1 °F for 10 minutes—whichever is longer—in the test installation location with the ambient conditions within the specified test condition tolerances of section 2.2 of this appendix.

* * * * *

3.3 *Test cycle.* Operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting. Any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position, except that if the clothes dryer has network capabilities, the network settings must be disabled throughout testing. If the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. Dry the load until the moisture content of the test load is between

2.5 and 5.0 percent of the bone-dry weight of the test load, at which point the test cycle is stopped, but do not permit the dryer to advance into cool down. If required, reset the timer to increase the length of the drying cycle. After stopping the test cycle, remove and weigh the test load. The clothes dryer shall not be stopped intermittently in the middle of the test cycle for any reason. Record the data specified by section 3.4 of this appendix. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless clothes dryers, during the time between two cycles, the door of the dryer shall be closed except for loading and unloading.

* * * * *

3.4.1 Bone-dry weight of the test load, $W_{bonedry}$, as described in section 2.7.1 of this appendix.

3.4.2 Moisture content of the wet test load before the test, MC_w, as described in section 2.7.2 of this appendix.

3.4.3 Moisture content of the dry test load obtained after the test, MC_d, as described in section 3.3 of this appendix.

* * * * *

3.6 *Standby mode and off mode power.* Connect the clothes dryer to a watt meter as specified in section 2.4.7 of this appendix. Establish the testing conditions set forth in section 2 of this appendix.

3.6.1 Perform standby mode and off mode testing after completion of an active mode drying cycle included as part of the test cycle; after removing the test load; without changing the control panel settings used for the active mode drying cycle; with the door closed; and without disconnecting the electrical energy supply to the clothes dryer between completion of the active mode drying cycle and the start of standby mode and off mode testing.

3.6.2 For clothes dryers that take some time to automatically enter a stable inactive mode or off mode state from a higher power state as discussed in Section 5, Paragraph 5.1, Note 1 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), allow sufficient time for the clothes dryer to automatically reach the default inactive/off mode state before proceeding with the test measurement.

3.6.3 Once the stable inactive/off mode state has been reached, measure and record the default inactive/off mode power, $P_{default}$, in watts, following the test procedure for the sampling method specified in Section 5, Paragraph 5.3.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3).

3.6.4 For a clothes dryer with a switch (or other means) that can be optionally selected by the end user to achieve a lower-power inactive/off mode state than the default inactive/off mode state measured in section 3.6.3 of this appendix, after performing the measurement in section 3.6.3 of this appendix, activate the switch (or other means) to the position resulting in the lowest power consumption and repeat the measurement procedure described in section 3.6.3 of this appendix. Measure and record the lowest inactive/off mode power, P_{lowest}, in watts.

* * * * *

4.1 *Total per-cycle electric dryer energy consumption.* Calculate the total electric dryer energy consumption per cycle, E_{ce}, expressed in kilowatt-hours per cycle and defined as:

$$E_{ce} = [53.5/(MC_w - MC_d)] \times E_t \times \text{field use},$$

Where:

E_t = the energy recorded in section 3.4.5 of this appendix.

53.5 = an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle expressed as a percent.

field use = field use factor,

= 1.18 for clothes dryers with time termination control systems only without any automatic termination control functions.

= 1.04 for clothes dryers with automatic control systems that meet the requirements of the definition for automatic termination control in section 1.4 of this appendix, including those that also have a supplementary timer control, or that may also be manually controlled.

MC_w = the moisture content of the wet test load as recorded in section 3.4.2 of this appendix.

MC_d = the moisture content of the dry test load as recorded in section 3.4.3 of this appendix.

4.2 *Per-cycle gas dryer electrical energy consumption.* Calculate the gas dryer electrical energy consumption per cycle, E_{ge}, expressed in kilowatt-hours per cycle and defined as:

$$E_{ge} = [53.5/(MC_w - MC_d)] \times E_{te} \times \text{field use},$$

Where:

E_{te} = the energy recorded in section 3.4.6.1 of this appendix.

field use, 53.5, MC_w, and MC_d as defined in section 4.1 of this appendix.

4.3 *Per-cycle gas dryer gas energy consumption.* Calculate the gas dryer gas energy consumption per cycle, E_{gg}, expressed in Btus per cycle and defined as:

$$E_{gg} = [53.5/(MC_w - MC_d)] \times E_{tg} \times \text{field use} \times \text{GEF}$$

Where:

E_{tg} = the energy recorded in section 3.4.6.2 of this appendix.

GEF = corrected gas heat value (Btu per cubic feet) as defined in section 3.4.6.3 of this appendix.

field use, 53.5, MC_w, and MC_d as defined in section 4.1 of this appendix.

* * * * *

4.5 *Per-cycle standby mode and off mode energy consumption.* Calculate the clothes dryer per-cycle standby mode and off mode energy consumption, E_{TSO}, expressed in kilowatt-hours per cycle and defined as:

$$E_{TSO} = [(P_{default} \times S_{default}) + (P_{lowest} \times S_{lowest})] \times K/283$$

Where:

$P_{default}$ = Default inactive/off mode power, in watts, as measured in section 3.6.3 of this appendix.

P_{lowest} = Lowest inactive/off mode power, in watts, as measured in section 3.6.4 of this appendix for clothes dryer with a switch (or other means) that can be optionally selected by the end user to achieve a lower-power inactive/off mode than the default inactive/off mode; otherwise, P_{lowest}=0.

$S_{default}$ = Annual hours in default inactive/off mode, defined as 8,620 if no optional lowest-power inactive/off mode is available; otherwise 4,310.

S_{lowest} = Annual hours in lowest-power inactive/off mode, defined as 0 if no optional lowest-power inactive/off mode is available; otherwise 4,310.

K = Conversion factor of watt-hours to kilowatt-hours = 0.001.

283 = Representative average number of clothes dryer cycles in a year.

8,620 = Combined annual hours for inactive and off mode.

4,310 = One-half of the combined annual hours for inactive and off mode.

* * * * *

■ 7. Appendix D2 to subpart B of part 430 is amended by:

■ a. Revising the introductory note;

■ b. In section 1.6, removing the word ''clothes'' and adding in its place ''cloths'';

■ c. Removing sections 1.8, 1.15, and 1.19;

■ d. Redesignating sections 1.9 through 1.14 as 1.8 through 1.13, sections 1.16 through 1.18 as 1.14 through 1.16, section 1.20 as 1.17, and section 1.21 as 1.19;

■ e. Adding new section 1.18;

■ f. In newly redesignated section 1.14, removing the word ''clasification'' and adding in its place ''classification'';

■ g. Revising the first sentence of section 2.1.1;

■ h. Revising the first sentence of section 2.1.3;

■ i. Revising sections 2.1.2, 2.3.2.1, 2.3.2.2, 2.7.1, 2.7.2, and 2.8.1;

■ j. Adding new section 2.3.2.3;

■ k. Redesignating, section 2.4.1 as 2.4.1.1;

■ l. Adding new section 2.4.1;

■ m. In section 3.1, in the last sentence, adding the text ''to the nearest 0.1 cubic foot'' following ''is calculated'';

■ n. Revising sections 3.3.1, 3.3.2, and 3.4.1, 3.4.2 and 3.4.3;

■ o. Removing section 3.5;

■ p. Redesignating sections 3.6, 3.6.1, and 3.6.2 as 3.5, 3.5.1, and 3.5.2, respectively;

■ q. Revising newly redesignated sections 3.5, 3.5.1, 3.5.2;

■ r. Adding new sections 3.5.3 and 3.5.4;

■ s. Revising sections 4.1, 4.2, 4.3, 4.4 and 4.5;

■ t. Removing section 4.7; and

■ u. Redesignating section 4.8 as 4.7.

The revisions and additions read as follows:

Appendix D2 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryer

Note: The procedures in either appendix D1 or appendix D2 may be used to determine compliance with energy conservation standards for clothes dryers. Manufacturers must use a single appendix for all representations, including certifications of compliance, and may not use appendix D1 for certain representations and appendix D2 for other representations.

* * * * *

1.18 ''Vented clothes dryer'' means a clothes dryer that exhausts the evaporated moisture from the cabinet.

* * * * *

2.1.1 *All clothes dryers.* For both vented clothes dryers and ventless clothes dryers, install the clothes dryer in accordance with manufacturer's instructions as shipped with the unit. * * *

2.1.2 *Vented clothes dryers.* For vented clothes dryers, the dryer exhaust shall be restricted by adding the AHAM exhaust simulator described in section 3.3.5.1 of AHAM HLD–1 (incorporated by reference; see § 430.3).

2.1.3 *Ventless clothes dryers.* For ventless clothes dryers, the dryer shall be tested without the AHAM exhaust simulator.* * *

* * * * *

2.3.2.1 *Natural gas supply.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 7 to 10 inches of water column. The natural gas supplied should have a heating value of approximately 1,025 Btus per standard cubic foot. The actual heating value, H_n2, in Btus per standard cubic foot, for the natural gas to be used in the test shall be obtained either from measurements using a standard continuous flow calorimeter as described in section 2.4.6 of this appendix or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements with a standard continuous flow calorimeter as described in section 2.4.6 of this appendix.

2.3.2.2. *Propane gas supply.* Maintain the gas supply to the clothes dryer immediately ahead of all controls at a pressure of 11 to 13 inches of water column. The propane gas supplied should have a heating value of approximately 2,500 Btus per standard cubic foot. The actual heating value, H_p, in Btus per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements using a standard continuous flow calorimeter as described in section 2.4.6 of this appendix or by the purchase of bottled gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurement with a standard continuous calorimeter as described in section 2.4.6 of this appendix.

2.3.2.3. *Hourly Btu Rating.* Maintain the hourly Btu rating of the burner within ±5 percent of the rating specified by the manufacturer. If the hourly Btu rating of the burner cannot be maintained within ±5 percent of the rating specified by the manufacturer, make adjustments in the following order until an hourly Btu rating of the burner within ±5 percent of the rating specified by the manufacturer is achieved:

(1) Modify the gas inlet supply pressure within the allowable range specified in section 2.3.2.1 or 2.3.2.2 of this appendix, as applicable;

(2) If the clothes dryer is equipped with a gas pressure regulator, modify the outlet pressure of the gas pressure regulator within ±10 percent of the value recommended by the manufacturer in the installation manual, on the nameplate sticker, or wherever the manufacturer makes such a recommendation for the basic model; and

(3) Modify the orifice as necessary to achieve the required hourly Btu rating.

* * * * *

2.4.1 *Weighing scales.*

* * * * *

2.7.1 *Load size.* Determine the load size for the unit under test, according to Table 1.

TABLE 1—TEST LOADS

Unit under test	Test load (bone dry weight)
Standard size clothes dryer	8.45 pounds ±.085 pounds.
Compact size clothes dryer	3.00 pounds ±.03 pounds.

Each test load must consist of energy test cloths and no more than five energy stuffer cloths.

2.7.2 *Test load preparation.* Dampen the load by agitating it in water whose temperature is 60 °F ± 5 °F and consists of 0 to 17 parts per million hardness for approximately 2 minutes to saturate the fabric. Then, extract water from the wet test load by spinning the load until the moisture content of the load is between 52.5 and 57.5 percent of the bone-dry weight of the test load. Make a final mass adjustment, such that the moisture content is 57.5 percent ± 0.33 percent by adding water uniformly distributed among all of the test cloths in a very fine spray using a spray bottle.

* * * * *

2.8.1 *Vented clothes dryers.* For vented clothes dryers, before any test cycle, operate the dryer without a test load in the non-heat mode for 15 minutes or until the discharge air temperature is varying less than 1 °F for 10 minutes—whichever is longer—in the test installation location with the ambient conditions within the specified test condition tolerances of section 2.2 of this appendix.

* * * * *

3.3.1 *Timer dryers.* For timer dryers, operate the clothes dryer at the maximum temperature setting and, if equipped with a timer, at the maximum time setting. Any other optional cycle settings that do not affect the temperature or time settings shall be tested in the as-shipped position, except that if the clothes dryer has network capabilities, the network settings must be disabled throughout testing. If the clothes dryer does not have a separate temperature setting selection on the control panel, the maximum time setting should be used for the drying test cycle. Dry the load until the moisture content of the test load is between 1 and 2.5 percent of the bone-dry weight of the test load, at which point the test cycle is stopped, but do not permit the dryer to advance into cool down. If required, reset the timer to increase the length of the drying cycle. After stopping the test cycle, remove and weigh the test load. The clothes dryer shall not be stopped intermittently in the middle of the test cycle for any reason. Record the data specified by section 3.4 of this appendix. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless clothes dryers, during the time between two cycles, the door of the dryer shall be closed except for loading and unloading.

3.3.2 *Automatic termination control dryers.* For automatic termination control dryers, a ''normal'' program shall be selected for the test cycle. For dryers that do not have a ''normal'' program, the cycle recommended by the manufacturer for drying cotton or linen clothes shall be selected. Where the drying temperature setting can be chosen independently of the program, it shall be set to the maximum. Where the dryness level setting can be chosen independently of the program, it shall be set to the ''normal'' or ''medium'' dryness level setting. If such designation is not provided, then the dryness level shall be set at the mid-point between the minimum and maximum settings. If an even number of discrete settings are provided, use the next-highest setting above the midpoint, in the direction of the maximum dryness setting [or lowest setting below the midpoint, in the direction of the minimum dryness setting]. Any other optional cycle settings that do not affect the program, temperature or dryness settings shall be tested in the as-shipped position, except that if the clothes dryer has network capabilities, the network settings must be disabled throughout testing.

Operate the clothes dryer until the completion of the programmed cycle, including the cool down period. The cycle shall be considered complete when the dryer indicates to the user that the cycle has finished (by means of a display, indicator light, audible signal, or other signal) and the heater and drum/fan motor shuts off for the final time. If the clothes dryer is equipped with a wrinkle prevention mode (*i.e.,* that continuously or intermittently tumbles the clothes dryer drum after the clothes dryer indicates to the user that the cycle has finished) that is activated by default in the as-shipped position or if manufacturers' instructions specify that the feature is recommended to be activated for normal use, the cycle shall be considered complete after the end of the wrinkle prevention mode. After the completion of the test cycle, remove and weigh the test load. Record the data specified in section 3.4 of this appendix. If the final moisture content is greater than 2 percent, the results from the test are invalid and a second run must be conducted. Conduct the second run of the test on the unit using the highest dryness level setting. If, on this second run, the dryer does not achieve a final moisture content of 2 percent or lower, the dryer has not sufficiently dried the clothes and the test results may not be used for certification of compliance with energy conservation standards. If the dryer automatically stops during a cycle because the condensation box is full of water, the test is stopped, and the test run is invalid, in which case the condensation box shall be emptied and the test re-run from the beginning. For ventless clothes dryers, during the time between two cycles, the door of the dryer shall be closed except for loading and unloading.

* * * * *

3.4.1 Bone-dry weight of the test load, $W_{bonedry}$, as described in section 2.7.1 of this appendix.

3.4.2 Moisture content of the wet test load before the test, MC_w, as described in section 2.7.2 of this appendix.

3.4.3 Moisture content of the dry test load obtained after the test, MC_d, as described in section 3.3 of this appendix.

* * * * *

3.5 *Standby mode and off mode power.* Connect the clothes dryer to a watt meter as specified in section 2.4.7 of this appendix. Establish the testing conditions set forth in section 2 of this appendix.

3.5.1 Perform standby mode and off mode testing after completion of an active mode drying cycle included as part of the test cycle; after removing the test load; without changing the control panel settings used for the active mode drying cycle; with the door closed; and without disconnecting the electrical energy supply to the clothes dryer between completion of the active mode drying cycle and the start of standby mode and off mode testing.

3.5.2 For clothes dryers that take some time to automatically enter a stable inactive mode or off mode state from a higher power state as discussed in Section 5, Paragraph 5.1, Note 1 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3), allow sufficient time for the clothes dryer to automatically reach the default inactive/off mode state before proceeding with the test measurement.

3.5.3 Once the stable inactive/off mode state has been reached, measure and record the default inactive/off mode power, $P_{default}$, in watts, following the test procedure for the sampling method specified in Section 5, Paragraph 5.3.2 of IEC 62301 (Second Edition) (incorporated by reference; see § 430.3).

3.5.4 For a clothes dryer with a switch (or other means) that can be optionally selected by the end user to achieve a lower-power inactive/off mode state than the default inactive/off mode state measured in section 3.5.3 of this appendix, after performing the measurement in section 3.5.3 of this appendix, activate the switch (or other means) to the position resulting in the lowest power consumption and repeat the measurement procedure described in section 3.5.3 of this appendix. Measure and record the lowest inactive/off mode power, P_{lowest}, in watts.

* * * * *

4.1 *Total per-cycle electric dryer energy consumption.* Calculate the total per-cycle electric dryer energy consumption required to achieve a final moisture content of 2 percent or less, $E_{ce,}$ expressed in kilowatt-hours per cycle and defined as:

$E_{ce} = E_t$,

for automatic termination control dryers, and,

$E_{ce} = [55.5/(MC_w - MC_d)] \times E_t \times$ field use,

for timer dryers

Where:

55.5 = an experimentally established value for the percent reduction in the moisture content of the test load during a laboratory test cycle expressed as a percent.

E_t = the energy recorded in section 3.4.5 of this appendix.

field use = 1.18, the field use factor for clothes dryers with time termination control systems only without any automatic termination control functions.

MC_w = the moisture content of the wet test load as recorded in section 3.4.2 of this appendix.

MC_d = the moisture content of the dry test load as recorded in section 3.4.3 of this appendix.

4.2 *Per-cycle gas dryer electrical energy consumption.* Calculate the per-cycle gas dryer electrical energy consumption required to achieve a final moisture content of 2 percent or less, $E_{ge,}$ expressed in kilowatt-hours per cycle and defined as:

$E_{ge} = E_{te}$,

for automatic termination control dryers, and,

$E_{ge} = [55.5/(MC_w - MC_d)] \times E_{te} \times$ field use,

for timer dryers

Where:

E_{te} = the energy recorded in section 3.4.6.1 of this appendix.

field use, 55.5, MC_w, and MC_d as defined in section 4.1 of this appendix.

4.3 *Per-cycle gas dryer gas energy consumption.* Calculate the per-cycle gas dryer gas energy consumption required to achieve a final moisture content of 2 percent or less, E_{gg}, expressed in Btus per cycle and defined as:

$E_{gg} = E_{tg} \times GEF$

for automatic termination control dryers, and,

$E_{gg} = [55.5/(MC_w - MC_d)] \times E_{tg} \times$ field use $\times GEF$

for timer dryers

Where:

E_{tg} = the energy recorded in section 3.4.6.2 of this appendix.

GEF = corrected gas heat value (Btu per cubic foot) as defined in section 3.4.6.3 of this appendix,

field use, 55.5, MC_w, and MC_d as defined in section 4.1 of this appendix.

4.4 *Total per-cycle gas dryer energy consumption expressed in kilowatt-hours.* Calculate the total per-cycle gas dryer energy consumption required to achieve a final moisture content of 2 percent or less, E_{cg}, expressed in kilowatt-hours per cycle and defined as:

$E_{cg} = E_{ge} + (E_{gg}/3412$ Btu/kWh)

Where:

E_{ge} = the energy calculated in section 4.2 of this appendix

E_{gg} = the energy calculated in section 4.3 of this appendix

4.5 *Per-cycle standby mode and off mode energy consumption.* Calculate the clothes dryer per-cycle standby mode and off mode energy consumption, E_{TSO}, expressed in kilowatt-hours per cycle and defined as:

$E_{TSO} = [(P_{default} \times S_{default}) + (P_{lowest} \times S_{lowest})] \times K/283$

Where:

$P_{default}$ = Default inactive/off mode power, in watts, as measured in section 3.5.3 of this appendix.

P_{lowest} = Lowest inactive/off mode power, in watts, as measured in section 3.5.4 of this appendix for clothes dryer with a switch (or other means) that can be optionally selected by the end user to achieve a lower-power inactive/off mode than the default inactive/off mode; otherwise, P_{lowest}=0.

$S_{default}$= Annual hours in default inactive/off mode, defined as 8,620 if no optional lowest-power inactive/off mode is available; otherwise 4,310.

S_{lowest}= Annual hours in lowest-power inactive/off mode, defined as 0 if no optional lowest-power inactive/off mode is available; otherwise 4,310.

K = Conversion factor of watt-hours to kilowatt-hours = 0.001.

283 = Representative average number of clothes dryer cycles in a year.

8,620 = Combined annual hours for inactive and off mode.

4,310 = One-half of the combined annual hours for inactive and off mode.

* * * * *

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FEDERAL REGISTER

Vol. 84 Tuesday,

No. 141 July 23, 2019

Part IV

The President

Notice of July 22, 2019—Continuation of the National Emergency With Respect to Transnational Criminal Organizations

Federal Register
Vol. 84, No. 141
Tuesday, July 23, 2019

Presidential Documents

Title 3—

The President

Notice of July 22, 2019

Continuation of the National Emergency With Respect to Transnational Criminal Organizations

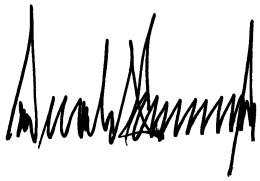
On July 24, 2011, by Executive Order 13581, the President declared a national emergency with respect to transnational criminal organizations pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the activities of significant transnational criminal organizations.

The activities of significant transnational criminal organizations have reached such scope and gravity that they threaten the stability of international political and economic systems. Such organizations are becoming increasingly sophisticated and dangerous to the United States; they are increasingly entrenched in the operations of foreign governments and the international financial system, thereby weakening democratic institutions, degrading the rule of law, and undermining economic markets. These organizations facilitate and aggravate violent civil conflicts and increasingly facilitate the activities of other dangerous persons.

On March 15, 2019, by Executive Order 13863, I took additional steps to deal with the national emergency with respect to transnational criminal organizations in view of the evolution of these organizations as well as the increasing sophistication of their activities, which threaten international political and economic systems and pose a direct threat to the safety and welfare of the United States and its citizens, and given the ability of these organizations to derive revenue through widespread illegal conduct, including acts of violence and abuse that exhibit a wanton disregard for human life as well as many other crimes enriching and empowering these organizations.

The activities of significant transnational criminal organizations continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, the national emergency declared in Executive Order 13581 of July 24, 2011, under which additional steps were taken in Executive Order 13863 of March 15, 2019, and the measures adopted to deal with that emergency, must continue in effect beyond July 24, 2019. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to transnational criminal organizations declared in Executive Order 13581.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
July 22, 2019.

[FR Doc. 2019–15794
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