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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AN78

Prevailing Rate Systems; North American Industry Classification System Based Federal Wage System Wage Surveys

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to update the 2012 North American Industry Classification System (NAICS) codes currently used in Federal Wage System (FWS) wage survey industry regulations with the 2017 NAICS revisions published by the Office of Management and Budget (OMB).

DATES:

Effective date: This rule is effective August 29, 2019.

Applicability date: This rule applies for local wage surveys beginning on or after November 6, 2019.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On March 6, 2019, OPM issued a proposed rule (84 FR 8043) to update the 2012 NAICS codes used in FWS wage survey industry regulations with the 2017 NAICS revisions published by OMB. The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we adopt these changes.

The 30-day comment period ended on April 5, 2019. OPM received one comment that is not pertinent to the proposed rule.

This final regulation is effective 30 days after publication. However, to provide the Department of Defense with sufficient time for planning surveys and implementing changes required by OMB's 2017 NAICS revisions, the regulation is applicable for wage surveys ordered to begin on or after November 6, 2019.

As OMB continues to update NAICS codes periodically, we will update these regulations to correspond to the updated NAICS codes based on advice we receive from FPRAC.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any 1 year. This rule has been designated as a ''significant regulatory action,'' under Executive Order 12866, but it is not ''economically significant'' as measured by the $100 million threshold.

Reducing Regulation and Controlling Regulatory Costs

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

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities, because they will affect only Federal agencies and employees.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

This rule will not 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 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.213 [Amended]

■ 2. In § 532.213, amend the table in paragraph (a) by removing ''2012'' from the column headings and adding in its place ''2017.''

■ 3. In § 532.221, amend the table in paragraph (a) by revising the column headings, removing the entries for NAICS codes ''4521'' and ''45299,'' and adding in numerical order entries for NAICS codes ''4522'' and ''4523.''

The revisions and additions to read as follows:

§ 532.221 Industries included in regular nonappropriated fund surveys.

(a) * * *

2017 NAICS codes	2017 NAICS industry titles
*	* * * * * * *
4522	Department stores.
4523	All other general merchandise stores.
*	* * * * * * *

* * * * *

§ 532.267 [Amended]

■ 4. In § 532.267, amend the table in paragraph (c)(1) by removing ''2012'' from the column headings and adding in its place ''2017.''

§ 532.285 [Amended]

■ 5. In § 532.285, amend the table in paragraph (c)(1) by removing ''2012'' from the column headings and adding in its place ''2017.''

■ 6. In § 532.313, amend the table in paragraph (a):

■ a. By revising the column headings;

■ b. Under the heading Aircraft Specialized Industry:

■ i. By revising the entry for NAICS Code 4921;

■ ii. By removing the entry for NAICS Code 541712; and

■ iii. By adding entries in numerical order for NAICS Codes 541713 and 541715;

■ c. Under the heading Artillery and Combat Vehicles Specialized Industry:

■ i. By removing the entries for NAICS Codes 5171 and 5172; and

■ ii. By adding an entry in numerical order for NAICS Code 5173;

■ d. Under the heading Communications Specialized Industry:

■ i. By removing the entries for NAICS Codes 5171 and 5172; and

■ ii. By adding an entry in numerical order for NAICS Code 5173;

■ e. Under the heading Electronic Specialized Industry by revising the entry for NAICS Code 334613;

■ f. Under the heading Guided Missiles Specialized Industry:

■ i. By revising the entry for NAICS Code 334613;

■ ii. By removing the entry for NAICS Code 541712; and

■ iii. By adding entries in numerical order for NAICS Codes 541713 and 541715; and

■ g. Under the heading Sighting and Fire Control Equipment Specialized Industry by revising the entry for NAICS Code 334613.

The revisions and additions to read as follows:

§ 532.313 Private sector industries.

(a) * * *

2017 NAICS codes	2017 NAICS industry titles
	Aircraft Specialized Industry
*	* * * * * * *
4921	Couriers and express delivery services.
541713	Research and development in nanotechnology.
541715	Research and development in the physical, engineering, and life sciences (except nanotechnology and biotechnology).
*	* * * * * * *
	Artillery and Combat Vehicles Specialized Industry
*	* * * * * * *
5173	Wired and wireless telecommunications carriers.
*	* * * * * * *
	Communications Specialized Industry
*	* * * * * * *
5173	Wired and wireless telecommunications carriers.
*	* * * * * * *
	Electronics Specialized Industry
*	* * * * * * *
334613	Blank magnetic and optical recording media manufacturing.

2017 NAICS codes	2017 NAICS industry titles
* * * * * * *	
Guided Missiles Specialized Industry	
* * * * * * *	
334613	Blank magnetic and optical recording media manufacturing.
* * * * * * *	
541713	Research and development in nanotechnology.
541715	Research and development in the physical, engineering, and life sciences (except nanotechnology and biotechnology).
* * * * * * *	
Sighting and Fire Control Equipment Specialized Industry	
* * * * * * *	
334613	Blank magnetic and optical recording media manufacturing.
* * * * * * *	

* * * * *

[FR Doc. 2019–16129 Filed 7–29–19; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 34

RIN 1291–AA39

Rescission of Regulations Implementing the Nondiscrimination and Equal Opportunity Provisions of the Job Training Partnership Act of 1982

AGENCY: Office of the Assistant Secretary for Administration and Management, Department of Labor.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM) is confirming the effective date of its direct final rule (DFR) rescinding its regulations implementing section 167 of the Job Training Partnership Act of 1982, as amended (JTPA). In the DFR published on September 26, 2018, OASAM stated that if no significant adverse comments were submitted by October 26, 2018, then the rule would become effective on November 26, 2018. No adverse comments were received on the rule. So by this document the agency is confirming that the DFR is effective as of November 26, 2018.

DATES: This document confirms that the effective of the DFR published on September 26, 2018 (83 FR 48542), is November 26, 2018.

ADDRESSES: Electronic copies of this **Federal Register** notice are available at *http://www.regulation.gov.*

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210, telephone (202) 693–6500 (VOICE) or (800) 877–8339 (Federal Relay Service—for TTY), or by email at *CRC-WIOA@dol.gov.*

SUPPLEMENTARY INFORMATION: On September 26, 2018, OASAM simultaneously published in the **Federal Register** a notice of proposed rulemaking (83 FR 48576) and a DFR (83 FR 48542) to rescind its regulations implementing Section 167 of the JTPA. Section 167 contained the nondiscrimination and equal-opportunity provisions of the JTPA. In 1998, Congress passed the Workforce Investment Act (WIA), which repealed the JTPA and required the Secretary of Labor to transition any authority under the JTPA to the system that WIA created. WIA, in turn, was subsequently altered by the Workforce Innovation and Opportunity Act (WIOA). The JTPA's nondiscrimination and equal opportunity requirements were superseded by similar provisions in WIA, and more recently, WIOA. The current WIOA regulations governing nondiscrimination and equal opportunity are at 29 CFR part 38. In sum, the rule removes regulations for an inoperative program, but has no impact on existing non-discrimination rules.

OASAM explained that if no significant adverse comments were received during the comment period, then the DFR would become effective and OASAM would withdraw the proposed rule. The comment period for the proposed rule and the DFR ended on October 26, 2018. No adverse comments were received on either rule. By this document, OASAM is confirming that the DFR is effective as of November 26, 2018. As such, the proposed rule is unnecessary and OASAM is withdrawing it in another publication.

Signed at Washington, DC, on July 19, 2019.

Bryan Slater,

Assistant Secretary, Office of the Assistant Secretary for Administration and Management, Department of Labor.

[FR Doc. 2019–16073 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0653]

RIN 1625–AA00

Safety Zone; Bahia De San Juan, San Juan, PR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within Bajo San Agustin of San Juan Harbor. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by an anticipated increase in vessel traffic due

to unplanned and unpublished maritime events. Entry of vessels or persons into this zone, either from adjacent waters or from the shoreline, is prohibited unless specifically authorized by the Captain of the Port San Juan.

DATES: This rule is effective without actual notice from July 30, 2019 through 12:00 a.m. on August 3, 2019. For purposes of enforcement, actual notice will be used from 12:00 p.m. on July 25, 2019 through July 30, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0653 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 any questions concerning this rule, please call or email LCDR Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management Division, U.S. Coast Guard; telephone 787–729–2374, email *Pedro.L.Mendoza@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information regarding planned maritime events with enough time to publish a NPRM. Coast Guard received notice of an anticipated increase in vessel traffic scheduled near Bajo San Agustin with less than 24 hours' notice. Immediate action is needed to respond to the potential safety hazards associated with these activities. This temporary rule is necessary to provide for the safety of potential participants, spectators, and other vessels navigating the surrounding waterways.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the anticipated increase in vessel activity is expected to occur from July 25, 2019 to August 3, 2019 and immediate action is needed to respond to the potential safety 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 (previously 33 U.S.C. 1231). The Captain of the Port San Juan (COTP) has determined that potential hazards associated with increased vessel traffic and activities starting July 25, 2019, will be a safety concern for anyone within Bajo San Agustin of San Juan Harbor. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during an anticipated increase in vessel traffic due to unplanned and unpublished maritime events.

IV. Discussion of the Rule

This rule establishes a safety zone from 12:00 p.m. on July 25, 2019 through 12:00 a.m. on August 3, 2019. The safety zone will cover all navigable waters within Baja San Agustin. The size of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while increased vessel activities remain in effect. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Additionally, no vessel or person will be permitted to enter the safety zone from the shoreline 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 expected size, location and available exceptions to the enforcement of the safety zone. The regulated area will impact small designated areas within Bahia de San Juan and thus is limited in scope. Furthermore, the rule will allow vessels to seek permission to enter the zone. Non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by the COTP or a designated representative. Vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP or a designated representative may operate in the surrounding areas during the enforcement period. The Coast Guard will issue a Local Notice to Mariners and a Broadcast Notice to Mariners, allowing mariners to make alternative plans or seek permission to transit the zone.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the 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 call or email 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 call or email 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 that will prohibit entry within Bajo San Agustin of San Juan Harbor. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.T07–0653 to read as follows:

§ 165.T07–0653 Safety Zone; Bahia de San Juan, San Juan, PR.

(a) *Location.* The following area is a safety zone: Bajo San Agustin of San Juan Harbor, from surface to bottom, encompassed by a line connecting the following points beginning at 18°27′57″ N, 66°7′19″ W, thence to 18°27′53″ N, 66°7′26″ W, thence to 18°27′46″ N, 66°7′15″ W, thence to 18°27′50″ N, 66°7′10″ W and along the shore line back to the beginning point. All coordinates are North American Datum 1983.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Juan (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by contacting the US Coast Guard Cutter YELLOWFIN via VHF–FM marine channel 16 or the US Coast Guard Sector San Juan Command Center at (787) 729–6800. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 12:00 p.m. on July 25, 2019 through 12:00 a.m. on August 3, 2019.

Dated: July 25, 2019.

G.H. Magee,

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

[FR Doc. 2019–16232 Filed 7–26–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0586]

RIN 1625–AA00

Safety Zone; Allegheny River Mile 43.5 to Mile 45.5, Kittanning, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Allegheny River from Mile 43.5 to Mile 45.5. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a high speed boat race. Entry of vessels or persons into this zone is prohibited

unless specifically authorized by Captain of the Port Marine Safety Unit Pittsburgh or a designated representative.

DATES: This rule is effective from 8:30 a.m. on August 16, 2019 through 8:30 p.m. on August 18, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0586 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Charles Morris, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807, email *Charles.F.Morris@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. After receiving and fully reviewing the event information, circumstances and exact location, the Coast Guard determined that a safety zone was necessary to protect personnel, vessels, and the marine environment from potential hazards created from a high speed boat race. It would be impracticable to complete the full NPRM process for this safety zone because we need to establish it by August 16, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

III. Legal Authority and Need for Rule

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

IV. Discussion of the Rule

This rule establishes a safety zone from 8:30 a.m. on August 16, 2019 through 8:30 p.m. on August 18, 2019, to be enforced from 8:30 a.m. through 8:30 p.m. each day. The safety zone will cover all navigable waters on the Allegheny River from Mile 43.5 to Mile 45.5.

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

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a two-mile stretch of the Allegheny River for a duration of twelve hours on each of three days. Vessel traffic can seek permission to transit the zone. Moreover, the Coast Guard will issue LNMs, MSIBs, and BNMs via VHF–FM marine channel 16 about the zone .

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting twelve hours on each of three days that will prohibit entry on the Allegheny River from Mile 43.5 to Mile 45.5, during the high speed boat race event. It is categorically excluded from further review under paragraph L60(a) in Table 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

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0586 to read as follows:

§ 165.T08–0586 Safety Zone; Allegheny River from Mile 43.5 to Mile 45.5, Kittanning, PA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Allegheny River from Mile 43.5 to Mile 45.5

(b) *Effective period.* This section is effective from 8:30 a.m. on August 16, 2019 through 8:30 p.m. on August 18, 2019. It will be enforced from 8:30 a.m. through 8:30 p.m. each day.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of persons and vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. A *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP or a designated representative. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 412–221–0807.

(3) All persons and vessels shall comply with the instructions of the COTP or a designated representative.

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

A.W. Demo,

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

[FR Doc. 2019–16193 Filed 7–29–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0603]

RIN 1625–AA00

Safety Zone; Homewood Wedding Fireworks Display, Lake Tahoe, Homewood, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of McKinney Bay in Lake Tahoe in support of the Homewood Wedding Fireworks Display on August 2, 2019. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from 7 a.m. to 10:12 p.m. on August 2, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0603 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Jennae Cotton, Waterways Management, U.S. Coast Guard; telephone (415) 399–3585, email *SFWaterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port San Francisco
CFR Code of Federal Regulations
DHS Department of Homeland Security
§ 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 with respect to this rule because it is impracticable. It is impracticable because the Coast Guard did not receive final details for this event until July 16, 2019 and lacks sufficient time to provide a reasonable comment period and consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impractical because the Coast Guard learned of the Homewood Wedding Fireworks Display with insufficient time to allow for a delayed effective date.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the Homewood Wedding Fireworks Display on August 2, 2019, will be a safety concern for anyone within a 100-foot radius of the fireworks barge during loading and staging and anyone within a 280-foot radius of the fireworks barge starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, a safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks barge during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. until 10:12 p.m. on August 2, 2019 during the loading and staging of the fireworks barge in McKinney Bay in Lake Tahoe, until 30 minutes after completion of the fireworks display. From 7 a.m. to 9 p.m. on August 2, 2019, during the loading and staging of the fireworks barge until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge. Loading the pyrotechnics onto the fireworks barge is scheduled from 7 a.m. to 9 a.m. on August 2, 2019, at the display location in McKinney Bay, where the fireworks barge will remain until the conclusion of the fireworks display.

At 9 p.m. on August 2, 2019, 30 minutes prior to the commencement of the 12-minute Homewood Wedding Fireworks Display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge, from surface to bottom, within a circle formed by connecting all points 280 feet from the circle center at approximate position 39°05′11.9″ N, 120°09′17.2″ W (NAD 83). The safety zone will terminate at 10:12 p.m. on August 2, 2019.

The effect of the safety zone is to restrict navigation in the vicinity of the fireworks loading, staging, and firing site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing site to ensure the safety of participants, spectators, and transiting vessels.

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, limited duration, and narrowly tailored geographic area of the safety zone. This safety zone impacts a 280-foot radius area of McKinney Bay in Lake Tahoe for a limited duration of 15 hours and 12 minutes. The vessels desiring to transit through or around the safety zone may do so upon express permission from the COPT or the COTP's designated representative.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and U.S. Coast Guard Environmental Planning Policy, COMDTINST 5090.1, 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 of limited size and duration. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of Department of Homeland Security Directive 023–01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–988 to read as follows:

§ 165.T11–988 Safety Zone; Homewood Wedding Fireworks Display, Lake Tahoe, Homewood, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of Lake Tahoe, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading and staging at the display location in McKinney Bay. Between 9 p.m. and 10:12 p.m. on August 2, 2019, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connecting all points 280 feet out from the fireworks barge in approximate position 39°05′11.9″ N, 120°09′17.2″ W (NAD 83) (NAD 83).

(b) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* The safety zone will be enforced from 7 a.m. through 10:12 p.m. on August 2, 2019. The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced in accordance with § 165.7.

Dated: July 23, 2019.

Howard H. Wright,

Captain, U.S. Coast Guard, Alternate Captain of the Port, San Francisco.

[FR Doc. 2019–16185 Filed 7–29–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0112; FRL–9997–29–Region 5]

Air Plan Approval; Ohio; Removal of Obsolete Infectious Waste Incinerator Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Ohio Environmental

Protection Agency (Ohio EPA) on January 24, 2018, to revise the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). Ohio EPA is requesting to remove provisions under Ohio Administrative Code (OAC) Chapter 3745–75, that were approved into the Ohio SIP as part of Ohio's Hospital/Medical/Infectious Waste Incinerator (HMIWI) State plan under sections 110(d) and 129 of the CAA. EPA proposed to approve the State's submittal on April 12, 2019.

DATES: This final rule is effective on August 29, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0112. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR 18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061, *acevedo.francisco@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'', ''us'' or ''our'' is used, we mean EPA.

I. What is being addressed by this document?

On September 15, 1997, EPA published emission guidelines for HMIWI under 40 CFR part 60, subpart Ce (62 FR 48348). The emission guidelines applied to existing sources only, for which construction commenced on or before June 20, 1996. States were required under sections 111(d) and 129 of the CAA to submit state plans to control emissions from existing HMIWI units. New sources constructed after this date are covered by a Federal new source performance standard.

On October 18, 2005, Ohio EPA submitted the CAA section 111(d)/129 State plan for implementing 40 CFR part 60, subpart Ce ''Emission Guidelines for Existing Hospital/Medical/Infectious Waste Incinerators.'' The State plan was subsequently approved by EPA on July 5, 2007 (72 FR 36605) and became effective under 40 CFR 62.8880 on August 6, 2007. As part of Ohio's HMIWI State plan, OAC Chapter 3745–75, ''Infectious Waste Incinerator Limitations,'' was amended, submitted, and approved as part of Ohio's SIP (72 FR 36605). Subsequently, on October 6, 2009 (74 FR 51367), and April 4, 2011 (76 FR 18407), EPA promulgated final revised emission guidelines and amendments under 40 CFR part 60, subpart Ce, and on May 13, 2013, EPA promulgated a final revised 40 CFR part 62, subpart HHH, Federal Plan (78 FR 28052).

On January 24, 2018, Ohio EPA submitted a request to approve the removal of all OAC Chapter 3745–75 provisions from the Ohio SIP, relying instead on the Federal Plan. Ohio EPA conducted a public hearing on this matter in Columbus, Ohio on December 7, 2017.

On April 12, 2019, at 84 FR 14901, EPA proposed to approve the removal of all OAC Chapter 3745–75 provisions from the Ohio SIP.

II. What comments did we receive on the proposed SIP revision?

Our April 12, 2019 proposed rule provided a 30-day review and comment period. The comment period closed on May 13, 2019. EPA received one comment during the public comment period. The comment supported EPA's proposed action to allow the removal of Infectious Waste Incinerator provisions from the Ohio SIP.

III. What action is EPA taking?

EPA is approving the revision to the Ohio SIP submitted by the Ohio EPA on January 24, 2018, because the removal of existing infectious waste incinerator requirements in OAC Chapter 3745–75 from the SIP meets all applicable requirements and would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

IV. Incorporation by Reference

In this document, EPA amends regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Ohio Regulations from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the SIP generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: July 17, 2019.

Cathy Stepp,

Regional Administrator, Region 5

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 52.1870 [Amended]

■ 2. In § 52.1870, the table in paragraph (c) is amended by removing the heading ''Chapter 3745–75 Infectious Waste Incinerator Limitations'' and the entries for 3745–75–01 through 3745–75–06.

[FR Doc. 2019–16080 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 205–3121; FRL–9992–15–Region 3]

Air Plan Approval; Maryland; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Maryland state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Maryland Department of the Environment (MD DOE) and approved by EPA. This update affects the SIP materials that are available for inspection at the EPA Regional Office.

DATES: This action is effective July 30, 2019.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. EPA requests that you email the contact listed in the **FOR FURTHER INFORMATION CONTACT** section for information about the availability of this material at EPA.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, Office of Air Program Planning (3AP30), Air Protection Division, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–3376. Ms. McCauley can also be reached via electronic mail at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the Federally-approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format is discussed in further detail in the May 22, 1997 **Federal Register** document.

On November 29, 2004 (69 FR 69304), EPA published a document in the **Federal Register** beginning the new IBR procedure for Maryland. On February 2, 2006 (71 FR 5607), May 18, 2007 (72 FR 27957), March 11, 2008 (73 FR 12895), March 19, 2009 (74 FR 11647), August 22, 2011 (76 FR 52278), and May 30, 2017 (82 FR 24549) EPA published updates to the IBR material for Maryland.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to the following regulations, statutes, and source-specific actions for Maryland:

A. Added Regulations

1. Code of Maryland Administrative Regulations (COMAR) citation 26.11.01, General Administrative Provisions, 26.11.01.11, Continuous Emissions Monitoring.

2. COMAR citation 26.11.14, Control of Emissions from Kraft Pulp Mills, 26.11.14.07, Control of NO_X Emissions from Fuel Burning Equipment.

3. COMAR citation 26.11.19, Volatile Organic Compounds from Specific Processes, 26.11.19.26.1, Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing.

4. COMAR citation 26.11.29, Control of NO_X Emissions from Natural Gas Pipeline Stations, 26.11.29.01 through 26.11.29.04.

5. COMAR citation 26.11.30, Control of Portland Cement Manufacturing Plants, 26.11.30.01 through 26.11.30.08.

6. COMAR citation 26.11.31, Quality Assurance Requirements for Opacity Monitors (COMs), 26.11.31.01 through 26.11.31.12.

7. COMAR citation 26.11.38, Control of Nitrogen Oxide Emissions From Coal-Fired Electric Generating Units, 26.11.38.01 through 26.11.38.05.

8. COMAR citation 26.11.39, Architectural and Industrial Maintenance (AIM) Coatings, 26.11.39.01 through 26.11.39.08.

9. COMAR citation 26.11.40, NO_X Ozone Season Emission Caps for Non-trading Large NO_X Units, 26.11.40.01 through 26.11.40.04.

10. In 40 CFR 52.1070(d), EPA approved State source specific requirements were added for two facilities, including; Raven Power Fort Smallwood LLC—Brandon Shores units 1 and 2, and H.A. Wagner units 1, 2, 3, and 4; and the National Gypsum Company (NGC).

B. Revised Regulations

1. COMAR citation 26.11.01, General Administrative Provisions, 26.11.01.01, Definitions.

2. COMAR citation 26.11.01, General Administrative Provisions, 26.11.01.05, Records and Information.

3. COMAR citation 26.11.01, General Administrative Provisions, 26.11.01.10, Continuous Opacity Monitoring.

4. COMAR citation 26.11.02, Permits, Approvals, and Registration, 26.11.02.07, Procedures for Denying, Revoking, or Reopening and Revising a Permit or Approval.

5. COMAR citation 26.11.02, Permits, Approvals, and Registration, 26.11.02.11, Procedures for Obtaining Permits to Construct Certain Significant Sources.

6. COMAR citation 26.11.02, Permits, Approvals, and Registration, 26.11.02.12, Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Certain Permits to Construct, Case-by-Case MACT Determinations in Accordance with 40 CFR part 63, subpart B.

7. COMAR citation 26.11.09, Control of Fuel Burning Equipment and Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations, 26.11.09.08, Control of NO_X Emissions for Major Stationary Sources.

8. COMAR citation 26.11.10, Control of Iron and Steel Production Installations, 26.11.10.06, Control of Volatile Organic Compounds from Iron and Steel Production Installations.

9. COMAR citation 26.11.14, Control of Emissions from Kraft Pulp Mills, 26.11.14.06, Control of Volatile Organic Compounds.

10. COMAR citation 26.11.14, Control of Emissions from Kraft Pulp Mills, 26.11.14.07, Control of NO_X Emission from Fuel Burning Equipment.

11. COMAR citation 26.11.19, Volatile Organic Compounds from Specific Processes, 26.11.19.26, Control of Volatile Organic Compound Emissions from Reinforced Plastic Manufacturing.

C. Removed Regulations

1. COMAR citation 26.11.28, Clean Air Interstate Rule, 26.11.28.01 through 26.11.28.08.

2. COMAR citation 26.11.29, NO_X Reduction and Trading Program, 26.11.29.01 through 26.11.29.15.

3. COMAR citation 26.11.30, Policies and Procedures Relating to Maryland's NO_X Reduction and Trading Program, 26.11.30.01 through 26.11.30.09.

4. COMAR citation 26.11.33, Architectural Coatings, 26.11.33.01 through 26.11.33.14.

5. In 40 CFR 52.1070(d), EPA approved the removal of state source specific requirements for one facility; Constellation Power Source Generation, Inc. Brandon Shores Units #1 & 2; Gould Street Unit #3; H.A. Wagner Units #1, 2, 3 & 4; C.P. Crane Units #1 & 3; and Riverside Unit #4.

II. EPA Action

In this action, EPA is announcing the update to the IBR material as of December 26, 2018 for the State of Maryland, revising text within 40 CFR 52.1070(b), and, also correcting entries for previously approved text within 40 CFR 52.1070(c) and (e). Also, within this IBR action, EPA is making editorial changes to the format of the table in paragraph (c) for clarity.

III. Good Cause Exemption

EPA has determined that this rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This rule simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of previously EPA approved regulations promulgated by the State of Maryland and Federally effective prior to December 26 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Maryland SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of plan'' update action for Maryland.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 29, 2019.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

■ 2. Section 52.1070 is amended by:
■ a. Revising paragraph (b);
■ b. In the table in paragraph (c):
■ i. Revising the column headings;
■ ii. Adding a centered heading before the center heading ''26.11.01 General Administrative Provisions'';
■ iii. Revising the entries for ''26.11.01.05'', ''26.11.01.11'', ''26.11.09.08'', ''26.11.10.06'', ''26.11.14.06'', ''26.11.19.08'', ''26.11.19.26'', and ''26.11.19.26–1''.
■ iv. Removing the entry for ''26.11.31'';
■ v. Adding a centered heading under the entry for ''26.11.30.08'';
■ vi. Removing the row under the entry for ''TM91–01 [Except Methods 1004A through E]''; and
■ vii. Adding a centered heading under the entry for ''TM91–01 [Except Methods 1004A through E]''; and
■ c. In the table in paragraph (e), revising the second entry for ''2011 Base Year Emissions Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard'' and the entry for ''Regional Haze Five-Year Progress Report.''

The revisions and additions read as follows:

§ 52.1070 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 26, 2018, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Entries in paragraphs (c) and (d) of this section with the EPA approval dates after December 26, 2018 for the State of Maryland, have been approved by EPA for inclusion in the State implementation plan and for incorporation by reference into the plan as it is contained in this section, and will be considered by the Director of the Federal Register for approval in the next update to the SIP compilation.

(2) EPA Region III certifies that the following materials provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference into the State implementation plan may be inspected at the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. To obtain the material, please call the Regional Office at (215) 814–3376. You may also inspect the material with an EPA approval date prior to December 26, 2018 for the State of Maryland 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.*

(c) * * *

EPA–APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
Code of Maryland Administrative Regulations (COMAR)				
26.11.01 General Administrative Provisions				
*	*	*	*	*
26.11.01.05	Records and Information.	5/17/2010	11/7/2016, 81 FR 78048	(c)(172) Administrative changes to reporting and recordkeeping requirements.
*	*	*	*	*
26.11.01.11	Continuous Emissions Monitoring.	8/22/2010	11/7/2016, 81 FR 78048.	
*	*	*	*	*
26.11.09 Control of Fuel Burning Equipment and Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations				
*	*	*	*	*
26.11.09.08	Control of NO_X Emissions for Major Stationary Sources.	7/20/2015	3/28/2018, 83 FR 13192	1. Revise H, H(1) and H(3), remove H(2), and recodify H(4) to H(3). 2. Revise I and remove I(3) and I(4). Previous approval (8/30/2016).
*	*	*	*	*
26.11.10 Control of Iron and Steel Production Installations				
*	*	*	*	*
26.11.10.06	Control of Volatile Organic Compounds from Iron and Steel Production Installations.	5/9/2016	7/28/2017, 82 FR 35104	Removed reference to TM 90–01 from C(3)(b) and added reference to COMAR 26.11.01.11.
*	*	*	*	*
26.11.14 Control of Emissions from Kraft Pulp Mills				
*	*	*	*	*
26.11.14.06	Control of Volatile Organic Compounds.	3/3/2014	7/17/2017, 82 FR 32641	Amended to clarify volative organic compound (VOC) control system and requirements at Kraft pulp mills (8/30/2016).
*	*	*	*	*
26.11.19 Volatile Organic Compounds from Specific Processes				
*	*	*	*	*
26.11.19.08	Metal Parts and Products Coating.	5/26/2014	10/1/2015, 80 FR 59056	Amends section title. Adds definitions. Section 26.11.19.08(B), Emission Standards, removed. Section 26.11.19.08(B), Incorporation by Reference, added. Section 26.11.19.08(C), Applicability and Exemptions, added. Section 26.11.19.08(D), Emission Standards, added.
*	*	*	*	*
26.11.19.26	Control of Volatile Organic Compound Emissions from Reinforced Plastic Manufacturing.	9/28/2015	12/23/2016, 81 FR 94259.	Amendment to .26A.

EPA–APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP—Continued

Citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
26.11.19.26–1	Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing.	9/28/2015	12/23/2016, 81 FR 94259.	New Regulation.
*	*	*	*	*
26.11.31	**Quality Assurance Requirements for Opacity Monitors (COMs)**			
*	*	*	*	*
Annotated Code of Maryland				
*	*	*	*	*

* * * * * (e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
2011 Base Year Emissions Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard.	Baltimore, Maryland 2008 Ozone Moderate Nonattainment Area.	12/30/2016	8/9/2018, 83 FR 39365	See § 52.1075(r).
*	*	*	*	*
Regional Haze Five-Year Progress Report.	Statewide	8/9/2017	11/26/2018, 83 FR 60363.	
*	*	*	*	*

Editorial Note: This document was received for publication by the Office of the Federal Register on July 18, 2019.

[FR Doc. 2019–15655 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1998–0006; FRL–9997–20–Region 2]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List: Deletion of the Peter Cooper Superfund Site

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA), Region 2, is publishing a direct final notice of deletion of the Peter Cooper Superfund Site (Site) located in the Village of Gowanda, Cattaraugus County, New York from the National Priorities List (NPL). The NPL, promulgated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA),, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by the EPA with the concurrence of the State of New York, through the Department of Environmental Conservation (NYSDEC), because the EPA has determined that all appropriate response 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: This direct final deletion will be effective September 30, 2019 unless the EPA receives adverse comments by August 29, 2019. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1998–0006, by one of the following methods:

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

additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

- *Email: henry.sherrel@epa.gov.*
- *Mail:* Sherrel Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007–1866.
- *Hand delivery:* Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866 (telephone: (212) 637–4308). Such deliveries are only accepted during the Docket's normal hours of operation (Monday to Friday from 9:00 a.m. to 5:00 p.m.) excluding federal holidays and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1998–0006. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be 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 the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *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, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

U.S. Environmental Protection Agency, Region 2, Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308, Hours: Monday through Friday: 9:00 a.m. through 5:00 p.m.

Information for the Site is also available for viewing at the Site Administrative Record Repositories located at: Gowanda Free Library, 56 W. Main Street, Gowanda, New York 14138, (716) 532–9449, Hours: Monday through Friday: 9:00 a.m. through 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Sherrel D. Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, NY, NY 10007–1866, (212) 637–4273, email: *henry.sherrel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 2 is publishing this direct final Notice of Deletion of the Peter Cooper Superfund Site (Site) from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which the EPA promulgated pursuant to section 105 of CERCLA. The 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 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.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the 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 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) EPA consulted with the State of New York prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided New York State 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the NYSDEC, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *Dunkirk Observer.* The newspaper notice announces the 30-day public comment period concerning the Notice

of Intent to Delete the Site from the NPL.

(4) 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.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of 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 to Delete and the comments already received.

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 Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Peter Cooper Site, EPA ID No. NYD980530265, is located off Palmer Street, in the Village of Gowanda, Cattaraugus County, New York, approximately 30 miles south of Buffalo, New York. The Site consists of an inactive landfill and land associated with the former Peter Cooper Corporation (PCC) animal glue and adhesives manufacturing plant. The Site is bound to the north by Cattaraugus Creek (Creek), to the south by Palmer Street, to the west by a former hydroelectric dam and wetland area, and to the east by residential properties. Regionally, the Village of Gowanda is located both in Erie County and Cattaraugus County and is separated by Cattaraugus Creek. In Erie County, the Village of Gowanda is included in the Town of Collins. The Town of Collins is bordered by the Seneca Nation of Indians Cattaraugus Reservation to the west. In Cattaraugus County, the Village of Gowanda is in the Town of Persia. The Site is located in an area characterized by mixed industrial-commercial/residential usage.

For purposes of the remedial investigation and feasibility study (RI/FS), the Site was divided into two sections. The western section, called the inactive landfill area (ILA), is approximately 15.6 acres in size and includes an additional five acres referred to as the ''elevated fill subarea.'' The westernmost portion of the elevated fill subarea is located on property owned by the New York State Electric & Gas Corporation (NYSEG). The eastern section of the Site, the former manufacturing plant area (FMPA), is approximately 10.4 acres.

From 1904 to 1972, PCC and its predecessor, Eastern Tanners Glue Company, manufactured animal glue at the Site. When the animal glue product line was terminated, PCC continued to produce synthetic industrial adhesives until the plant closed in 1985. The wastes from PCC's glue production were disposed of on the elevated fill subarea. Between 1925 and October 1970, PCC used the northwest portion of the property to pile sludge remaining after the animal glue manufacturing process. These wastes, known as ''cookhouse sludge'' because of a cooking cycle that occurred just prior to extraction of the glue, are derived primarily from chrome-tanned hides obtained from tanneries. The waste material has been shown to contain elevated levels of chromium, arsenic, zinc, and several organic compounds.

In June 1971, the New York State Supreme Court (8th J.D. Cattaraugus County) ordered PCC to remove all or part of the waste pile and terminate discharges into the Creek. In 1972, PCC reportedly removed approximately 38,600 tons of waste pile material and transferred it to a separate site in Markhams, New York. Between 1972 and 1975, the remaining waste pile at the Site was graded by PCC, covered with a 6-inch clay barrier layer and 18 to 30 inches of soil, and vegetated with grass. Stone rip-rap and concrete blocks were placed along the bank of the Creek to protect the fill material from scouring or falling into the Creek.

In July 1976, the assets of the original PCC, including the manufacturing plant and property located in Gowanda, were purchased by Rousselot Gelatin Corporation and its parent, Rousselot, S.A., of France. Rousselot Gelatin was renamed Peter Cooper Corporation, and this newly-formed PCC sold the Site to JimCar Development, Inc. in April 1988. The property was subsequently transferred to the Gowanda Area Redevelopment Corporation (GARC) in 2009. Excluding the portion of the Site owned by NYSEG, the remainder of the property is presently owned by GARC. From 1981 to 1983, NYSDEC conducted several investigations at the facility and identified the presence of arsenic, chromium and zinc in soil and sediment samples. As a result of this investigation, NYSDEC oversaw PCC's development of an RI/FS for the Site. However, because the waste detected at the Site did not meet the New York State statutory waste definition in effect in 1991 for an inactive hazardous waste disposal site, NYSDEC removed the Site from its Registry of Inactive Hazardous Waste Sites, and a remedy was not selected.

In 1996, EPA collected and analyzed soil, groundwater, surface water, and sediment samples from the Site. Results of the sampling and analysis confirmed contamination, including the presence of arsenic, chromium, and other hazardous substances.

During these Site assessments, EPA personnel observed that the existing retaining wall was subject to severe erosion. It was determined that the retaining wall and rip-rap had to be repaired or upgraded to prevent the continued erosion of landfill materials into the Creek. On October 24, 1996, EPA and NYSEG entered into an administrative order on consent (AOC). Pursuant to the AOC, NYSEG installed approximately 150 feet of rip-rap revetment along the south bank of the Cattaraugus Creek and adjacent to the landfill to prevent further erosion of materials from the landfill into the Creek.

Based on this information, the Site was proposed to the NPL on September 25, 1997 (62 FR 50450) and placed on the NPL on March 6, 1998 (63 FR 11332).

Remedial Investigation and Feasibility Study

In April 2000, EPA issued a unilateral administrative order (UAO) to fourteen respondents to perform the RI/FS of the Site, subject to EPA oversight. Media sampled during the RI included landfill gas, groundwater, surface water, sediment, soil, waste material, and seepage emanating from the landfill.

From 2000 to 2001, the UAO respondents, through their consultants, Benchmark Environmental Engineering and Science PLLC (Benchmark) and Geomatrix Consultants, performed a comprehensive RI to define the nature and extent of contamination at the Site. The final RI report was submitted to EPA in November 2003. The scope of the RI included the following activities: the replacement of four wells from the existing network of 10 monitoring wells in the ILA and the installation of six new wells in the FMPA; surface water and sediment investigations of the Creek; sludge fill characterization of the

ILA, by conducting three different activities (geophysical surveys, test pits, and soil borings) to establish the limits of buried waste fill material; an existing landfill cover evaluation by excavating 24 test holes to determine cover system thickness and characteristics; a surface soil investigation of the ILA and FMPA, consisting of 30 soil samples collected from zero to six inches below ground surface (bgs); a subsurface soil investigation of the ILA and FMPA consisting of 23 soil samples collected from three to 12 feet bgs; a landfill gas investigation of the elevated fill area of the ILA; and a leachate seep investigation of the elevated fill area of the ILA.

An FS was then completed by the UAO respondents, and a report was submitted to EPA in June 2005. The FS Report identified and evaluated remedial alternatives to address soil contamination for the Site, consistent with the guidelines presented in Guidance for conducting RI/FS under CERCLA. A preferred alternative was presented to the public for review and comment in July 2005. Results of the RI and FS were summarized in the Record of Decision (ROD) issued by EPA in September 2005.

Concurrent with completion of the RI/FS activities, the Village of Gowanda in association with the University at Buffalo Center for Integrated Waste Management developed a Reuse Assessment and Concept Plan for the Site, in which it was concluded that the ''highest and best use'' of the property would be as a multi-use recreational facility. The Reuse Assessment and Concept Plan, funded in part by the USEPA through its Superfund Redevelopment Initiative, envisions a publicly-available Site incorporating elements such as a walking/biking trail, fishing access, outdoor picnic areas, small boat launch, and other related recreational features.

Selected Remedy

Based upon the results of the RI/FS, a Proposed Plan, and a Public Meeting, a Remedy was selected in September 2005. For this Site, remedial action objectives (RAOs) were only established for soil. The RAOs for soil are (1) to reduce or eliminate any direct contact threat associated with the contaminant soils/fill, (2) to minimize or eliminate contaminant migration from contaminated soils to the groundwater and surface water, and (3) to minimize or eliminate contaminant migration from groundwater to the Creek.

The elements of the selected remedy are:

- Excavating three hot spot areas and consolidating waste from these areas within the elevated fill subarea, capping the five-acre elevated fill subarea of the inactive landfill area with a low permeability, equivalent design barrier cap, consistent with the requirements of 6 New York Codes, Rules and Regulations (NYCRR) Part 360, including seeding with a mixture of seeds to foster natural habitat;
- Conducting post-excavation confirmatory soil sampling;
- Backfilling of excavated areas with clean fill; collecting the leachate seeps, pretreating the leachate as necessary, then discharging the leachate to the public owned treatment works (POTW) collection system for further treatment and discharge. As a contingency, if treatment of the leachate seep at the POTW is not available, the leachate would be treated and discharged to Cattaraugus Creek. Since the installation of the cap and groundwater diversion system (described below) should reduce leachate generation, the volume of seep leachate requiring treatment is anticipated to be reduced or nearly eliminated over time;
- Installing a groundwater diversion system to limit groundwater migration through the elevated fill subarea. The remedy provides for the potential that if additional data collected in the remedial design phase of the project support the conclusion that installation of a diversion wall will result in a minimal increase in the collection of contaminants by the leachate collection system, the diversion wall would not be installed;
- Installing a passive gas venting system for proper venting of the five-acre elevated fill subarea of the ILA;
- Stabilizing the banks of the Creek;
- Performing long-term operation and maintenance including inspections and repairs of the landfill cap, gas venting, and leachate systems;
- Performing air monitoring, surface water and groundwater quality monitoring; and
- Evaluating Site conditions at least once every five years to determine if the remedy remains protective.

The remedy also included institutional controls such as restrictive covenants and environmental easements for limiting future use of the Site and the groundwater to ensure that the implemented remedial measures will not be disturbed and that the Site will not be used for purposes incompatible with the completed remedial action. The institutional controls will be managed, in part, through a Site Management Plan (SMP) to ensure appropriate handling of subsurface soils during redevelopment.

To ensure that engineering controls and institutional controls remain in place and effective for the protection of public health and the environment, an annual certification, commencing from the date of implementation, has been required to be performed by the parties responsible for implementing the remediation.

Consistent with the future use of the property, following issuance of the ROD, the Village of Gowanda and the UAO recipients entered into discussions concerning the Village's redevelopment goals. An agreement was reached, and GARC took ownership of the Site and agreed to perform certain post-remedial operation and maintenance and monitoring activities in exchange for provision of specific, non-remedial construction activities and funding by the respondents to facilitate park redevelopment. Non-remedial construction activities that were slated to be performed by the UAO recipients, concurrent with remedial activities, are listed below.

- Removal of up to 1,000 tons of non-hazardous construction and demolition debris from the former manufacturing plant area of the site, with disposal of the materials beneath the elevated fill subarea cover (in a manner to prevent settlement) or off-site disposal at a permitted disposal facility.
- Construction of a clean utility corridor (*i.e.,* waterline) to facilitate utility service to a future, multi-use building, pavilion, or other park development.
- Elevated fill subarea cover system grading and contouring to facilitate Site development plans. This involved creating a benched area along the Creek side of the landfill that may provide a level area for future construction of a bike or walking path.

Response Actions

In 2009, EPA concluded consent decree (CD) negotiations with a subgroup of the UAO recipients, identified as the performing settling defendants (PSDs), related to the performance of the design and implementation of the remedy called for in the ROD. On February 12, 2009, the CD was entered in United States District Court. On March 15, 2009, Benchmark was approved as the supervising contractor to conduct the remedial design (RD) and implement the remedy at the Site. The ROD included provisions for the evaluation of the construction of a diversion wall around the elevated fill area in the event the wall would affect the planned remedial

actions. In accordance with the ROD, EPA and NYSDEC concurred with the findings of an analysis performed by the PSDs, prior to the entry of the CD, that the installation of an upgradient groundwater diversion wall around the elevated fill subarea would not materially alter the effectiveness of the planned remedial measures; therefore, the diversion wall component of the ROD was not implemented.

In accordance with the requirements of the CD, the PSDs prepared a RD work plan. The RD work plan outlined the following remedial construction measures: Mobilization; site preparation, including hotspot excavation; groundwater/seep collection; and cover system construction (barrier layer material placement and compaction, topsoil and seeding, and passive gas venting). In 2009, the RD report and design plans and specifications were implemented under a design build contract for Site remediation. The RD report identified materials to be employed for major remedial components, construction requirements, quality control requirements, and measures to protect workers, the surrounding community, and the environment during the remedial work.

In the Summer of 2009, the PSDs conducted certain preparatory activities at the Site to facilitate the remedial construction. These activities included the removal of small trees, shrubs, brush, and stumps. Clearing and grubbing in and around the area of the elevated fill area was performed with a hydro ax. The staged trees, stumps, and brush were ground into mulch and were hauled off-site for processing at a permitted facility.

The excavation of the three ''hotspot'' areas of contaminated soil/fill was completed in August 2009. Soil excavated from these impacted areas was hauled to the elevated fill subarea of the ILA for placement and compaction prior to placing the soil cover system. The excavated areas were then backfilled with clean soil. Confirmatory sampling of the excavation sidewalls and bottom indicated arsenic and VOC concentrations that remained were below the Site cleanup goals.

Construction of the seep/groundwater collection system was substantially completed in November 2009. The collection system includes the Creek bank regrading and bedrock channel excavation, the pump station installation, the pretreatment building construction, the force main piping, and the sanitary sewer tie-in. The seep/groundwater collection system was placed into full-time operation in May 2010, with operation and maintenance duties transferred to GARC.

The remedial measures for the elevated fill subarea involved re-grading the adjacent bank (excluding the riprap-stabilized area on NYSEG's property) and removal of concrete blocks and boulders to provide a more uniform slope for reduced erosion potential. A seep collection trench was then excavated into the surface of the weathered shale bedrock at the toe of the slope to intercept and collect the seeps. A perforated drainage pipe and granular media envelope collect and transmit water to a packaged leachate pump station. The slope of the regraded bank is lined with a geocomposite drainage layer, leading to the collection trench, covered by a geomembrane liner to prevent seep breakout and mitigate Creek and surface water infiltration during high water conditions. The liner extends vertically to the 100-year floodplain elevation and is protected from erosion by a surface layer of medium and large riprap over a non-woven geotextile fabric and gravel bed. Collected seep water and shallow groundwater are conveyed from the pump station by a force main to a pretreatment building where an oxidant delivery system is available to mitigate hydrogen sulfide odors, as needed. Pretreated seeps/groundwater is discharged to the Village of Gowanda's sanitary sewer collection system on Palmer Street for treatment at the Village POTW consistent with the approved discharge permit.

The final cap system, installed from August 2009 to July 2010, includes all the construction components in the approved RD report. Containment/isolation with soil cover enhancement involved the following: clearing and grubbing the approximate five-acre elevated fill subarea; moderate regrading and/or filling of low spots across the five-acre area to facilitate runoff; supplementing existing cover to provide for a minimum 18-inch thickness of a recompacted soil barrier layer and placement of six inches of topsoil over the five-acre area; and reseeding of the elevated fill subarea cover to provide for a good stand of grass that will foster natural habitat. Cover soils were tested to assure conformance with contaminant levels established under state law.

Following construction of the cap, five passive gas vents were installed through the sludge fill in the elevated fill subarea to relieve gas buildup beneath the cover system. The vents were constructed with individual risers that extend to a sufficient height above ground surface to promote atmospheric dispersion of odor-causing constituents and prevent direct inhalation of vented gases by trespassers or future recreational Site users.

EPA and NYSDEC conducted a final inspection of the constructed remedy on September 9, 2010. Based on the results of the inspection, it was determined that the Site construction was complete and that the remedy was implemented consistent with the ROD. In the final inspection EPA concluded that the PSDs constructed the remedy in accordance with the RD plans and specifications, and no further response (other than the operation and maintenance of the cap and cover, and long-term groundwater monitoring) is anticipated. EPA approved the remedial action report (RAR) for the Site on June 17, 2011. The RAR documented all the remedial activities conducted at the Site and included as-built drawings to document Site conditions at completion. The PSDs and GARC, the latter being the current property owner, are sharing responsibilities for management of the Site in accordance with the SMP. The ROD called for the development of a SMP to provide for the proper management of all post-construction remedy components including an environmental easement that describes the institutional controls incorporated into the remedy and the requirement for certification that the institutional controls remain effective and in place.

As mention above, the environmental easement and/or restrictive covenant was designed to restrict the use of on-Site groundwater as a source of potable or process water and to restrict activities on the Site that could compromise the integrity of the cap. The restrictions are memorialized in an environmental easement filed with the Cattaraugus County Clerk on March 30, 2009.

Currently all areas of the Site designated for passive recreational use have been covered with a minimum of one foot of clean, vegetated cover soil or pavement, and those designated for active recreational use have been covered with a minimum of two feet of clean, vegetated cover soil or pavement. Inspections were performed by GARCs designated engineer to verify that the minimum required soil thicknesses were achieved. As part of the redevelopment efforts, the following Park amenities and improvements were constructed during 2016 and 2017:

- Regulation (90 foot diamond) ballfield:
- Playground and equipment
- Paved parking area and extension of asphalt path
- Ballfield backstop

- 24′ x 24′ gazebo

Verification of Cleanup Levels

Data are collected and reviewed to ensure that the RAOs are met following implementation of the remedial action. For this Site, RAOs were only established for soil. The RAOs for soil are (1) to reduce or eliminate any direct contact threat associated with the contaminant soils/fill, (2) to minimize or eliminate contaminant migration from contaminated soils to the groundwater and surface water, and (3) to minimize or eliminate contaminant migration from groundwater to the Creek. These RAOs and the associated cleanup levels set forth in the ROD were met upon completion of the remedial construction, as documented in the RAR for the Site dated September 2010. Because of the limited remaining risks from exposure to the groundwater and surface water at this Site, institutional controls are deemed necessary to address any potential future exposure. Specifically, deed restrictions have been imposed to prevent the use of groundwater as a source of potable or process water unless groundwater quality standards are met. Long-term monitoring will be conducted to ensure that the selected Site remedy is protective of human health and the environment. Groundwater and surface water will be monitored as part of the post-construction response activities to ensure that the contamination is attenuating, and groundwater quality continues to improve.

Groundwater monitoring was performed during 10 separate events in June 2011, January 2012, June 2012, January 2013, June 2013, June 2014, October 2015, October 2016, November 2017 and October 2018. Groundwater samples were collected from five monitoring wells (MWs) at the Site. Samples were analyzed for inorganic parameters (total metals), VOCs (chlorinated aliphatics only), and water quality parameters (ammonia, hardness, chloride, total sulfide). Total metals analyses included hexavalent chromium, total chromium, arsenic, and manganese. Groundwater results were compared to the more stringent of the State or federal promulgated standards.

VOC concentrations were either not detected (nondetect) or below the state Groundwater Quality Standards and Guidance Values (GWQS/GV) at all monitoring well locations, with the exception of tetrachloroethene (PCE) and *cis*-1,2-dichloroethene (*cis*-1,2-DCE). PCE was detected above the GWQS of 5 ug/L, with concentrations ranging from 5.9 micrograms per liter (ug/L) to 13 ug/L. *Cis*-1,2-DCE was detected above the GWQS of 5 ug/L with concentrations ranging from 5.4 ug/L to 8.5 ug/L. These sporadic, slight VOC exceedances of GWQS criteria are not considered significant, and do not constitute a contaminant plume requiring response action.

Concentrations reported for hexavalent chromium were nondetect or below GWQS at all monitoring locations. Total chromium was reported as nondetect or below the GWQS of 0.05 milligram/liter (mg/L) at all monitored locations, with the exception of two minor exceedances of 0.056 mg/L and 0.054 mg/L. These sporadic, slight exceedances of total chromium GWQS criteria are not considered significant.

Arsenic was reported above the federal Maximum Contaminant Levels (MCLs) of 0.010 mg/L, with concentrations ranging from 0.011 mg/L to 0.043 mg/L. Arsenic was also detected in the upgradient well, so the exceedances in on-site wells are not considered to be Site-related. Manganese was detected above the GWQS of 0.03 mg/L with concentrations ranging from 0.37 mg/L to 6.6 mg/L. The manganese screening criteria is a secondary MCL. Secondary MCLs do not require regulatory actions since they represent aesthetic parameters. They will continue to be monitored.

The water quality parameters reported for all sampling events were nondetect or below the GWQS for sulfide and chloride at all sampling locations. Ammonia was detected above the GWQS of 2 mg/L during all monitoring events at concentrations ranging from 3.5 mg/L to 10.8 mg/L. However, ammonia was also detected in the upgradient monitoring well, so the exceedances are not considered to be Site-related. The groundwater data review indicates that the low levels of contamination in Site groundwater are attenuating and groundwater quality has improved compared to baseline levels measured prior to commencement of remedial activities. In general, the data indicate minor/seasonal changes in concentration for the monitored parameters at each of the sample locations with no upward trending. These data support the assumption set forth in the ROD that the groundwater contamination is localized and the decrease in frequency indicates that limited residual groundwater contamination has attenuated. The environmental easement placed on the Site property restricts the use of groundwater as a source of potable or process water unless groundwater quality standards are met. Groundwater quality will continue to be monitored in accordance with the SMP.

Surface water samples were collected from three locations along the Creek at the same time as the groundwater samples were obtained from June 2011 through October 2018. Samples were also analyzed for inorganic parameters (total metals), VOCs (chlorinated aliphatics only) and water quality parameters (ammonia, hardness, chloride, total sulfide). Total metals analyses include hexavalent chromium, total chromium, arsenic, and manganese.

VOCs, sulfide, and chloride were not detected during any surface water sampling event. Ammonia was detected above the Surface Water Quality Standards (SWQS) of 0.035 mg/L and iron and manganese were detected above the SWQS of 0.30 mg/L. Although ammonia, iron and manganese concentrations were reported above standards, this appears attributable to naturally occurring conditions as evidenced by their presence of concentrations above the standards in the upstream surface water sample. In addition, iron does not have a primary standard, and is not considered a contaminant of concern for the Site.

The surface water data review indicates few exceedances of the standards with no observed impact from the Site to the Creek. This indicates that there is no contaminated groundwater plume emanating from the landfill area. Surface water quality will continue to be monitored in accordance with the SMP.

Operation and Maintenance

A long-term monitoring program in being implemented that was designed to ensure that the implemented remedy remains effective. The majority of the long-term monitoring program, which is being conducted by Benchmark under contract to the PSDs, includes the following: Annual inspection of the landfill cover system; monitoring of the gas venting system; inspection of groundwater level monitoring; collection of groundwater samples from selected wells; collection of surface water samples from the Creek at three locations and groundwater samples from five wells; and providing annual reports on these activities to NYSDEC and EPA. The Groundwater/Seep Collection and Pretreatment systems are monitored semi-annually by the Village of Gowanda, on behalf of GARC.

Five-Year Review

Because hazardous substances, pollutants, or contaminants remain at the Site above levels that would otherwise allow for unlimited use and unrestricted exposure, a statutory five-

year review is required. The first five-year review was completed in April 2015. In the review EPA concluded that the remedy is functioning as intended and is protective of human health and the environment. The five-year review did not include any issues or recommendations. The next five-year review will be completed before April 2020.

Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA 113(k) and Section 117. As part of the remedy selection process, the public was invited to comment on EPA's proposed remedies. All other documents and information that EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

Determination That the Site Meets the Criteria for Deletion in the NCP

EPA, with the concurrence of the State of New York through NYSDEC, has determined that all required and appropriate response actions have been implemented by the responsible parties. The criteria for deletion from the NPL (40 CFR 300.425(e)(1)(I)) are met. The implemented remedy achieves the protection specified in the ROD(s) for all pathways of exposure. All selected remedial and removal action objectives and associated cleanup levels are consistent with agency policy and guidance. No further Superfund response is needed to protect human health and the environment.

V. Deletion Action

The EPA, with concurrence of the State of New York through the NYSDEC, has determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring and five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is proposing to delete the Site without prior publication. This action will be effective September 30, 2019, unless EPA receives adverse comments by August 29, 2019. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process, as appropriate, on the basis of the notice of intent to delete and the comments already received. If there is no withdrawal of this direct final notice of deletion, there will be no additional opportunity to comment.

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.

Dated: July 16, 2019.

Peter D. Lopez,

Regional Administrator, Region 2.

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.

Subpart L—National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government

Appendix B to Part 300 [Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry: ''NY, Peter Cooper, Gowanda''.

[FR Doc. 2019–16065 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2011–0941; FRL–9995–09]

RIN 2070–AB27

Modification of Significant New Uses for Oxazolidine, 3,3′-Methylenebis[5-methyl-,

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for oxazolidine, 3,3′-methylenebis[5-methyl-, which was the subject of premanufacture notice (PMN) P–03–325 and significant new use notice (SNUN) S–17–4. The chemical substance is also subject to an Order issued by EPA pursuant to TSCA section 5(e). This action amends the SNUR to the uses allowable without further SNUN reporting requirement to include use as an anti-corrosive agent in oilfield operations and hydraulic fluids and makes the lack of certain worker protections a significant new use. The SNUR requires persons who intend to manufacture (defined by statute to include import) or process this chemical substance for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the use, under the conditions of use for the chemical substance, within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: This final rule is effective September 30, 2019.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2011–0941, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:*

Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substance identified as oxazolidine, 3,3′-methylenebis[5-methyl- (PMN P-03-325 and SNUN S-17-4. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include, but are not limited to: Manufacturers (including importers) or processors of the subject chemical substance (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127, and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the Agency taking?

EPA is finalizing amendments to the SNUR for the chemical substance in 40 CFR 721.10461. Previously, in the **Federal Register** of February 8, 2018 (83 FR 5599) (FRL–9973–02), EPA proposed an amendment to the SNUR for the chemical substance in 40 CFR 721.10461. EPA received public comments for that proposed amendment, including that additional information should be added to the public docket and stakeholders should be allowed additional time to comment on the proposed amendment. EPA added additional information to the public docket that it considered in developing the proposed amendment. In the **Federal Register** of July 23, 2018 (83 FR 34819) (FRL–9979–23), EPA published notification that additional data was available in the docket and provided an additional 30-day comment period for the proposed amendment. EPA received one additional comment to the proposed amendment. EPA will address public comments to the proposed SNUR amendment in this Unit. Because EPA did not receive any comments that led to changes to the proposed SNUR amendment, EPA is issuing the final SNUR amendment as proposed. The record for the SNUR was established in the docket under docket ID number EPA–HQ–OPPT–2011–0941. That docket includes information considered by the Agency in developing the proposed and final rules.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). EPA may respond to SNUNs by, among other things, issuing or modifying a TSCA section 5(e) Order and/or amending the SNUR promulgated under TSCA section 5(a)(2). Amendment of the SNUR will often be necessary to allow persons other than the SNUN submitter to engage in the newly authorized use(s), because even after a person submits a SNUN and the review period expires, other persons still must submit a SNUN before engaging in the significant new use. Procedures and criteria for modifying or revoking SNUR requirements appear at § 721.185.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the final rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use, under the conditions of use for the chemical, is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use, under the conditions of use for the chemical, is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

Response to Comments

Comment 1: The commenter stated that EPA has failed to consider all reasonably available information and to consider relevant aspects of the problem when proposing the SNUR amendment. The commenter specifically noted that EPA failed to consider the data submitted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and EPA Office of Pesticide Programs (OPP) reviews of the same chemical substance, including FIFRA restrictions for its pesticide use and its microbiocidal properties.

Response: EPA did consider all reasonably available information when reviewing the SNUN and proposing the SNUR amendment, including the available data from the OPP review of the chemical substance. As noted in the SNUN risk assessment, OPP assessed inhalation risk using an inhalation NOAEC of 0.12 mg/m^3 (0.015 mg/kg-bw) from a study that reported nasal and respiratory effects in workers occupationally exposed to formaldehyde via inhalation. EPA used the same effect level to assess the SNUN. When assessing worker exposure levels from use of the SNUN substance, EPA made the same assumptions as the OPP review, concerning inhalation exposure from the closed system that is used to produce, load, sample or dispense the SNUN substance from containers. For the SNUN review, EPA quantified the worker exposure to the SNUN substance during use and concluded no unreasonable risk from inhalation exposures to the SNUN substance including the same level of potential exposure to formaldehyde. The SNUN submitter did not notify EPA that they intended to exceed the water release limits in the SNUR of 40 ppb in saltwater and 100 ppb in freshwater. As described in the assessments for the original PMN P–03–325 and SNUN S–17–4, EPA concludes that there are no unreasonable risks if surface water concentrations do not exceed these levels. The SNUR continues to require notification before exceeding these

limits. Regarding FIFRA restrictions for pesticide use of the SNUN substance, EPA used all the available data to assess hazards and risks. When determining the requirements for the Order and SNUR under TSCA, EPA based those decisions on exposures and risks for TSCA uses. FIFRA restrictions are based on exposures and risks for FIFRA uses, which includes use as a microbiocide.

Comment 2: A commenter stated that EPA should enhance the SNUR's incorporation of the industrial hygiene hierarchy of controls, under which engineering, work practice, and administrative controls are to be the primary means used to reduce employee exposure to occupational hazards. Because the SNUR would require that the hierarchy of controls ''be considered and implemented to prevent exposure, *where feasible*'', EPA should clarify that its references to ''feasible'' have the same meaning as does that term under the Occupational Safety and Health Act. The commenter also asserted that use of the term ''where feasible'' allows a manufacturer or processor to decide on their own that use of the chemical without engineering or administrative controls would not constitute a significant new use requiring filing of a SNUN, in which case EPA would not have the opportunity to review such use and that associated claim of infeasibility. The commenter observed that the Supreme Court has defined this ability in the context of worker protection and urges EPA to confirm in its final rule that the requirement to consider and implement the hierarchy of controls where ''feasible'' applies wherever it is ''capable of being done,'' regardless of cost.

Response: EPA's approach to the hierarchy of controls is the same for this SNUR as all other Orders and SNURs since June 2013 (see 78 FR 38210, June 26, 2013). EPA developed an approach that incorporates OSHA requirements that the hierarchy of controls should be considered before using personal protective equipment for workers. EPA retained worker personal protection equipment requirements to prevent unreasonable risks for those situations where engineering and other controls have yet to be validated or proven effective in reducing exposures sufficiently or would not prevent exposures. In this regard, EPA's approach is that the TSCA requirement is the same as the OSHA requirement. Feasibility is a commonly used term that is not the same as discretion. It is a concept, like other concepts in the rule, that requires an objective analysis. That the Supreme Court has defined a specific term provides no legal or policy rationale for EPA including its own definition.

Comment 3: A commenter stated that personal protective clothing, testing and use requirements in the SNUR are not as protective as those in the Consent Order. The commenter specifically noted that the Order requires permeation testing to be conducted according to the American Society for Testing and Materials (ASTM) F739 ''Standard Test Method for Permeation of Liquids and Gases through Protective Clothing Materials under Conditions of Continuous Contact'' and that this language should be included in the SNUR.

Response: The comment references language in the Order requiring this ASTM method. The commenter also notes that, as an alternative, the Order and SNUR allow evaluation of manufacturers' specifications to demonstrate imperviousness. The Order unfortunately contains incorrect language that the ASTM method is the only test method a company can conduct to demonstrate imperviousness of dermal protective equipment. In most Orders issued by the Agency, there is no requirement for a specific method and this ASTM method is cited as one example of a test acceptable to EPA. EPA will consult with the SNUN submitter and determine if the Order should be amended.

Comment 4: A commenter stated that respirators need to be required for processing and other downstream uses as well as in manufacturing settings.

Response: The Order and the SNUR require respiratory protection during manufacture but require fully enclosed equipment to be used during unloading, processing, and use. Because of this enclosed equipment requirement, there is only limited inhalation exposure during unloading, processing and use that does not present an unreasonable risk (see the response to Comment 1). Therefore, respiratory protection is not required during unloading, processing, and use.

Comment 5: The commenter noted numerous areas where it appears that EPA did not properly document the basis for its worker exposure estimates including the number of sites, number of workers, and dermal and inhalation exposure to workers. Because of this the commenter stated the public has no ability to know whether these numbers reflect real-world worker exposures and cannot judge whether the proposed amendments to the SNUR are sufficient. The commenter added that EPA appears to have been working with entirely insufficient information from the SNUN submitter bearing on worker exposure to the SNUN substance and it appears the Agency has relied on models, uncited or insufficiently cited sources, or in some cases what seem to be complete guesses. The commenter assumed that the Organization for Economic Co-operation and Development (OECD) Emission Scenario Document on Chemicals Used in Oil Well Production was used to make numerous exposure estimates. The commenter noted that the OECD document referenced the 2002 U.S. Census for arriving at an estimate of 8 workers per site. The commenter stated this means that this estimate value is 16 years old and given the explosion in domestic oil production and hydraulic fracturing activities since 2002, there is no reason to believe that value reflects current occupational exposures in this sector. EPA needs to account for this factor and adjust its estimates accordingly.

Response: The SNUN contained available information from the SNUN submitter regarding how the chemical is used. EPA properly documented the basis for its worker exposure estimates in the EPA Engineering Report for the use of the SNUN substance. The engineering report gives the basis for each exposure estimate made in the report, including when no information is available from the submitter. In many cases, including this one, this means EPA estimates reasonable worst-case exposures based on models and professional judgment. When using these tools EPA can only state that in most cases they are reasonable worst-case estimates. The commenter is correct that one of the generic scenarios used for the SNUN was the OECD Emission Scenario Document on Chemicals Used in Oil Well Production. The OECD document contains the 2002 data cited by the commenter. The OECD document was finalized in 2012 using the best available information. EPA also used the PMN submission P–03–325 as the best source of identifying the number of use sites for the SNUN. EPA's general approach to estimating exposure with limited data is available at *https://www.epa.gov/tsca-screening-tools/using-predictive-methods-assess-exposure-and-fate-under-tsca#fate.* EPA uses all available information to make reasonable worst-case estimates. When newer information is available, EPA would adjust its estimates accordingly. Growth in an industry is not the only factor to affect worst-case estimates of number of sites, number of workers per site, and dermal and inhalation exposure to workers.

Comment 6: A commenter stated that EPA must codify its exposure assumptions as notification triggers in

the amended SNUR. The commenter noted that given that EPA has chosen to rely on a number of exposure assumptions in its review of the SNUN that serve as the basis for its proposed amendments to the SNUR and presuming these assumptions can be adequately justified and documented, the Agency must incorporate these assumptions as notification triggers in the amended SNUR itself in order to make those assumptions enforceable.

Response: Codifying EPA's exposure assumptions as notification requirements for SNURs would not add meaningful protective measures beyond those significant new uses now included in the SNUR, which were proposed after a consideration of all relevant factors, including those listed in Unit IV. The significant new uses identified in the SNUR (based on requirements in the Order) already consider potential exposures and address those activities that could lead to changes in exposures and therefore potential risks.

Comment 7: One commenter noted that EPA should exercise its authority to require submission of records required to be kept under the amended SNUR. Given the critical role that the exposure assumptions EPA has made in determining the level of risk that will be allowed under the SNUR without triggering notification, it is essential that EPA determine what the actual conditions are. It should use its existing authorities to require submission of records from companies using the SNUN substance for the uses to be allowed under the amended SNUR, and from the company under the Order.

Response: EPA already requires records to be retained by the company demonstrating compliance with the SNUR, identifying how much of the chemical substance it manufactures or processes, and how much and where it distributes the chemical substance. These records are available for EPA to review when a company is inspected. Requiring companies manufacturing and processing the substance to submit records to EPA would be an additional administrative burden for both EPA and the companies, without any increase in enforcement capability or compliance with the rule. Therefore, EPA is not requiring submission of records required to be retained under the rule.

Comment 8: A commenter stated that EPA needs to explain and justify why a NIOSH-certified respirator with an assigned protection factor (APF) of at least a 1,000 is sufficient to ensure protection against exposure via inhalation.

Response: Based on data supplied by the S–17–4 SNUN submitter and reviewed by EPA regarding formaldehyde exposure to workers when manufacturing the S–17–4 SNUN substance outside the United States, a respirator with an APF of 1000 would limit exposure with an adequate margin of safety based on the NOAEC of 0.12 mg/m^3 level.

Comment 9: A commenter stated that key health and safety studies are missing from the docket, preventing the public from understanding and independently assessing the consequences of the Agency's proposed amendments to the SNUR. The missing information includes: (1) An acute inhalation study conducted according to OECD guideline 436, and 2) monitoring studies of formaldehyde release in specific industrial settings.

Response: EPA added these additional health and safety information studies to the docket. EPA also added additional information to the docket as described in the response to Comment 13.

Comment 10: One commenter asserted that EPA has impermissibly redacted portions of the health and safety studies provided in violation of TSCA section 14. Without this information, it is difficult to adequately or sufficiently characterize potential risks to workers. The commenter also stated that for all of the documents in the docket, EPA should immediately review the redactions and disclose the information that does not qualify for confidentiality under TSCA section 14. Health and safety information never qualifies for confidentiality unless it meets one of the two narrow exceptions of TSCA section 14(b)(2). With respect to all other information, information only qualifies for nondisclosure if it meets all of the substantive and procedural requirements of TSCA section 14.

Response: The SNUN submitter redacted any confidential business information for submissions contained in the SNUN. All health and safety studies and information relevant to EPA's risk assessment have been disclosed. For example, all toxicity study results which includes the level of toxicity used to assess the SNUN substance is available in the docket. For the monitoring studies of formaldehyde during manufacture, the average ambient concentration of formaldehyde in air of 0.068 mg/m^3 and the maximum concentration of 0.094 mg/m^3 is available in the docket. The information in the public docket identifies the inhalation NOAEC of 0.12 mg/m^3 (0.015 mg/kg-bw) used for risk assessment and the potential inhalation exposures during manufacture (0.068 mg/m^3 of formaldehyde) and use (0.052 mg/m^3 of the PMN substance). It is this information that is the basis for EPA's conclusion. Thus, the information in the public docket allows stakeholders to understand and comment on the basis for EPA's risk assessment.

Comment 11: A commenter stated that the precautionary statements EPA has required under the Consent Order, and that would be incorporated in the amended SNUR, are inadequate and should be rectified by the Agency. Specifically, EPA should add ''severe skin and eye irritant'' and ''cancer'' as EPA has identified these as known health hazards of the SNUN substance.

Response: EPA expects there is compliance with federal and state laws, such as worker protection standards, unless case-specific facts indicate otherwise, and therefore existing OSHA regulations for worker protection and hazard communication will result in use of appropriate PPE consistent with the applicable SDSs in a manner adequate to protect workers. In this case, warnings for severe skin and eye burns are already contained in the submitter's SDS for the SNUN substance. Additionally, given the severely irritating and corrosive nature of the chemical, EPA expects limited exposures. Because of the limited exposure, EPA determined that the hazard warnings for ''severe skin and eye irritant'' and ''cancer'' were not necessary to include in the Consent Order. For the same reasons, EPA is not incorporating the warnings in this final SNUR.

Comment 12: A commenter stated that EPA has not taken into account other sources of formaldehyde exposures to workers using the SNUN substance. EPA's exclusion from consideration of these other sources of formaldehyde means that the Agency has likely significantly underestimated the risks associated with SNUN substance. EPA needs to explain whether and if so, how, it took these additional potential exposures into account in establishing conditions to limit exposure included in the proposed amended SNUR.

Response: As described in the response to Comment 1, EPA estimated inhalation exposures to the SNUN substance during use, which would result in potential exposure to formaldehyde during use. The Order and SNUR contain provisions to prevent risks from these potential exposures. Based on the use limitation in the SNUR as a metal working fluid and the submission of a SNUN for use as an anti-corrosive agent in oilfield operations and hydraulic fluids, EPA

did not identify and does not expect any other sources of exposures to the SNUN substance during its use. The other sources of formaldehyde cited by the commenter do not identify the specific sources of the formaldehyde and also identify several other hazardous chemicals contained in the air at oil and gas production sites. Assessment and findings of risks from a new chemical substance under TSCA do not include sources of chemical exposure unrelated to the new chemical substance.

Comment 13: A commenter stated that EPA has failed to complete the docket with critical health and safety information. EPA has provided an inadequate amount of time for the public to comment based on a full record.

Response: In response to comments received on the initial proposed SNUR modification in the **Federal Register** of February 8, 2018 (83 FR 5598) (FRL–9973–02), EPA posted additional risk assessment documents and health and safety studies to the docket that were used in the risk assessment of the SNUN substance. EPA included the FIFRA documents that were used in the risk assessment of the SNUN substance but did not repost the entire FIFRA docket as it is publicly available (see Docket ID EPA–HQ–OPP–2009–0997). In the **Federal Register** of July 23, 2018 (83 FR 34819) (FRL–9979–23), EPA published notification that additional data was available in the docket and that there would be an additional 30-day comment period for the proposed amendment.

Comment 14: One commenter supplied a public SDS for a product containing the chemical substance as evidence that the chemical substance was used for a significant new use before submission of a SNUN. The commenter noted that EPA should have been able to find and use this information in its review.

Response: Because this is evidence that someone may have engaged in a significant new use before submission of a SNUN, EPA has referred this information to its Office of Enforcement and Compliance Assurance for investigation. The information contained in that document, however, does not contribute pertinent information that would affect EPA's assessment or findings for the Order and SNUR. The SDS only contains information on basic chemical properties, hazard warnings, and handling procedures. This information was already available to EPA from the PMN and SNUN submissions. The SDS does not contain the detailed toxicity and exposure data submitted with the PMN and SNUN submissions that EPA used in the SNUN risk assessment.

III. Rationale and Objectives for the Final Rule

A. Rationale

During review of the SNUN submitted for this chemical substance, EPA concluded that regulation was warranted under TSCA section 5(e)(1)(A)(ii)(I), pending the development of information sufficient to make reasoned evaluations of the human health effects of the chemical substance. Based on these findings, a TSCA section 5(e) Order requiring the use of appropriate exposure controls was negotiated with the SNUN submitters. EPA is amending the SNUR provisions for this chemical substance to be consistent with the provisions of the TSCA section 5(e) Orders. See the docket under docket ID number EPA–HQ–OPPT–2011–0491 for the corresponding Orders. For additional discussion of the rationale for the SNUR on this chemical, see Units II. and V. of the proposed rule.

B. Objectives

EPA is issuing this final SNUR for a chemical substance that has undergone premanufacture and significant new use notice review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this final rule:

- EPA will receive notice of any person's intent to manufacture, import, or process the chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing the chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, or processors of the chemical substance before the described significant new use of the chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) Order are subject to similar requirements.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

To determine what would constitute a significant new use for the chemical substance that is the subject of this SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four TSCA section 5(a)(2) factors listed in this unit.

V. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. EPA solicited comments in the proposed rule on whether any of the uses proposed as significant new uses were ongoing. EPA designated February 8, 2018 as the cutoff date for determining whether the new use is ongoing. EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of public release of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after public release were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule. EPA received no comments that any of the uses were ongoing. Thus, any persons who begin commercial manufacture or processing activities with the chemical substance that are not currently a significant new use under the current rule but which would be regulated as a ''significant new use'' if the proposed rule is finalized, must cease any such activity as of the effective date of the rule if and when finalized. Before resuming their activities, these persons would have to first comply with all applicable SNUR notice requirements and receive an affirmative determination on the notice from EPA.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing.

In the TSCA section 5(e) Order for the chemical substance regulated under this rule, EPA has established restrictions in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substance. These restrictions will not be removed until EPA determines that the unrestricted use is not likely to present an unreasonable risk of injury.

Unit IV. of the proposed rule lists information identified in the section 5(e) Order underlying the proposed SNUR modification. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substance.

VII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/how-submit-e-pmn.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances during the development of the proposed rule. EPA's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2011–0941.

X. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.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

This final rule modifies a SNUR for a chemical substance that was subject of a PMN, SNUNs, and a TSCA section 5(e) Order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

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

This action is not subject to Executive Order 13771 (82 FR 9339, February 3, 2017), because this action is not a significant regulatory action under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with new chemical SNURs have already been approved under OMB control number 2070–0012 (EPA ICR No. 0574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument, or form, as applicable.

D. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b), 5 U.S.C. 601 *et seq.,* the Agency hereby certifies that promulgation of this SNUR does not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, and 14 in FY2017, and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

E. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, the requirements of UMRA sections 202, 203, 204, and 205, 2 U.S.C. 1531–1538, do not apply to this action.

F. Executive Order 13132: Federalism

This action will not have a substantial direct effect on 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

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

This final rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this final rule.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action does not address environmental health or safety risks, and EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards and is therefore not subject to considerations under section 12(d) of NTTAA, 15 U.S.C. 272 note.

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

This action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801–808, and 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 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 8, 2019.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.10461 by revising paragraphs (a) and (b)(1) to read as follows:

§ 721.10461 Oxazolidine, 3,3′-methylenebis[5-methyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oxazolidine, 3,3′-methylenebis[5-methyl- (PMN P–03–325 and SNUN S–17–4; CAS No. 66204–44–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (a)(4) (use of the respirator only applies to inhalation exposures to the substance when manufactured in the United States), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(5) (respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000), (a)(6)(v) and (vi), (b) (concentration set at 0.1 percent), and (c). It is a significant new use for the substance to be unloaded, processed and used other than with fully enclosed equipment.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b) (concentration set at 0.1 percent), (c), (d), (f), (g)(1)(allergic or sensitization response), (g)(1)(ii), (iii), (v), (vi), and (ix), (g)(2)(i), (ii), (iii), (v), and (iv), (g)(3)(i) and (ii), (g)(4) (do not release to water such that concentrations exceed 40 or 100 ppb in saltwater or freshwater, respectively), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is use other than as a metalworking fluid and an anti-corrosive agent in oilfield operations and hydraulic fluids.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 40 (saltwater) and N = 100 (freshwater)).

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

* * * * *

[FR Doc. 2019–15895 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 384

[Docket No. FMCSA–2018–0361]

RIN 2126–AC20

Lifetime Disqualification for Human Trafficking; Correction

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; correction.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) is correcting a final rule that appeared in the **Federal Register** on July 23, 2019. The document included an incorrect compliance date for States to come into substantial compliance with the provisions in the final rule and an incorrect paragraph designation for this provision.

DATES: This final rule correction is effective September 23, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. 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, (202) 366–0908. If you have questions on viewing or submitting material to the docket, contact Docket Services, (202) 366–9826.

SUPPLEMENTARY INFORMATION: In FR Doc. 2019–15611 appearing on page 35335 in the **Federal Register** of Tuesday, July 23, 2019, the following corrections are made:

■ 1. On page 35339, in the first column, amendatory instruction 6 and its corresponding regulatory text are corrected to read as follows:

■ 6. In § 384.301, add paragraph (m) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(m) 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, 2022.

Issued under authority delegated in 49 CFR 1.87.

Dated: July 24, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–16160 Filed 7–29–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2019–0005; FXMB12610700000–190–FF07M01000]

RIN 1018–BD07

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2019 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, are adopting as a final rule an interim rule that went into effect on April 2, 2019, and established migratory bird subsistence harvest regulations in Alaska for the 2019 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

DATES: The effective date for the interim rule that published April 3, 2019, at 84 FR 12946, is affirmed as April 2, 2019.

ADDRESSES: Documents pertaining to this rulemaking action are available on the internet at the Federal eRulemaking Portal: *http://www.regulations.gov* at Docket No. FWS–R7–MB–2019–0005.

FOR FURTHER INFORMATION CONTACT: Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786–3446.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2019, we, the U.S. Fish and Wildlife Service, published an interim rule in the **Federal Register** (84 FR 12946). The interim rule set forth regulations in title 50 of the Code of Federal Regulations (CFR) in part 92 pertaining to the take of migratory birds in Alaska for subsistence uses during the spring and summer of 2019. These regulations also set forth a list of migratory bird season openings and closures in Alaska by region. The interim rule was effective April 2, 2019, and we solicited public comments on it until May 3, 2019. In this document, we address the comments received.

This rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918 (MBTA), at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to issue regulations to ensure that ''the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.'' Per the MBTA, the normal season for the subsistence harvest of migratory birds in Alaska begins on April 2 each year.

Interim Rule

To meet the April 2 opening date for the 2019 season for Alaska subsistence harvest of migratory game birds, we published an interim rule. We were not able to publish a proposed rule due to unforeseen time constraints and publishing an interim rule allowed us to respect the subsistence harvest of many rural Alaskans for their cultural or religious exercise, sustenance, and/or collection of materials for cultural use (*e.g.,* handicrafts). We regret any confusion that publishing an interim rule may have caused.

The Alaska subsistence harvest regulations, which are set forth in 50 CFR part 92, subpart D, have generally been similar the past several years, and with no significant controversy from the public. The provisions for 50 CFR part 92, subpart D, in the April 3, 2019, interim rule are the same as those set forth in our March 30, 2018, final rule (83 FR 13684). These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game (ADF&G), and Alaska Native representatives.

Conservation Issues

We have monitored subsistence harvest for more than 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim

Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Moreover, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's effect on the preservation and maintenance of stocks of migratory birds.

Under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird harvest is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species are taken in several regions of Alaska.

In accordance with section 7 of the ESA, we conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on the interim rule. The consultation was completed with a biological opinion that concluded the interim rule and conservation measures are not likely to jeopardize the continued existence of Steller's and spectacled eiders or result in the destruction or adverse modification of designated critical habitat.

We have reviewed the comments submitted on the interim rule, and we confirm the finding that this rule complies with the ESA. For detailed information about efforts to ensure conservation of these species, see the April 3, 2019, interim rule (84 FR 12946). See also below in this document our response to a comment on ESA-listed eiders.

Public Comments

By the close of the comment period on the interim rule, we received three comments, only one of which raised issues within the scope of this rulemaking action.

Issue: The commenter stated that the Service could have been more explicit regarding its inability to follow the normal rulemaking process and solicit public comment prior to promulgating the interim rule. The commenter expressed the desire for the Service to revert to its usual process of publishing a proposed rule and allowing a 30-day comment period before publishing regulations.

Response: The partial government lapse in appropriations prevented the Service from publishing a proposed and final rule for the 2019 Alaska migratory bird subsistence harvest in time to meet the April 2, 2019, opening season date. To ensure that we could publish regulations in time to meet that opening date, while getting comments from the public, the Service engaged with stakeholders and reached agreement to publish an interim rule. We do not intend to use an interim rule again for this purpose, as doing so prevents modifications to the regulations implemented in consultation with the Alaskan communities. In future Alaska migratory bird subsistence harvest rulemaking actions, we expect to have a proposed rule prepared earlier in the process to ensure that we can have a final rule published in time to meet the April 2 opening date for the season.

Issue: The commenter expressed concern about the current system of gathering information about the effects of the subsistence harvest by sending household surveys to the area that uses the subsistence harvest the most. The commenter suggested that we should consider instituting a survey at the purchase of a hunting or fishing license or driver's license, similar to the process used for purchasing a Federal duck stamp, in an effort to get a more complete count of subsistence harvest effects.

Response: In collaboration with the ADF&G, the Service conducts an annual migratory bird subsistence harvest survey. The migratory bird subsistence harvest survey objectives, design, implementation, analyses, and reporting were revised after completion of a 4-year contract with Colorado State University.[1] On their website, ADF&G provides specific information on program overview, harvest and local knowledge, research, annual harvest estimates, outreach and communication, and annual survey methods: *http://www.adfg.alaska.gov/index.cfm?adfg=subsistence.AMBCC.*

Issue: The commenter stated that some spectacled eiders and Steller's eiders, which are protected under the ESA, are harvested during the subsistence harvest season and it is important for the Service to engage in wider hunter education on the threatened nature of these species and how to identify these birds prior to harvest, in order to decrease the impact upon these delicate populations. The commenter further stated that the Service must balance its obligations to allow for subsistence harvest and its obligations under the MBTA and the ESA and that increasing harvest inspections in the areas surrounding the breeding habitats of these birds would increase compliance.

Response: The Service appreciates the comments addressing protection of threatened spectacled and Steller's eiders concurrent with allowing the customary and traditional spring/summer subsistence harvest of migratory birds in Alaska. On March 22, 2019, the Service published the Biological Opinion for Migratory Subsistence Harvest: Hunting Regulations for the Spring/Summer Harvest. The Service believes the effectiveness of the migratory bird hunting regulations will be ensured by compliance checks by the Service's Office of Law Enforcement and by working to develop stewardship and voluntary efforts by hunters. In addition, the Service will continue biological monitoring to gather data critical to managers tasked with making informed management decisions. In addition to the regulations, conservation measures will be implemented to:

1. Verify compliance with migratory bird hunting regulations, including regulations prohibiting the use of lead shot for hunting waterfowl;

2. Enhance a culture of conservation through continued education of hunters; and

3. Continue to gather data on listed eiders that enable more informed management decisions. A copy of the Biological Opinion and the administrative record of this consultation is available at *http://www.regulations.gov* in Docket No. FWS–R7–MB–2019–0005 and from the U.S. Fish and Wildlife Service, Fairbanks Fish and Wildlife Field Office, 101 12th Avenue, Room 110, Fairbanks, Alaska 99701.

Finally, the Service published and mailed 2,000 copies of the 2019 Alaska Subsistence Spring/Summer Migratory Bird Harvest booklets to Federal, State, borough, Alaska Native, and other partner offices in all regions containing eligible areas and villages. On page 15 of the 2019 regulations booklet, the Service states, ''Protect our Steller's and Spectacled Eiders—Don't Shoot Them!'' and includes pictures of both Steller's and spectacled eiders sitting on water and flying and their names translated in Alaska Native languages. The Service

[1] T. Luke George, D. Otis and P. Doherty. 2015. Review and Revision of the Alaska Migratory Bird Council Subsistence Harvest Survey. Department of Fish, Wildlife, and Conservation Biology, Colorado State University Fort Collins, CO 80523: *http://www.adfg.alaska.gov/static/home/subsistence/pdfs/05_Survey_Review%20II_2014-2018.pdf.*

commits to continuing the outreach, education, and communication programs that were developed, and are continually modified, by the Service and its partners.

Required Determinations

We hereby affirm our responses to the following determinations required of the Federal rulemaking process as published in the April 3, 2019, interim rule (84 FR 12946):

- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, 13563, and 13771
- Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 601 *et seq.* and 804(2))
- Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*)
- Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)
- National Environmental Policy Act (42 U.S.C. 4321 *et seq.*)
- Government-to-Government Relations with Native American Tribal Governments (59 FR 22951, and 512 DM 2)

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Affirmation of Interim Rule

Accordingly, the Department of the Interior affirms as a final rule, without change, the interim rule amending 50 CFR part 92 that was published at 84 FR 12946 on April 3, 2019.

Authority: 16 U.S.C. 703–712.

Dated: July 19, 2019.

Karen Budd-Falen,

Deputy Solicitor for Parks and Wildlife, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–16053 Filed 7–29–19; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 84, No. 146
Tuesday, July 30, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0021; Product Identifier 2018–NM–038–AD]

RIN 2120–AA64

Airworthiness Directives; AmSafe Inc. Seatbelts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) that proposed to adopt a new airworthiness directive (AD) that would have applied to all AmSafe Inc. seatbelts, as installed in, but not limited to, various airplanes and rotorcraft. The NPRM was prompted by reports of multiple failed keepers on seatbelt hook assemblies. The NPRM would have required an inspection for affected parts, repetitive general visual inspections of the seatbelt hook assembly for damage, repetitive functional checks, and replacement of all affected parts. Since issuance of the NPRM, the FAA has determined that a significant portion of the affected seatbelt hook assemblies have been replaced. The FAA has also determined that the majority of the affected parts have exceeded their typical replacement cycle and are likely no longer in service. The FAA performed a new risk assessment based on this data and determined there is now an acceptable level of risk. Accordingly, the NPRM is withdrawn.

DATES: The FAA is withdrawing the proposed rule published February 22, 2019 (84 FR 5620), as of July 30, 2019.

ADDRESSES:

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–2019–0021; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone 800–647–5527) 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: Patrick Farina, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5344; fax: 562–627–5210; email: *Patrick.Farina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued an NPRM that proposed to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on February 22, 2019 (84 FR 5620). The NPRM was prompted by reports of multiple failed keepers on seatbelt hook assemblies.

The NPRM proposed to require an inspection for affected parts, repetitive general visual inspections of the seatbelt hook assembly for damage, repetitive functional checks, and replacement of all affected parts. The proposed actions were intended to address failed keepers on seatbelt hook assemblies, and remove the risk of future failures by a timed removal. Failure of keepers on seatbelt hook assemblies, if not addressed, could result in the seatbelt disengaging from and detaching from the seat structure under certain conditions, and could result in injury to passengers or flightcrew.

Actions Since the NPRM Was Issued

Since issuance of the NPRM, the FAA has determined that at least 31 percent of the affected seatbelt hook assemblies have been replaced. The FAA has also determined that the majority of the affected parts have exceeded their typical replacement cycle and are likely no longer in service. The FAA performed a new risk assessment based on this data and determined there is now an acceptable level of risk. The FAA has also determined that the remaining parts will eventually be replaced as specified in the applicable component maintenance manual (CMM), which will eliminate the risk. Therefore, the FAA has determined that AD action is not appropriate.

Withdrawal of the NPRM constitutes only such action and does not preclude the FAA from further rulemaking on this issue, nor does it commit the FAA to any course of action in the future.

Comments

The FAA gave the public the opportunity to comment on the NPRM. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

The Air Line Pilots Association, International (ALPA), Dominic Savino, and FedEx indicated their support for the NPRM.

Request To Withdraw the NPRM

AmSafe requested that the FAA withdraw the NPRM. The commenter suggested that the proposed AD is overly broad and unnecessary based on the number of affected parts in service. AmSafe stated that it has confirmed the return or replacement of 67,000 affected parts, or 31 percent of the total affected parts. AmSafe further noted that the majority of the affected seatbelts not already collected by AmSafe were placed in service five to eight years ago and are likely no longer in service, based on an industry average three year replacement cycle for seatbelts. AmSafe added that it is in the process of replacing almost 4,500 affected parts for Japan Airlines and it has confirmed that all affected parts on Alaska Airlines and KLM Royal Dutch Airlines aircraft have been replaced. AmSafe further added that American Airlines has reported having only one airplane with affected parts, and none of those parts were observed to be damaged. AmSafe observed that these operators represent the largest users of the affected parts in the industry. AmSafe stated that the failure of a keeper itself will not result in injury to passengers or flightcrew. AmSafe added that the potential for injury exists only under accident conditions where the hook is not properly restrained. AmSafe also suggested that the data used to support the proposed AD incorrectly assumes a higher rate of damaged parts than really

exist, because the damaged parts have been found only in cases where the keeper is located above the seat cushion. AmSafe requested that the FAA perform a new risk analysis based on the data it provided. AmSafe suggested that it could report additional replacements or findings of damaged units to the FAA as they become available. AmSafe concluded that the NPRM was no longer needed and should be withdrawn.

The FAA agrees with the commenter's request. Based on the data AmSafe provided, the FAA performed a new risk assessment. This new assessment has allowed the agency to determine that the unsafe condition has been reduced to represent an acceptable risk. The FAA also expects the remaining risk to be eliminated as the affected parts are replaced.

FAA's Conclusions

Upon further consideration, the FAA has determined that the NPRM is unnecessary. Accordingly, the NPRM is withdrawn.

Regulatory Findings

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule. This action therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

■ Accordingly, the notice of proposed rulemaking, Docket No. FAA–2019–0021, which was published in the **Federal Register** on February 22, 2019 (84 FR 5620), is withdrawn.

Issued in Des Moines, Washington, on July 23, 2019.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–16127 Filed 7–29–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 34

RIN 1291–AA39

Rescission of Regulations Implementing the Nondiscrimination and Equal Opportunity Provisions of the Job Training Partnership Act of 1982

AGENCY: Office of the Assistant Secretary for Administration and Management, Department of Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM) is withdrawing the proposed rule to rescind its regulations implementing Section 167 of the Job Training Partnership Act of 1982, as amended (JTPA). On September 26, 2018, OASAM simultaneously published in the **Federal Register** a notice of proposed rulemaking and a direct final rule to rescind its regulations implementing Section 167 of the JTPA. The comment period for the proposed rule and the direct final rule ended on October 26, 2018, and no adverse comments were received on either rule. The direct final rule is effective November 26, 2018.

DATES: The proposed rule published on September 26, 2018 (83 FR 48576), is withdrawn as of July 30, 2019.

ADDRESSES: Electronic copies of this **Federal Register** notice are available at *http://www.regulation.gov.*

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210, telephone (202) 693–6500 (VOICE) or (800) 877–8339 (Federal Relay Service—for TTY), or by email at *CRC-WIOA@dol.gov.*

SUPPLEMENTARY INFORMATION: On September 26, 2018, OASAM simultaneously published in the **Federal Register** a notice of proposed rulemaking (83 FR 48576) and a direct final rule (83 FR 48542) to rescind its regulations implementing Section 167 of the JTPA. Section 167 contained the nondiscrimination and equal-opportunity provisions of the JTPA. In 1998, Congress passed the Workforce Investment Act (WIA), which repealed the JTPA and required the Secretary of Labor to transition any authority under the JTPA to the system that WIA created. WIA, in turn, was subsequently altered by the Workforce Innovation and Opportunity Act (WIOA). The JTPA's nondiscrimination and equal opportunity requirements were superseded by similar provisions in WIA, and more recently, WIOA. The current WIOA regulations governing nondiscrimination and equal opportunity are at 29 CFR part 38. In sum, the rule removes regulations for an inoperative program, but has no impact on existing non-discrimination rules.

OASAM explained that if no significant adverse comments were received during the comment period, then the direct final rule would become effective and OASAM would withdraw the proposed rule. The comment period for the proposed rule and the direct final rule ended on October 26, 2018. No adverse comments were received on either rule. The direct final rule is effective November 26, 2018. As such, the proposed rule is unnecessary and OASAM withdraws it.

Signed at Washington, DC, on July 19, 2019.

Bryan Slater,

Assistant Secretary, Office of the Assistant Secretary for Administration and Management, Department of Labor.

[FR Doc. 2019–16071 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816, 817, 850

[Docket ID: OSM–2014–0003; S1D1S SS08011000 SX064A000 190S180110 S2D2S SS08011000 SX064A00 19XS501520]

Closure of Petition for Rulemaking; Use of Explosives on Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), withdraw our decision to initiate rulemaking related to the release of emissions generated by blasting on surface coal mining operations. After granting a petition to initiate rulemaking in 2015 without stating the content of the rule we planned to propose, OSMRE has since determined that it lacks statutory authority to establish an air quality standard as urged by petitioners, and that in the rare instances where injury might occur, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), provides adequate mechanisms for enforcement.

DATES: OSMRE's decision to initiate rulemaking, as reflected in a February 20, 2015, **Federal Register** notice (80 FR 9256), is withdrawn as of July 30, 2019.

FOR FURTHER INFORMATION CONTACT: Kathleen Vello, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Mail Stop 4550, Washington, DC 20240; Telephone (202) 208–1908. Email: *kvello@osmre.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. 2014 Petition To Initiate Rulemaking

On April 14, 2014, WildEarth Guardians, pursuant to section 201(g) of SMCRA, 30 U.S.C. 1211(g), petitioned OSMRE to promulgate regulations prohibiting the production of visible nitrogen oxide emissions during blasting at surface coal mining operations. The petitioners alleged that blasting done in conjunction with surface coal mining operations often produces visible nitrogen oxide emissions, which are observed as orange to red clouds. Petitioners also asserted that whenever visible clouds are formed, nitrogen dioxide concentrations exceed Federal health standards, including national ambient air quality standards, which are within the purview of the U.S. Environmental Protection Agency.

Section 201(g) of SMCRA provides that any person may petition the Director of OSMRE to initiate a proceeding for the issuance, amendment, or repeal of any regulation adopted under SMCRA. After initial review of the petition and in accordance with the requirements of SMCRA and OSMRE's implementing regulations at 30 CFR 700.12(c), OSMRE published a notice on July 25, 2014, seeking comments on whether the petition should be granted or denied (79 FR 43326).

B. OSMRE's Response to Petitioner's Request Following Public Comment

In response to OSMRE's July 25, 2014, notice, OSMRE received 119 comments. The majority of comments supported the petition and asserted that the current regulations do not adequately protect the public and the environment from emissions generated by blasting. Some commenters asserted that not all State regulatory authorities were appropriately regulating the use of explosives, specifically emissions generated from blasting, because nitrogen oxides emissions are not explicitly limited by every State regulatory authority. In contrast, some commenters urged OSMRE to deny the petition. These commenters expressed concern that OSMRE lacked legal authority to regulate air quality under SMCRA and that OSMRE's regulation of blasting emissions would be inappropriate because the U.S. Environmental Protection Agency is the Federal agency charged with implementing the Clean Air Act. These commenters stated that the petitioner's suggested rule language would create ''an unlawful, unnecessary, and unattainable emissions standard under OSMRE's Federal regulatory program.'' Other commenters concluded that additional rulemaking is unnecessary because OSMRE's existing regulations at 30 CFR 816.67 and 817.67 already contain adequate protection from the effects of blasting. Finally, some commenters claimed that the petitioner's suggested rule language would, in effect, prevent all coal mining operations.

After reviewing the comments received, OSMRE granted the petition on February 20, 2015. However, OSMRE expressly declined to propose the specific regulatory changes suggested by the petitioner. *See* (80 FR 9256). Instead, OSMRE stated that it was ''still considering the content of the proposed rule[,]'' but that it anticipated it would define ''blasting area,'' amend 30 CFR 816.67(a) and 30 CFR 817.67(a) to clearly require the proper management of toxic blasting emissions, and revise 30 CFR 850.13 to ensure certified blasters are trained to identify and mitigate the impacts of blast-related fumes.

II. OSMRE's Decision To Withdraw the Contemplated Rulemaking and Close the Petition for Rulemaking

Since the OSMRE Director granted the rulemaking petition in 2015, OSMRE has further evaluated the scope of its authority to regulate blasting under SMCRA. To the extent the petitioner proposed that OSMRE establish an air quality standard for blasting emissions, we lack that authority under SMCRA. Moreover, OSMRE has further evaluated the existing regulations and enforcement regime regarding the use of explosives. Based on the information gathered during this evaluation, OSMRE has determined that existing Federal and State regulations and enforcement regimes are adequate to protect public safety, and thus a new rulemaking is unnecessary even if authorized. In light of the substantial legal considerations associated with implementing a rule in this space, as well as in consideration of OSMRE's limited resources and other priorities, OSMRE has concluded that a new Federal regulation is not warranted. Therefore, for the reasons described more fully below, OSMRE is withdrawing its anticipated rulemaking and terminating its prior decision to grant a rulemaking petition on this matter, as was explained in the February 20, 2015 **Federal Register** notice. (80 FR 9256).

A. OSMRE Lacks Authority To Regulate Air Quality

OSMRE's review of the statute and relevant case law indicates that SMCRA is not an independent grant of authority to develop and promulgate air quality standards. At no point does SMCRA explicitly grant OSMRE substantive authority to regulate air quality. Rather, it refers to conditional authority to promulgate regulations under SMCRA that ''relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*)'' only after obtaining written concurrence of the Administrator of the Environmental Protection Agency. SMCRA, § 501(a)(B), 30 U.S.C. 1251(a)(B). Thus, in general, SMCRA recognizes that the authority to regulate air quality is derived from the Clean Air Act, not SMCRA itself. The courts have interpreted this provision as limiting OSMRE, when otherwise exercising its lawful authority under SMCRA, to filling regulatory gaps in the coverage of the Clean Air Act. *National Wildlife Federation* v. *Hodel,* 839 F.2d 694, 765 (D.C. Cir. 1988).

As Federal courts have recognized, SMCRA limits OSMRE's conditional authority to promulgate regulations impacting air quality to a few discrete cases expressed in the statute. Most prominently, section 515 of SMCRA provides general performance standards applicable to all surface coal mining operations, including a standard that requires operations to ''stabilize and

protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution.'' 30 U.S.C. 1265(b)(4).

OSMRE initially interpreted this section as a general grant of authority to regulate air quality, and cited to it in defense of regulations addressing ''air resources protection,'' primarily issues related to fugitive dust. *See* 30 CFR 816.95, 817.95 (1979). These regulations were successfully challenged in Federal Court. In *In Re: Permanent Surface Mining Regulation Litigation,* 1980 U.S. Dist. LEXIS 17660 *43, 19 ERC (BNA) 1477 (D.D.C. 1980), the court acknowledged that ''the passing reference to air and water pollution with respect to protection of surface areas is an ambiguous statement,'' but nevertheless held that section 515 of SMCRA was limited to air quality effects associated with erosion, and did not provide authority to regulate air quality more generally. Consequently, the court remanded the regulations to the Department. In reaching its conclusion, the court noted ''if Congress wanted the Secretary to develop regulations protecting air quality, it could have done so in a straightforward manner.'' The court also looked to the legislative history surrounding SMCRA and determined that ''the Senate Committee Report lists 22 environmental protection performance standards under the Act, but fails to mention air quality.'' *Id.* at *43 (quoting S. Rep. No. 95–128, 95th Cong., 1st Sess. 82 (1977)).

In the absence of any express authority to promulgate air quality standards, authority would have to be implied from some other provision or performance standard under SMCRA. However, we are not aware of any other case law or agency precedent interpreting any other provision or performance standard under SMCRA as providing the authority to regulate air quality. One of the general performance standards in section 515 of SMCRA provides that operations must insure that explosives are used only in accordance with existing State and Federal law, and the regulations promulgated by the regulatory authority, including provisions to ''limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site as to prevent (i) injury to person, (ii) damage to public private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area.'' 30 U.S.C. 1265(b)(15)(C) (hereinafter ''blasting standard''). The question becomes whether this performance standard, which authorizes OSMRE to regulate enumerated aspects of operations to prevent injury to persons or damage to off-permit property from blasting, inherently includes authority to promulgate air quality standards to regulate blasting emissions. The blasting standard's express terms define a narrow grant of regulatory authority. Although Congress intended OSMRE to exercise this authority for the broad purpose of preventing injury and off-permit property damage, this purpose does not represent a grant of regulatory authority beyond the cabined authority outlined in the operative portion of the blasting standard.

The narrow nature of the authority contained in the blasting standard is confirmed by SMCRA's text and basic structure. First, the text of SMCRA repeatedly distinguishes between injury or harm to public health and safety and adverse impacts on the environment, such as air quality, suggesting that for SMCRA purposes, they are distinct concepts. *See* 30 U.S.C. 1258(a)(9) (referring to ''the steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards.''); *id.* § 1264(d) (allowing the Secretary to grant temporary relief if ''such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.''); *id.* § 1271(a)(2) (referring to the violation of any permit condition that ''creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant imminent environmental harm to land, air, or water resources . . .''); *id.* § 1271(a)(3) (a reasonable time may be granted to correct a violation where such violation ''does not create an imminent danger to the health or safety of the public, or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources . . . .''); *id.* § 1275(c)(3) (referring to a grant of temporary relief where ''such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.''); *id.* § 1276(c)(3) (courts may grant temporary relief where ''such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.''). Treating air quality solely as a subset of health and safety would in effect render the statute's repeated reference to both health and safety and air quality surplusage, and negate the separate standards for evaluating each form of harm. *See, e.g. id.* § 1275(c)(3) (referring to ''adverse affects'' on health or safety and ''significant, imminent environmental harm'' to air quality). Consistent with the whole-text canon of statutory construction, the distinction between harm to health and safety and air quality in the enforcement provisions inform the proper interpretation of the reference to injury to persons in the blasting standard. Since interpreting air quality concerns to be a subset of health and safety concerns for purposes of the blasting standard could create internal inconsistencies in the statute, we decline to develop air quality standards based on the blasting standard.

Second, structurally, SMCRA created a cooperative federal-state framework that increases regulatory flexibility by delegating the authority to implement SMCRA to primacy states with approved programs that meet minimum federal standards while also addressing issues unique to their geographical areas of responsibility. Where there is such a framework, it stands to reason that Congress intends its discrete, enumerated grants of authority to be interpreted as such, even where they are for a preventive purpose. OSMRE is thus not inclined to interpret the blasting standard's language relating to the prevention of injury and off-site property damage as an all-encompassing grant of regulatory authority, or to infer authority to establish air quality standards that the blasting standard does not expressly grant.

B. The Current Federal Regulations Are Adequate To Protect Property and Public Health

1. Existing Federal Regulations Adequately Prevent Injury to Persons and Damage to Property From Blasting

OSMRE has promulgated a series of regulations to protect the public from injury from common hazards associated with blasting consistent with its authority under SMCRA. Specifically, 30 CFR 780.13 requires that permit applicants submit a blasting plan for the permit area. This blasting plan must explain how the permit applicant will comply with 30 CFR 816.61 through 816.68, which require, among other things, that the operator publish the blasting schedule in a local newspaper at least 10 days prior to conducting blasting activities, that regulatory

authorities approve the timing of the blasting operation, and that the operator comply with all applicable State and Federal laws and regulations related to blasting. Furthermore, 30 CFR 816.67(a) and 817.67(a) require that blasting must be ''conducted to prevent injury to persons [and] damage to public or private property outside the permit area. . . .'' Existing regulations limit the frequent and well-known dangers, such as airblast, flyrock, and ground vibration. Additionally, should blasting at surface coal mining operations create hazardous or potentially injurious conditions, such as the release of toxic blasting emissions, regulatory authorities are empowered to take appropriate enforcement action to prevent injury to persons and property. In addition to these measures, OSMRE requires blasting professionals to ensure they are adequately trained in the Federal and State laws related to explosives, including SMCRA, before blasting occurs. 30 CFR 850.13(a)(1). In particular, the person directly responsible for the use of explosives on each mine site must receive the necessary training, take an examination, and become certified. *Id.* Such training includes selecting the type of explosive with properties that will produce the desired results at an appropriate level of risk, controlling adverse effects, and managing unpredictable hazards. 30 CFR 850.13(b). The consequences of violating any provision of State or Federal explosives law, including 30 CFR 816.67(a) or 817.67(a), are severe; blasters may have their certification suspended or revoked. 30 CFR 850.15(b).

Furthermore, OSMRE actively collaborates with State regulatory authorities to address issues related to the use of explosives, including adverse impacts caused by blasting. OSMRE administers a Federal Blasting Workgroup, Blasting Helpdesk, and offers instructional courses on blasting through its National Technical Training Program. As a result, OSMRE provides constant feedback, technology transfer, and expert assistance to State regulatory authorities regarding the use of explosives. If specific issues arise regarding potential blasting-related violations of 30 CFR 816.67(a) and 817.67(a), such as blasting emissions, OSMRE is well-positioned to use these resources.

2. Existing Federal and State Regulatory Authorities Are Adequately Addressing Any Incidents That Occur

Additional Federal regulations specific to blasting are not warranted because in the rare instance that persons or property are adversely impacted by blasting emissions, OSMRE and the State regulatory authorities are empowered to take appropriate enforcement action, and our review of documented instances indicates that State regulatory authorities appropriately exercise that authority. Notably, States have additional tools beyond SMCRA, including under their respective police powers and the Clean Air Act (CAA), which is the primary federal framework for regulating air quality. Under the CAA, once the EPA establishes National Ambient Air Quality Control Standards (NAAQS), States have the primary responsibility for achieving and maintaining the NAAQs within the State. The manner in which the NAAQS would then be achieved, maintained, and enforced would be outlined in a State implementation plan for each given pollutant, including those associated with blasting.

Incidents of persons or property being adversely affected by toxic blasting emissions are rare. In 2014, which is the year in which the original petition for rulemaking was received, 4,142 active surface coal mining permits were regulated under SMCRA and the approved State programs. Yet, the original petition for rulemaking and the public comments submitted in response to our July 25, 2014, **Federal Register** notice appear to mention only five adverse incidents resulting from the release of toxic blasting emissions at surface coal mining operation since the 1990s. OSMRE also searched a commercial database of scientific news articles and found references to only four additional toxic air events that might have been attributable to blasting at coal mining operations since 2015. Each of these events was being investigated by State regulatory authorities. Data from Wyoming, the largest coal-producing state and the largest user of explosives in surface coal mining operations, also shows that tangible instances of toxic gas releases during blasting have been rare. The Wyoming SMCRA regulatory authority has indicated that approximately one blast hole out of 100 may generate fumes.

In areas where OSMRE is the regulatory authority, OSMRE takes direct enforcement action if there is a violation of SMCRA or the implementing Federal regulations, including 30 CFR 816.67(a) and 817.67(a). In addition to Federal action, State regulatory authorities can and have used the enforcement tools afforded by their State programs to adequately protect the public and the environment from toxic gases released during blasting at surface coal mining operations. For example, in response to an incident where fumes from blasting affected a person near the mine, the Wyoming regulatory authority issued a cessation order to the operator citing a violation of the Wyoming counterpart to 30 U.S.C. 1265(b)(15)(C). In order to resume operations, the mine was required to submit a revised blasting plan to ''minimize the emission of NO_X and eliminate the potential for blasting fumes to be carried toward [a nearby subdivision].'' Wyoming Department of Environmental Quality, Notice of Violation 100118 (issued August 18, 1995). Since 2003, Wyoming has initiated three additional enforcement actions related to toxic blasting emissions. These actions illustrate that existing regulatory requirements adequately address these circumstances.

In addition, if State regulatory authorities wish to impose more stringent standards to further ensure blasting-related emissions are adequately addressed by their regulatory program, it would not be inconsistent with SMCRA. 30 U.S.C. 1255. For instance, Pennsylvania recently amended its approved regulatory program to specifically encompass all gases generated by the use of explosives, not merely ''toxic'' or ''noxious'' gases. Pennsylvania now prohibits gases generated by the use of explosives from affecting the health or safety of any individual.

In addition, Ohio promulgated revisions to its regulations to better address the issue of emissions related to the use of explosives. Specifically, Ohio amended Ohio Administrative Code (OAC) 1501:1309–06, Use of Explosives in Coal Mining and Coal Exploration Operations, to expand the definition of ''blasting area'' to ensure areas where emissions from the use of explosives may pass is secured. Ohio's revised code also provides for an expanded list of factors to be considered by the certified blaster when determining the blast area. Ohio also amended OAC 1501: 13–9–10, Training, Examination, and Certification of Blasters, to expand the requirements for initial blaster certification training by adding the requirement of training related to fumes, including monitoring techniques and methods to control adverse effects.

For these reasons, OSMRE concludes that additional rulemaking under SMCRA that would prohibit the creation of emissions from the use of explosives on surface coal mining sites is unnecessary at this time.

In light of the substantial legal considerations associated with

implementing a rule in this space, as well as in consideration of OSMRE's limited resources and competing priorities, OSMRE has concluded that a new Federal regulation is not warranted. OSMRE is therefore withdrawing its decision granting the petition to initiate rulemaking first announced on February 20, 2015, at 80 FR 9256, and is closing the associated petition for rulemaking.

III. Procedural Matters and Required Determinations

OSMRE's action withdraws a decision to initiate rulemaking that neither specifically defined regulatory requirements nor placed them into effect. Furthermore, this withdrawal does not contain any new or amended requirements. As such, today's action leaves OSMRE's regulations unchanged. OSMRE has determined that this action will not have any adverse impacts, economic, environmental, or otherwise. Therefore, it is not subject to the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the Paperwork Reduction Act, the Unfunded Mandates Reform Act, the National Environmental Policy Act, or Executive Orders 12866, 13563, 12630, 13132, 12988, 13175, and 13211. Additionally, this withdrawal is consistent with Executive Order 13777, *Enforcing the Regulatory Reform Agenda,* which states that ''[i]t is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people.'' Because this withdrawal of a decision to initiate rulemaking does not propose a new regulation, the mandates of Executive Order 13771, *Reducing Regulation and Controlling Regulatory Costs,* are not applicable.

Dated: July 10, 2019.

Glenda H. Owens,

Deputy Director, Exercising the authority of the Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2019–16125 Filed 7–29–19; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0343; FRL–9997–31–Region 5]

Air Plan Approval; Indiana; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ NAAQS; Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS or standard). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action pertains specifically to infrastructure requirements concerning interstate transport provisions.

DATES: Comments must be received on or before August 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0343 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Samantha Panock, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8973, *panock.samantha@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of this SIP submission?

This rulemaking addresses a submission from the Indiana Department of Environmental Management (IDEM) dated June 10, 2016, supplemented on December 28, 2016, which relates to its requirements for an infrastructure SIP for the 2012 annual $PM_{2.5}$ NAAQS (78 FR 3086). Specifically, this rulemaking concerns the portion of the submission dealing with interstate pollution transport under CAA section 110(a)(2)(D)(i), otherwise known as the ''good neighbor'' provision. The requirement for states to make a SIP submission of this type arises from section 110(a)(1) of the CAA. Pursuant to section 110(a)(1), states must submit ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' a plan that provides for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address. EPA commonly refers to such state plans as ''infrastructure SIPs.''

State plans must address four requirements of the good neighbor provisions (commonly referred to as ''prongs''), including:

—*Prong one:* Prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state;

—*Prong two:* Prohibiting any source or other type of emissions activity in one state from interfering with maintenance of the NAAQS in another state;

—*Prong three:* Prohibiting any source or other type of emissions activity in

one state from interfering with measures required to prevent significant deterioration (PSD) of air quality in another state; and

—*Prong four:* Protecting visibility in another state.

In this rulemaking, EPA is evaluating whether Indiana's interstate transport provisions in its $PM_{2.5}$ infrastructure SIP meet prongs one and two of the good neighbor requirements of the CAA. Prongs three and four will be evaluated in a separate rulemaking.

EPA has developed a consistent framework for addressing the prong one and prong two interstate transport requirements with respect to the $PM_{2.5}$ NAAQS in several previous Federal rulemakings. The four basic steps of that framework are: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. With respect to $PM_{2.5}$, this framework was applied in the August 8, 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48208), designed to address both the 1997 and 2006 $PM_{2.5}$ standards, as well as the 1997 and 2008 ozone standards.

II. What guidance/memoranda is EPA using to evaluate this SIP submission?

EPA highlighted the statutory requirement to submit infrastructure SIPs within three years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 Guidance). EPA has issued additional guidance, including a September 13, 2013, document titled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (2013 Guidance).

The most recent relevant document is an EPA memorandum issued on March 17, 2016, titled ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (2016 memorandum). The 2016 memorandum describes EPA's consistent approach over the years to address interstate transport and provides EPA's general review of relevant modeling data and air quality projections as they relate to the 2012 annual $PM_{2.5}$ NAAQS.

The 2016 memorandum provides states and EPA regional offices with future year annual $PM_{2.5}$ design values for monitors in the United States based on quality assured and certified ambient monitoring data and air quality modeling. The 2016 memorandum further describes how these projected potential design values can be used to help determine which monitors should be further evaluated to potentially address whether emissions from other states significantly contribute to nonattainment or interfere with maintenance of the 2012 annual $PM_{2.5}$ NAAQS at those sites. Where a potential receptor is projected to show nonattainment or maintenance in 2017, but projected to show attainment in 2025, the 2016 memorandum suggests that additional analysis of the emissions and modeling may be needed to make a further judgement regarding the receptor status in 2021 (the attainment deadline for moderate $PM_{2.5}$ areas).

The 2016 memorandum indicates that, for all but one monitoring site in the eastern United States with complete and valid $PM_{2.5}$ design values from 2009 to 2013, the modeling data shows that monitors were expected to both attain and maintain the 2012 annual $PM_{2.5}$ NAAQS in both 2017 and 2025. The modeling results provided in the 2016 memorandum show that out of seven $PM_{2.5}$ monitors located in Allegheny County, Pennsylvania, one monitor is expected to be above the 2012 annual $PM_{2.5}$ NAAQS in 2017. That monitor, the Liberty monitor (ID number 420030064), is projected to be above the NAAQS only under the model's maximum projected conditions (used in EPA's interstate transport framework to identify maintenance receptors) and is projected to both attain and maintain the NAAQS (along with all Allegheny County monitors) in 2025. The 2016 memorandum therefore indicates that, under such a condition, further analysis of the site should be performed to determine if the site contains nonattainment or maintenance receptor in 2021 (the attainment deadline for moderate $PM_{2.5}$ areas). Since the Allegheny County, Pennsylvania, receptor is the only location considered downwind of Indiana, this Indiana submission focuses on that single receptor.

However, the 2016 memorandum also indicates that for five states (portions of Florida, Illinois, Idaho (outside of Shoshone County), Tennessee, and Kentucky) with incomplete ambient monitoring data, additional information, including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions. With the exception of Florida, the data quality problems have subsequently been resolved for these areas, and they now have design values below the 2012 annual $PM_{2.5}$ NAAQS. In addition, these areas are expected to maintain the NAAQS due to downward emission trends for nitrogen oxides (NOx) and sulfur dioxide (SO_2). With respect to Florida, in the CSAPR modeling analysis for the 1997 $PM_{2.5}$ NAAQS, Florida did not have any potential nonattainment or maintenance receptors identified for the 1997 or 2006 $PM_{2.5}$ NAAQS. Due to the ambient monitoring data gaps in the 2009–2013 data, modeling was not performed to eliminate the potential for any $PM_{2.5}$ nonattainment and maintenance receptors. It is anticipated, however, that due to the downward trend in emissions, Florida's receptor status has not changed. Therefore, Indiana does not need to perform further analysis for these areas listed above.

Indiana did not focus on potential contribution to other areas EPA identified as not attaining the 2012 annual $PM_{2.5}$ NAAQS based on current monitor data in Alaska, California, Idaho, Nevada, or Hawaii or the 18 potential $PM_{2.5}$ nonattainment or maintenance receptors, based on modeling projections from the 2016 memorandum, in the western United States. The distance between Indiana and these areas, coupled with the prevailing wind directions, leads EPA to propose that Indiana will not contribute significantly to any of the potential receptors in those states.

Indiana's submittal indicates that it used data from the 2016 memorandum and supplied its own additional information in its analysis. EPA considered the analysis from Indiana, as well as additional analysis conducted by EPA, in its review of the Indiana submittal.

III. Indiana's Analysis and Conclusion

Indiana's submittal contains a technical analysis of its interstate transport of pollution relative to the

2012 annual $PM_{2.5}$ NAAQS. As reflected in the 2016 memorandum, the only receptor identified as nonattainment or maintenance on which Indiana might have an impact is the Liberty monitor (42–003–0064) in Allegheny County, Pennsylvania located in southwest Pennsylvania. In this technical analysis, Indiana examined meteorological conditions, backward trajectories, $PM_{2.5}$ measurements, and source emissions within the southwest Pennsylvania airshed. As stated previously, Indiana's technical analysis considers CSAPR rule implementation and EPA guidance and memoranda. Since the Allegheny County, Pennsylvania receptor is the only location considered downwind of Indiana, this submission focuses on that single receptor. Indiana concluded that it has no significant impacts on the attainment and maintenance of the $PM_{2.5}$ NAAQS in Allegheny County, Pennsylvania. Indiana satisfies the responsibilities under CAA section 110(a)(2)(D)(i)(I) based on these analyses presented in the Indiana submission:

—IDEM selected daily $PM_{2.5}$ concentrations at the Liberty monitor that exceed the 2006 $PM_{2.5}$ 24-hour NAAQS of 35 µg/m3 (micrograms per cubic meter) for the years 2012 to 2015 for analysis. There were 26 days in this period that exceeded the standard. IDEM analyzed hourly $PM_{2.5}$ concentrations from these 26 days to determine if there was a temporal pattern in elevated concentrations during these days. Based on the data collected and presented in the Indiana submittal, a clear pattern of high $PM_{2.5}$ concentrations during the morning and occasional evening hours is evident at this monitor. In examining the hourly data for these 26 days, IDEM found the following: Of 283 hours of $PM_{2.5}$ concentrations measured greater than 35 µg/m3, 68% occurred before 9 a.m.; of 91 hours of $PM_{2.5}$ concentrations measured greater than 70 µg/m3, 78% of those hours occurred before 9 a.m.; of 29 hours of $PM_{2.5}$ concentrations measured greater than 100 µg/m3, 90% occurred before 9 a.m. Moreover, the high $PM_{2.5}$ concentrations seen in the morning and evening hours during colder months at the Liberty monitor led IDEM to investigate and ultimately determine that temperature inversions did occur during the days that high $PM_{2.5}$ concentrations were measured. Temperature inversions occur when warmer air is present above a cooler layer of air at the ground level.

—Wind and pollution roses were analyzed for the 26 exceedance days and showed that high hourly $PM_{2.5}$ values occurred with southernly and westerly winds. Several facilities that emit large quantities of $PM_{2.5}$ and precursor emissions of NO_X and SO_2 were identified by IDEM and found to be located within four kilometers to the south and west of the Liberty monitor. Indiana presented maps of these locations in the submittal. More specifically, using available information on the Allegheny County Health Department website, IDEM determined that two large U.S. Steel facilities are located to the south and west of the monitor as well as two large NO_X and SO_2 emitting facilities also to the south.

—Back trajectory analyses conducted by Indiana determined that ambient air arriving at the Liberty monitor on high pollution days rarely traveled over Indiana. A back trajectory analysis using National Oceanic and Atmospheric Administration's HYSPLIT model was performed to evaluate Indiana's contribution to $PM_{2.5}$ in Allegheny County, Pennsylvania. In total, 35,040 trajectories were run for 100, 500, and 1000 meters above ground level (AGL). Back trajectories were run starting at each hour of the day, every day, over a 4-year period from 2012 through 2015. The trajectories started in the center of Allegheny County and were run backwards over a 24-hour period. Meteorological data used in this analysis consisted of the North American Regional Reanalysis (NARR) dataset. In total, 31 values on 26 days from 2012–2015 at the Liberty monitor were identified as exceeding the 24-hour $PM_{2.5}$ NAAQS. Moreover, individual exceedance days and their associated trajectories were also examined by Indiana. This analysis shows that at 100 meters AGL, which is closest to the level of the monitor recording the sample value, air arriving in Allegheny County passes through Indiana very infrequently. For air arriving at higher levels above the monitor, at 500 and 1000 meters, air flow has southerly and southwesterly flow. Of the 16,200 trajectory points associated with exceedances at the 100-meter level, only 49 points, or 0.03% passed through Indiana. At the 500-meter level, 617 out of the 16,200 points (3.8%) passed through Indiana. This analysis shows that Indiana does not contribute significantly to Allegheny County $PM_{2.5}$ concentrations, and Indiana concludes that a corridor of probable transport exists elsewhere.

Indiana has concluded that that no further measures are necessary to satisfy its responsibilities under CAA section 110(a)(2)(D)(i)(I), because it does not contribute to projected nonattainment or maintenance issues at the Liberty monitor site. Instead, IDEM found that local meteorological conditions in the Allegheny county, temperature inversion, ambient air traveling from westerly and southernly winds, and air pollution transport from the Appalachian Mountain Range are more likely contributing to projected nonattainment or maintenance issues at the site.

IV. EPA's Additional Analysis, Review, and Conclusion

The modeling information contained in EPA's 2016 memorandum shows that one monitor in Allegheny County, Pennsylvania (the Liberty monitor, 420030064) may have a maintenance issue in 2017, but that the area is projected to both attain and maintain the NAAQS by 2025. A linear interpolation of the modeled design values to 2021 shows that the monitor is likely to demonstrate both attainment and maintenance of the standard by 2021. Emissions and air quality data trends help to corroborate this interpolation.

Over the last decade, local and regional emissions reductions of $PM_{2.5}$, SO_2, and NO_X, have led to large reductions in annual $PM_{2.5}$ design values in Allegheny County, Pennsylvania. In 2007, all of Allegheny County's $PM_{2.5}$ monitors exceeded the level of the 2012 annual $PM_{2.5}$ NAAQS (the 2005–2007 annual average design values ranged from 12.9–19.8 µg/m^3, as shown in Table 1). The 2015–2017 annual average $PM_{2.5}$ design values now show that only one monitor (Liberty, at 13.0 µg/m^3) exceeds the annual $PM_{2.5}$ NAAQS of 12.0 µg/m^3.

TABLE 1—$PM_{2.5}$ ANNUAL DESIGN VALUES IN µg/m^3

Monitor	2005–2007	2006–2008	2007–2009	2008–2010	2009–2011	2010–2012	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017
Avalon	.....	.....	.....	*16.3	*14.7	13.4	11.4	10.6	10.6	*10.4	*10.2
Lawrenceville	15.0	14.0	13.1	12.2	11.6	11.1	10.3	10.0	9.7	9.5	9.2
Liberty	19.8	18.3	17.0	16.0	15.0	14.8	13.4	13.0	12.6	12.8	13.0
South Fayette	12.9	*11.8	11.7	11.1	11.0	10.5	9.6	9.0	8.8	*8.5	*8.4
North Park	*13.0	*12.3	*11.3	*10.1	9.7	9.4	8.8	8.5	8.5	*8.2	*8.2

TABLE 1—$PM_{2.5}$ ANNUAL DESIGN VALUES IN µg/m³—Continued

Monitor	2005–2007	2006–2008	2007–2009	2008–2010	2009–2011	2010–2012	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017
Harrison	15.0	14.2	13.7	13.0	12.4	*11.7	10.6	10.0	9.8	9.8	9.8
North Braddock	16.2	15.2	14.3	13.3	12.7	12.5	*11.7	11.4	11.2	11.0	10.8
Parkway East Near-Road										*10.6	*10.6
Clairton	15.3	14.3	13.2	12.4	*11.5	*10.9	*9.8	9.5	9.8	*9.8	*9.8

*Value does not contain a complete year worth of data.

The Liberty monitor is already close to showing attainment of the NAAQS and expected emissions reductions in the next three years will lead to additional reductions in measured $PM_{2.5}$ concentrations. There are both local and regional components to the measured $PM_{2.5}$ levels in Allegheny County and the greater Pittsburgh area. Previous CSAPR modeling showed that regional emissions from upwind states, particularly SO_2 and NO_X emissions, contribute to $PM_{2.5}$ nonattainment at the Liberty monitor. In recent years, large SO_2 and NO_X reductions from power plants have occurred in Pennsylvania and states upwind from the Greater Pittsburgh region. Based on existing CSAPR budgets, Pennsylvania's energy sector emissions of SO_2 will have decreased 166,000 tons between 2015–2017 as a result of CSAPR implementation. This is due to both the installation of emissions controls and retirements of electric generating units (EGUs).

Between 2011 and 2016, 27.4 gigawatts of coal-fired EGUs have retired in Pennsylvania and the closest upwind states (West Virginia, Ohio, Kentucky, Indiana, Illinois, and Michigan) according to the Energy Information Administration's Preliminary Monthly Electric Generator Inventory, April 2017 (form EIA–860M, at *https://www.eia.gov/electricity/data/eia860m/xls/april_generator2017.xlsx*). In addition, between 2017 and 2021, an additional 8.8 gigawatts of coal-fired EGUs are expected to retire in the same upwind states. This includes large EGUs such as JM Stuart in Ohio (2,308 megawatts [MW]), Killen Station in Ohio (600 MW), WH Sammis in Ohio (720 MW), Michigan City in Indiana (469 MW), Will County in Illinois (510 MW), Baldwin Energy Complex in Illinois (576 MW), Paradise in Kentucky (1,230 MW), and Baily in Indiana (480 MW). These regional coal unit retirements will lead to further emissions reductions which will help ensure that Alleghany County monitors will not have nonattainment or maintenance issues by 2021.

In addition to regional emissions reductions and plant closures noted above, local reductions in both $PM_{2.5}$ and SO_2 emissions are also expected to occur and should also contribute to further declines at Allegheny County's $PM_{2.5}$ monitor concentrations. For example, significant SO_2 reductions will occur at U.S. Steel's integrated steel mill facilities in southern Allegheny County due to reductions required via federally enforceable permits issued by Allegheny County to support its attainment plan submitted to meet requirements in CAA section 172(c) for the 1-hour SO_2 NAAQS. Reductions occurred in October 2018 largely due to declining sulfur content in the Clairton Coke Work's coke oven gas (COG) due to upgraded controls. Because this COG is burned at U.S. Steel's Clairton Coke Works, Irvin Mill, and Edgar Thompson Steel Mill, these reductions in sulfur content contribute to much lower $PM_{2.5}$ formation from precursors in the immediate future after October 4, 2018 as SO_2 is a precursor to $PM_{2.5}$. Additionally, the expected retirement of the Bruce Mansfield Power Plant by June 2021 should reduce precursor emissions from neighboring Beaver County, PA. The Allegheny County and Beaver County SO_2 SIP submissions, which EPA is currently reviewing pursuant to CAA requirements, also discuss expected lower SO_2 emissions in the Allegheny County area resulting from reduced sulfur content requirements in vehicle fuels, reductions in general emissions due to declining population in the Greater Pittsburgh region, and several shutdowns of significant emitters of SO_2 in Allegheny County.

Projected power plant closures and additional emissions controls in Pennsylvania and upwind states will help further reduce both $PM_{2.5}$ and $PM_{2.5}$ precursors. Regional emission reductions will continue to occur from current on-the-books Federal and state regulations such as the Federal on-road and non-road vehicle programs and various rules for major stationary emissions sources.

EPA modeling projections, the recent downward trend in local and upwind emissions reductions, the expected continued downward trend in emissions between 2018 and 2021, and the downward trend in monitored $PM_{2.5}$ concentrations all indicate that the Liberty monitor will be able to show attainment and maintenance of m the 2012 annual $PM_{2.5}$ NAAQS by 2021.

The conclusions of Indiana's analysis are consistent with EPA's expanded review of its submittal. The area (Allegheny County, Pennsylvania) that Indiana sources potentially contribute to is expected to attain and maintain the 2012 annual $PM_{2.5}$ NAAQS, and as demonstrated in its submittal, Indiana will not contribute to projected nonattainment or maintenance issues at any sites in 2021. Indiana's analysis shows that, through permanent and enforceable measures currently contained in its SIP and other emissions reductions occurring in other states, monitored $PM_{2.5}$ air quality in the identified area will continue to improve, and that no further measures are necessary to satisfy Indiana's responsibilities under CAA section 110(a)(2)(D)(i)(I). Therefore, EPA is proposing that prongs one and two of the interstate pollution transport element of Indiana's infrastructure SIP are approvable.

V. What action is EPA taking?

EPA is proposing to approve a portion of Indiana's June 10, 2016 submittal, supplemented on December 28, 2016, certifying that the current Indiana SIP is sufficient to meet the required transport elements of the infrastructure SIP requirements under CAA section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth above.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 17, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2019–16076 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0155; FRL–9997–30–Region 4]

Air Plan Approval; Kentucky: Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Kentucky State Implementation Plan (SIP) concerning the Cross-State Air Pollution Rule (CSAPR) submitted by Kentucky on September 14, 2018, as later clarified on December 18, 2018. Under CSAPR, large electricity generating units (EGUs) in Kentucky are subject to Federal Implementation Plans (FIPs) requiring the units to participate in CSAPR's federal trading program for annual emissions of nitrogen oxides (NO_X), one of CSAPR's two federal trading programs for ozone season emissions of NO_X, and one of CSAPR's two federal trading programs for annual emissions of sulfur dioxide (SO_2). This action proposes to approve into the SIP the Commonwealth's regulations requiring large Kentucky EGUs to participate in CSAPR state trading programs for ozone season NO_X emissions, annual NO_X emissions, and annual SO_2 emissions integrated with the CSAPR federal trading programs, replacing the corresponding FIP requirements. EPA is proposing to approve the SIP revision concerning these CSAPR state trading programs because the SIP revision meets the requirements of the Clean Air Act (CAA or Act) and EPA's regulations for approval of a CSAPR full SIP revision replacing the requirements of a CSAPR FIP. Under the CSAPR regulations, approval of this SIP revision would automatically eliminate Kentucky units' obligations to participate in CSAPR's federal trading programs for ozone season NO_X emissions, annual NO_X emissions, and annual SO_2 emissions under the corresponding CSAPR FIPs addressing interstate transport requirements for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS), the 1997 8-hour ozone NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. Approval of the SIP revision would also satisfy Kentucky's good neighbor obligation under the CAA to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 8-hour ozone NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS.

DATES: Comments must be received on or before August 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0155 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Akers can be reached by telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary

EPA is proposing to approve the September 14, 2018,[1] revisions to the

[1] The Commonwealth originally requested EPA to fully approve good neighbor CAA transport obligations pursuant to CAA section 110(a)(2)(D)(i)(I) for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, the 2006 $PM_{2.5}$ NAAQS, the 2010 nitrogen dioxide (NO_2) NAAQS and the 2010 SO_2 NAAQS. However, CSAPR does not address transport for the 2010 1-hour NO_2 or SO_2 NAAQS. Therefore, the Commonwealth submitted a clarifying letter on December 18, 2018, to instead request that EPA approve its transport obligations for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$

Kentucky SIP concerning CSAPR [2] trading programs for ozone season emissions of NO_X and annual emissions of NO_X and SO_2. Large EGUs in Kentucky are subject to CSAPR FIPs that require the units to participate in the federal CSAPR NO_X Ozone Season Group 2 Trading Program, federal CSAPR NO_X Annual Trading Program, and the federal CSAPR SO_2 Group 1 Trading Program. CSAPR also provides a process for the submission and approval of SIP revisions to replace the requirements of CSAPR FIPs with SIP requirements under which a state's units participate in CSAPR state trading programs that are integrated with and, with certain permissible exceptions, substantively identical to the CSAPR federal trading programs.

The SIP revision proposed for approval would incorporate into Kentucky's SIP state trading program regulations for ozone season NO_X and annual NO_X and SO_2 emissions that would replace EPA's federal trading program regulations for those emissions for the Commonwealth's units.[3] EPA is proposing to approve this SIP revision because it meets the requirements of the CAA and EPA's regulations for approval of a CSAPR full SIP revision replacing a federal trading program with a state trading program that is integrated with and substantively identical to the federal trading program. Under the CSAPR regulations, approval of this SIP revision would automatically eliminate the obligations of large EGUs in Kentucky to participate in CSAPR's federal trading programs for ozone season NO_X and annual NO_X and SO_2 emissions under the corresponding CSAPR FIPs. EPA proposes to find that approval of this SIP revision would satisfy Kentucky's obligations pursuant to CAA section 110(a)(2)(D)(i)(I) to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the 1997 8-hour ozone NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS in any other state.

Section II of this document summarizes relevant aspects of the CSAPR federal trading programs and FIPs as well as the range of opportunities states have to submit SIP revisions to modify or replace the FIP requirements while continuing to rely on CSAPR's trading programs to address the states' obligations to mitigate interstate air pollution. Section III describes the specific conditions for approval of such SIP revisions. Section IV contains EPA's analysis of Kentucky's SIP submittal. Section V addresses incorporation by reference, and Section VI sets forth EPA's proposed action on the submittal. Section VII addresses statutory and Executive Order reviews.

II. Background on CSAPR and CSAPR-Related SIP Revisions

EPA issued CSAPR in July 2011 to address the requirements of CAA section 110(a)(2)(D)(i)(I) concerning interstate transport of air pollution. As amended (including the 2016 CSAPR Update),[4] CSAPR requires 27 Eastern states to limit their statewide emissions of SO_2 and/or NO_X in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: The 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2, annual NO_X, and/or ozone season NO_X by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets applying to emissions in 2015 and 2016 and the Phase 2 (and CSAPR Update) budgets applying to emissions in 2017 and later years. As a mechanism for achieving compliance with the emissions limitations, CSAPR establishes five federal emissions trading programs: A program for annual NO_X emissions, two geographically separate programs for annual SO_2 emissions, and two geographically separate programs for ozone-season NO_X emissions. CSAPR also establishes FIP requirements applicable to the large EGUs in each covered state. Currently, the CSAPR FIP provisions require each state's units to participate in up to three of the five CSAPR trading programs.

CSAPR includes provisions under which states may submit and EPA will approve SIP revisions to modify or replace the CSAPR FIP requirements while allowing states to continue to meet their transport-related obligations using either CSAPR's federal emissions trading programs or state emissions trading programs integrated with the federal programs.[5] Through such a SIP revision, a state may replace EPA's default provisions for allocating emission allowances among the state's units, employing any state-selected methodology to allocate or auction the allowances, subject to timing conditions and limits on overall allowance quantities. In the case of CSAPR's federal trading programs for ozone season NO_X emissions (or an integrated state trading program), a state may also expand trading program applicability to include certain smaller electricity generating units.[6] If a state wants to replace CSAPR FIP requirements with SIP requirements under which the state's units participate in a state trading program that is integrated with and identical to the federal trading program even as to the allocation and applicability provisions, the state may submit a SIP revision for that purpose as well. However, no emissions budget increases or other substantive changes to the trading program provisions are allowed. A state whose units are subject to multiple CSAPR FIPs and federal trading programs may submit SIP revisions to modify or replace either some or all of those FIP requirements.

States can submit two basic forms of CSAPR-related SIP revisions effective for emissions control periods in 2017 or later years (or 2019 or later years in the case of the CSAPR NO_X Ozone Season Group 2 Trading Program).[7] Specific conditions for approval of each form of SIP revision are set forth in the CSAPR

NAAQS, the 2006 $PM_{2.5}$ NAAQS, and the 2008 ozone NAAQS.

[2] Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011) (codified as amended at 40 CFR 52.38 and 52.39 and subparts AAAAA through EEEEE of 40 CFR part 97).

[3] Under Kentucky's regulations, the Commonwealth will retain EPA's default allowance allocation methodology and EPA will remain the implementing authority for administration of the trading program. *See* sections III and IV.B.2, below.

[4] *See* 81 FR 74504 (October 26, 2016). The CSAPR Update was promulgated to address interstate pollution with respect to the 2008 ozone NAAQS and to address a judicial remand of certain original CSAPR ozone season NO_X budgets promulgated with respect to the 1997 ozone NAAQS. *See* 81 FR at 74505. The CSAPR Update established new emission reduction requirements addressing the more recent NAAQS and coordinated them with the remaining emission reduction requirements addressing the older NAAQS, so that starting in 2017, CSAPR includes two geographically separate trading programs for ozone season NO_X emissions covering EGUs in a total of 23 states. *See* 40 CFR 52.38(b)(1)–(2).

[5] *See* 40 CFR 52.38, 52.39. States also retain the ability to submit SIP revisions to meet their transport-related obligations using mechanisms other than the CSAPR federal trading programs or integrated state trading programs.

[6] States covered by both the CSAPR Update and the NO_X SIP Call have the additional option to expand applicability under the CSAPR NO_X Ozone Season Group 2 Trading Program to include non-electric generating units that would have participated in the former NO_X Budget Trading Program.

[7] CSAPR also provides for a third, more streamlined form of SIP revision that is effective only for control periods in 2016 (or 2018 in the case of the CSAPR NO_X Ozone Season Group 2 Trading Program) and is not relevant here. *See* 40 CFR 52.38(a)(3), (b)(3), (b)(7); 52.39(d), (g).

regulations, as described in section IV below. Under the first alternative—an ''abbreviated'' SIP revision—a state may submit a SIP revision that upon approval replaces the default allowance allocation and/or applicability provisions of a CSAPR federal trading program for the state.[8] Approval of an abbreviated SIP revision leaves the corresponding CSAPR FIP and all other provisions of the relevant federal trading program in place for the state's units.

Under the second alternative—a ''full'' SIP revision—a state may submit a SIP revision that upon approval replaces a CSAPR federal trading program for the state with a state trading program integrated with the federal trading program, so long as the state trading program is substantively identical to the federal trading program or does not substantively differ from the federal trading program except as discussed above with regard to the allowance allocation and/or applicability provisions.[9] For purposes of a full SIP revision, a state may either adopt state rules with complete trading program language, incorporate the federal trading program language into its state rules by reference (with appropriate conforming changes), or employ a combination of these approaches.

The CSAPR regulations identify several important consequences and limitations associated with approval of a full SIP revision. First, upon EPA's approval of a full SIP revision as correcting the deficiency in the state's implementation plan that was the basis for a particular set of CSAPR FIP requirements, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction without the need for a separate EPA withdrawal action, so long as EPA's approval of the SIP is full and unconditional.[10] Second, approval of a full SIP revision does not terminate the obligation to participate in the corresponding CSAPR federal trading program for any units located in any Indian country within the borders of the state, and if and when a unit is located in Indian country within a state's borders, EPA may modify the SIP approval to exclude from the SIP, and include in the surviving CSAPR FIP instead, certain trading program provisions that apply jointly to units in the state and to units in Indian country within the state's borders.[11]

Finally, if at the time a full SIP revision is approved EPA has already started recording allocations of allowances for a given control period to a state's units, the federal trading program provisions authorizing EPA to complete the process of allocating and recording allowances for that control period to those units will continue to apply, unless EPA's approval of the SIP revision provides otherwise.[12]

III. Conditions for Approval of CSAPR-Related SIP Revisions

Each CSAPR-related abbreviated or full SIP revision must meet the following general submittal conditions:

• *Timeliness and completeness of SIP submittal.* The SIP submittal completeness criteria in section 2.1 of appendix V to 40 CFR part 51 apply. In addition, if a state wants to replace the default allowance allocation or applicability provisions of a CSAPR federal trading program, the complete SIP revision must be submitted to EPA by December 1 of the year before the deadlines described below for submitting allocation or auction amounts to EPA for the first control period for which the state wants to replace the default allocation and/or applicability provisions.[13] This SIP submission deadline is inoperative in the case of a SIP revision that seeks only to replace a CSAPR FIP and federal trading program with a SIP and a substantively identical state trading program integrated with the federal trading program.

In addition to the general submittal conditions, a CSAPR-related abbreviated or full SIP seeking to address the allocation or auction of emission allowances must meet the following further conditions:

• *Methodology covering all allowances potentially requiring allocation.* For each federal trading program addressed by a SIP revision, the SIP revision's allowance allocation or auction methodology must replace both the federal program's default allocations to existing units [14] at 40 CFR 97.411(a), 97.511(a), 97.611(a), 97.711(a), or 97.811(a), as applicable, and the federal trading program's provisions for allocating allowances from the new unit set-aside (NUSA) for the state at 40 CFR 97.411(b)(1) and 97.412(a), 97.511(b)(1) and 97.512(a), 97.611(b)(1) and 97.612(a), 97.711(b)(1) and 97.712(a), or 97.811(b)(1) and 97.812(a), as applicable.[15] In the case of a state with Indian country within its borders, while the SIP revision may neither alter nor assume the federal program's provisions for administering the Indian country NUSA for the state, the SIP revision must include procedures addressing the disposition of any otherwise unallocated allowances from an Indian country NUSA that may be made available for allocation by the state after EPA has carried out the Indian country NUSA allocation procedures.[16]

• *Assurance that total allocations will not exceed the state budget.* For each federal trading program addressed by a SIP revision, the total amount of allowances auctioned or allocated for each control period under the SIP revision (prior to the addition by EPA of any unallocated allowances from any Indian country NUSA for the state) generally may not exceed the state's emissions budget for the control period less the sum of the amount of any Indian country NUSA for the state for the control period and any allowances already allocated to the state's units for the control period and recorded by EPA.[17] Under its SIP revision, a state is free to not allocate allowances to some or all potentially affected units, to allocate or auction allowances to entities other than potentially affected units, or to allocate or auction fewer than the maximum permissible quantity of allowances and retire the remainder. Under the CSAPR NO_X Ozone Season Group 2 Trading Program only, additional allowances may be allocated if the state elects to expand applicability to non-electric generating units that would have been subject to the NO_X Budget Trading Program established for compliance with the NO_X SIP Call.[18]

• *Timely submission of state-determined allocations to EPA.* The SIP

[8] *See* 40 CFR 52.38(a)(4), (b)(4), (b)(8); 52.39(e), (h).

[9] *See* 40 CFR 52.38(a)(5), (b)(5), (b)(9); 52.39(f), (i).

[10] *See* 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j).

[11] *See* 40 CFR 52.38(a)(5)(iv)–(v), (a)(6), (b)(5)(v)–(vi), (b)(9)(vi)–(vii), (b)(10)(i); 52.39(f)(4)–(5), (i)(4)–(5), (j).

[12] *See* 40 CFR 52.38(a)(7), (b)(11)(i); 52.39(k).

[13] *See* 40 CFR 52.38(a)(4)(ii), (a)(5)(vi), (b)(4)(iii), (b)(5)(vii), (b)(8)(iv), (b)(9)(viii); 52.39(e)(2), (f)(6), (h)(2), (i)(6).

[14] In the context of the approval conditions for CSAPR-related SIP revisions, an ''existing unit'' is a unit for which EPA has determined default allowance allocations (which could be allocations of zero allowances) in the rulemakings establishing and amending CSAPR. Spreadsheets showing EPA's default allocations to existing units are posted at *https://www.epa.gov/csapr/unit-level-allocations-under-csapr-transport-rule-fips-after-tolling* and *https://www.epa.gov/airmarkets/final-cross-state-air-pollution-rule-update.*

[15] *See* 40 CFR 52.38(a)(4)(i), (a)(5)(i), (b)(4)(ii), (b)(5)(ii), (b)(8)(iii), (b)(9)(iii); 52.39(e)(1), (f)(1), (h)(1), (i)(1).

[16] *See* 40 CFR 97.412(b)(10)(ii), 97.512(b)(10)(ii), 97.612(b)(10)(ii), 97.712(b)(10)(ii), 97.812(b)(10)(ii).

[17] 40 CFR 52.38(a)(4)(i)(A), (a)(5)(i)(A), (b)(4)(ii)(A), (b)(5)(ii)(A), (b)(8)(iii)(A), (b)(9)(iii)(A); 52.39(e)(1)(i), (f)(1)(i), (h)(1)(i), (i)(1)(i).

[18] *See* 40 CFR 52.38(b)(8)(iii)(A), (b)(9)(iii)(A).

revision must require the state to submit to EPA the amounts of any allowances allocated or auctioned to each unit for each control period (other than allowances initially set aside in the state's allocation or auction process and later allocated or auctioned to such units from the set-aside amount) by the following deadlines.[19] Note that the submission deadlines differ for amounts allocated or auctioned to units considered existing units for CSAPR purposes and amounts allocated or auctioned to other units.

CSAPR NO_X Annual, CSAPR NO_X Ozone Season Group 1, CSAPR SO_2 Group 1, and CSAPR SO_2 Group 2 Trading Programs

Units	Year of the control period	Deadline for submission to EPA of allocations or auction results
Existing	2017 and 2018	June 1, 2016.
	2019 and 2020	June 1, 2017.
	2021 and 2022	June 1, 2018.
	2023 and later years	June 1 of the fourth year before the year of the control period.
Other	All years	July 1 of the year of the control period.

CSAPR NO_X Ozone Season Group 2 Trading Program

Units	Year of the control period	Deadline for submission to EPA of allocations or auction results
Existing	2019 and 2020	June 1, 2018.
	2021 and 2022	June 1, 2019.
	2023 and 2024	June 1, 2020.
	2025 and later years	June 1 of the fourth year before the year of the control period.
Other	All years	July 1 of the year of the control period.

• *No changes to allocations already submitted to EPA or recorded.* The SIP revision must not provide for any change to the amounts of allowances allocated or auctioned to any unit after those amounts are submitted to EPA or any change to any allowance allocation determined and recorded by EPA under the federal trading program regulations.[20]

• *No other substantive changes to federal trading program provisions.* The SIP revision may not substantively change any other trading program provisions, except in the case of a SIP revision that also expands program applicability as described below.[21] Any new definitions adopted in the SIP revision (in addition to the federal trading program's definitions) may apply only for purposes of the SIP revision's allocation or auction provisions.[22]

In addition to the general submittal conditions, a CSAPR-related abbreviated or full SIP revision seeking to expand applicability under the CSAPR NO_X Ozone Season Group 1 or CSAPR NO_X Ozone Season Group 2 Trading Programs (or an integrated state trading program) must meet the following further conditions:

• *Only electricity generating units with nameplate capacity of at least 15 MWe.* The SIP revision may expand applicability only to additional fossil fuel-fired boilers or combustion turbines serving generators producing electricity for sale, and only by lowering the generator nameplate capacity threshold used to determine whether a particular boiler or combustion turbine serving a particular generator is a potentially affected unit. The nameplate capacity threshold adopted in the SIP revision may not be less than 15 MWe.[23] In addition or alternatively, applicability under the CSAPR NO_X Ozone Season Group 2 Trading Program may be expanded to non-electric generating units that would have been subject to the NO_X Budget Trading Program established for compliance with the NO_X SIP Call.[24]

• *No other substantive changes to federal trading program provisions.* The SIP revision may not substantively change any other trading program provisions, except in the case of a SIP revision that also addresses the allocation or auction of emission allowances as described above.[25]

In addition to the general submittal conditions and the other applicable conditions described above, a CSAPR-related full SIP revision must meet the following further conditions:

• *Complete, substantively identical trading program provisions.* The SIP revision must adopt complete state trading program regulations substantively identical to the complete federal trading program regulations at 40 CFR 97.402 through 97.435, 97.502 through 97.535, 97.602 through 97.635, 97.702 through 97.735, or 97.802 through 97.835, as applicable, except as described above in the case of a SIP revision that seeks to replace the default allowance allocation and/or applicability provisions.[26]

• *Only non-substantive substitutions for the term ''State.''* The SIP revision may substitute the name of the state for the term ''State'' as used in the federal trading program regulations, but only to the extent that EPA determines that the substitutions do not substantively change the trading program regulations.[27]

[19] *See* 40 CFR 52.38(a)(4)(i)(B)–(C), (a)(5)(i)(B)–(C), (b)(4)(ii)(B)–(C), (b)(5)(ii)(B)–(C), (b)(8)(iii)(B)–(C), (b)(9)(iii)(B)–(C); 52.39(e)(1)(ii)–(iii), (f)(1)(ii)–(iii), (h)(1)(ii)–(iii), (i)(1)(ii)–(iii).

[20] *See* 40 CFR 52.38(a)(4)(i)(D), (a)(5)(i)(D), (b)(4)(ii)(D), (b)(5)(ii)(D), (b)(8)(iii)(D), (b)(9)(iii)(D); 52.39(e)(1)(iv), (f)(1)(iv), (h)(1)(iv), (i)(1)(iv).

[21] *See* 40 CFR 52.38(a)(4), (a)(5), (b)(4), (b)(5), (b)(8), (b)(9); 52.39(e), (f), (h), (i).

[22] *See* 40 CFR 52.38(a)(4)(i), (a)(5)(ii), (b)(4)(ii), (b)(5)(iii), (b)(8)(iii), (b)(9)(iv); 52.39(e)(1), (f)(2), (h)(1), (i)(2).

[23] *See* 40 CFR 52.38(b)(4)(i), (b)(5)(i), (b)(8)(i), (b)(9)(i).

[24] *See* 40 CFR 52.38(b)(8)(ii), (b)(9)(ii).

[25] *See* 40 CFR 52.38(b)(4), (b)(5), (b)(8), (b)(9).

[26] *See* 40 CFR 52.38(a)(5), (b)(5), (b)(9); 52.39(f), (i).

[27] *See* 40 CFR 52.38(a)(5)(iii), (b)(5)(iv), (b)(9)(v); 52.39(f)(3), (i)(3).

• *Exclusion of provisions addressing units in Indian country.* The SIP revision may not impose requirements on any unit in any Indian country within the state's borders and must not include the federal trading program provisions governing allocation of allowances from any Indian country NUSA for the state.[28]

IV. Kentucky's SIP Submittal and EPA's Analysis

A. Kentucky's Submittal

In CSAPR and the CSAPR Update, EPA found that air pollution transported from Kentucky unlawfully affects other states' ability to attain or maintain the 1997 8-hour ozone NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. As discussed below, Kentucky's submittal addresses each of these NAAQS.

In the 2011 CSAPR rulemaking, among other findings, EPA determined that air pollution transported from Kentucky would unlawfully affect other states' ability to attain and maintain the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS, established annual NO_X and SO_2 budgets for Kentucky's EGUs representing full remedies for the Commonwealth's interstate transport obligations with respect to these NAAQS, and implemented the budgets by including the EGUs in annual NO_X and SO_2 trading programs.[29] Consequently, Kentucky's units meeting the CSAPR applicability criteria are currently subject to CSAPR FIPs that require participation in the CSAPR NO_X Annual Trading Program and the CSAPR SO_2 Group 1 Trading Program in order to address, in full, the Commonwealth's interstate transport obligations with respect to both the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS.[30]

In the 2011 CSAPR rulemaking, EPA also determined that air pollution transported from Kentucky would unlawfully affect other states' ability to attain or maintain the 1997 8-hour ozone NAAQS, established an ozone season NO_X budget for Kentucky's EGUs representing a partial remedy for the Commonwealth's interstate transport obligations with respect to that NAAQS, and implemented the budget by including the EGUs in an ozone season NO_X trading program.[31] Later, in the 2016 CSAPR Update rulemaking, using updated data and analyses, EPA determined that air pollution transported from Kentucky would unlawfully affect other states' ability to maintain the 2008 8-hour ozone NAAQS, established an ozone season NO_X budget for Kentucky's EGUs representing a partial remedy for the Commonwealth's interstate transport obligations with respect to that NAAQS, and implemented the budget by including the units in a new ozone season NO_X trading program.[32] Also in the CSAPR Update rulemaking, EPA determined that Kentucky's previous ozone season NO_X budget established in the 2011 CSAPR rulemaking as a partial remedy for the Commonwealth's interstate transport obligations with respect to the 1997 8-hour ozone NAAQS now represents a full remedy with respect to that NAAQS [33] and coordinated compliance requirements by allowing compliance with the new CSAPR Update budget to serve the purpose of addressing the Commonwealth's obligations with respect to the 1997 and 2008 8-hour ozone NAAQS.[34] Most recently, in a 2018 action approving a revision to Kentucky's SIP, based on further updated data and analyses, EPA determined that Kentucky's ozone season NO_X budget established in the 2016 CSAPR Update rulemaking as a partial remedy for the Commonwealth's interstate transport obligations with respect to the 2008 8-hour ozone NAAQS now represents a full remedy with respect to that NAAQS.[35] Consequently, Kentucky units meeting the CSAPR applicability criteria are currently subject to CSAPR Update FIP requirements for participation in the CSAPR NO_X Ozone Season Group 2 Trading Program in order to address, in full, the Commonwealth's interstate transport obligations with respect to both the 1997 8-hour ozone NAAQS and the 2008 8-hour ozone NAAQS.[36]

If approved, Kentucky's September 14, 2018, SIP submission would incorporate into the SIP CSAPR state trading program regulations implementing the CSAPR and CSAPR Update emissions budgets for Kentucky units' ozone season NO_X, annual SO_2, and annual NO_X emissions, thereby fully addressing through SIP provisions the Commonwealth's interstate transport obligations with respect to the 1997 8-hour ozone NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. As described in section II, pursuant to the CSAPR regulations, full and unconditional approval of the SIP revision by EPA would therefore automatically eliminate Kentucky EGU's obligations under the CSAPR and CSAPR Update FIPs to participate in the CSAPR federal trading programs.[37]

The SIP submittal includes the addition of the following Kentucky Administrative Regulations: 401 KAR 51:240 ''Cross-State Air Pollution Rule (CSAPR) NO_X annual trading program,'' 401 KAR 51:250 ''Cross-State Air Pollution Rule (CSAPR) NO_X ozone season group 2 trading program,'' and 401 KAR 51:260 ''Cross-State Air Pollution Rule (CSAPR) SO_2 group 1 trading program.'' In general, Kentucky's CSAPR state trading program rules are designed to replace the corresponding federal trading program regulations. For example, 401 KAR 51:240 ''Cross-State Air Pollution Rule (CSAPR) NO_X annual trading program'' is designed to replace subpart AAAAA of 40 CFR part 97 (*i.e.,* 40 CFR 97.401 through 97.435).

With regard to form, the CSAPR state trading program rules generally incorporate the corresponding federal trading program section or sections by reference, with a few exceptions.

With regard to content, the rules for each Kentucky CSAPR state trading program differ from the corresponding CSAPR federal trading program regulations in two main ways, as further described below. First, the applicability provisions in the Kentucky rules require participation in Kentucky CSAPR state trading programs only for units in Kentucky, not for units in any other state or in Indian country within the borders of Kentucky or any other state. Second, the Kentucky rules omit some federal trading program provisions not applicable to Kentucky's state trading programs, including provisions setting forth the amounts of emissions budgets, NUSAs, Indian country NUSAs, and variability limits for other states and provisions relating to EPA's administration of Indian country NUSAs.

The September 14, 2018, SIP revisions were submitted to EPA by a letter from the Secretary of the Kentucky Energy and Environment Cabinet, as clarified in a subsequent December 18, 2018, letter. The letter and enclosures describe steps taken by Kentucky to provide public notice prior to adoption of the state rules.

[28] *See* 40 CFR 52.38(a)(5)(iv), (b)(5)(v), (b)(9)(vi); 52.39(f)(4), (i)(4).

[29] *See* 76 FR at 48209–13.

[30] *See* 40 CFR 52.38(a)(2); 52.39(b); 52.940(a); 52.941(a).

[31] *See* 76 FR at 48209–13.

[32] *See* 81 FR at 74507–09.

[33] *Id.* at 74525.

[34] *Id.* at 74563 n.169.

[35] 83 FR 33730, 33759 (July 17, 2018).

[36] *See* 40 CFR 52.38(b)(2)(iii); 52.940(b)(2).

[37] *See* 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j).

B. EPA's Analysis of Kentucky's Submittal

At this time, EPA is proposing to take action on Kentucky SIP submissions, which are designed to replace the federal CSAPR NO_X Ozone Season Group 2 Trading Program, federal CSAPR NO_X Annual Trading Program, and the federal CSAPR SO_2 Group 1 Trading Program with regard to Kentucky units.

1. Timeliness and Completeness of Submittal

Kentucky submitted the SIP revisions to EPA on September 14, 2018, and EPA has determined that the submittals comply with the applicable minimum completeness criteria in section 2.3 of appendix V to 40 CFR part 51. The SIP submission deadline specified in 40 CFR 52.38(a)(5)(vi), 52.38(b)(9)(viii), and 52.39(f)(6) is defined with reference to certain separate CSAPR deadlines for submission of state-determined allowance allocations to EPA and is therefore inoperative in the case of a SIP revision that does not seek to replace the EPA-administered allowance allocation methodology and process set forth in the federal trading program rules. Because Kentucky is seeking to replace the federal trading program rules with substantively identical state trading program rules and is not seeking to replace the EPA-administered allowance allocation methodology and process, the SIP submission deadline does not apply.[38]

2. Complete, Substantively Identical Trading Program Provisions

The Kentucky rules adopt state budgets identical to the Ozone Season Group 2 NO_X budgets and the Phase 2 NO_X Annual and SO_2 Group 1 budgets for Kentucky under the federal trading programs. The Kentucky rules also adopt almost all of the provisions of the federal CSAPR NO_X Ozone Season Group 2 Trading Program, federal CSAPR NO_X Annual Trading Program and federal CSAPR SO_2 Group 1 Trading Program, including the default allowance allocation provisions. Under the Commonwealth's rules, EPA would administer the programs and would retain the authority to allocate allowances.

With the following exceptions, the Kentucky rules comprising Kentucky's CSAPR state trading program for ozone season NO_X emissions incorporate by reference all of the provisions of 40 CFR 97.801 through 97.835, the rules comprising the state program for annual NO_X emissions incorporate by reference all of the provisions of 40 CFR 97.401 through 97.435, and the rules comprising the state program for SO_2 emissions incorporate by reference all of the provisions of 40 CFR 97.601 through 97.635.

The first exception is that, as discussed subsequently in section IV.B.3, 401 KAR 51:240, Section 2, 401 KAR 51:250, Section 2, and 401 KAR 51:260, Section 2, of the Kentucky rules limit applicability of the rules to units located in Kentucky. This modification of the applicability provisions in the federal trading program rules is appropriate for state trading program rules which necessarily must be designed to apply only to sources subject to the state's jurisdiction.

The second exception is that the Kentucky rules do not incorporate the complete provisions of 40 CFR 97.410, 97.810, and 97.610 concerning the amounts of emissions budgets, NUSAs, Indian country NUSAs, and variability limits for the three CSAPR federal trading programs. Instead, Kentucky rules 401 KAR 51:240, Section 3(7), 401 KAR 51:250, Section 3(7), and 401 KAR 51:260, Section 3(7) adopt full-text replacement provisions specifying (and describing the relationships among) the emissions budget, NUSA, and variability limit amounts for the three trading programs only as applicable to Kentucky units and only for control periods occurring after 2016. The full-text replacement provisions adopted by Kentucky are substantively identical to the provisions of the respective federal rules that would apply to Kentucky units after 2016. For purposes of Kentucky's state trading program rules, which apply only to Kentucky units and only starting in 2018, the omission of provisions of the corresponding federal rules that apply to units located in other states or Indian country and provisions that applied to Kentucky units only for control periods before 2017 is not a substantive change from the federal trading program regulations.

The third exception is that Kentucky rules 401 KAR 51:240, 51:250, and 51:260 omit 40 CFR 97.411(b)(2), 97.411(c)(5)(iii), 97.412(b), 97.421(h), 97.421(j), 97.811(b)(2), 97.811(c)(5)(iii), 97.812(b), 97.821(h), 97.821(j), 97.611(b)(2), 97.611(c)(5)(iii), 97.612(b), 97.621(h), and 97.621(j), concerning EPA's administration of Indian country NUSAs. Omission of these provisions from Kentucky's state trading program rules is required, as discussed in section IV.B.4.

The final exception is that, only for purposes of units located in the Commonwealth, Kentucky rules 401 KAR 51.240, Section 1(2), 401 KAR 51.250, Section 1(2), and 401 KAR 51.260, Section 1(2), define the term ''Permitting Authority'' as the Kentucky Energy and Environmental Cabinet. The definition in the federal trading program regulations is not altered with respect to units located in other states or Indian country. Because the term ''permitting authority'' in the federal trading program regulations is intended to reference the appropriate permitting authority for each unit under 40 CFR part 70 or part 71, the definition in Kentucky's rules merely adds specificity without causing a substantive change.

None of the omissions undermine the completeness of Kentucky's state trading program regulations, and EPA has determined that Kentucky's proposed SIP revision makes no substantive changes to the provisions of the federal trading program regulations. Thus, Kentucky's SIP revision meets the condition under 40 CFR 52.38(a)(5), 52.38(b)(9), and 52.39(f) that the SIP revision must adopt complete state trading program regulations substantively identical to the complete federal trading program regulations at 40 CFR 97.402 through 97.435, 40 CFR 97.802 through 97.835, and 97.602 through 97.635, respectively, except to the extent permitted in the case of a SIP revision that seeks to replace the default allowance allocation and/or applicability provisions.

3. Only Non-Substantive Substitutions for the Term ''State''

401 KAR 51:240, Section 3(2)(b), 401 KAR 51:250, Section 3(2)(b), and 401 KAR 51:260, Section 3(2)(b) of the Kentucky rules substitute the phrase ''in Kentucky,'' for the phrase ''in a State (and Indian country within the borders of such State)'' in the corresponding federal trading program regulations at 40 CFR 97.404(a)(1) and (b), 97.804(a)(1) and (b), and 97.604(a)(1) and (b), respectively. These provisions of the Kentucky rules define the units that are required to participate in Kentucky's CSAPR state trading programs. The substitutions appropriately exclude all units located in other states or in Indian country within the borders of any state, thereby limiting the applicability of Kentucky's state trading programs to units that are subject to Kentucky's jurisdiction. These substitutions do not substantively change the provisions of CSAPR's federal trading program regulations. The remaining Kentucky rules do not substitute for the term ''State'' as used in the federal trading program regulations. Kentucky's SIP revision therefore meets the condition under 40 CFR 52.38(a)(5)(iii),

[38] *See* 40 CFR 52.38(a)(5)(vi), 52.38(b)(9)(viii), and 52.39(f)(6).

52.38(b)(9)(v), and 52.39(f)(3) that the SIP revision may substitute the name of the state for the term ''State'' as used in the federal trading program regulations, but only to the extent that EPA determines that the substitutions do not substantively change the provisions of the federal trading program regulations.

4. Exclusion of Provisions Addressing Indian Country

As discussed above in section IV.B.3, paragraphs 401 KAR 51:240, Section 3(2)(b), 401 KAR 51:250, Section 3(2)(b), and 401 KAR 51:260, Section 3(2)(b) of the Kentucky rules do not include units in Indian country within Kentucky's borders in the applicable requirements of the Commonwealth's rules. In addition, as required under 40 CFR 52.38(a)(5)(iv), 52.38(b)(9)(vi), and 52.39(f)(4), Kentucky's SIP revisions exclude federal trading program provisions related to EPA's process for allocating and recording allowances from Indian country NUSAs (*i.e.,* 40 CFR 97.411(b)(2), 97.411(c)(5)(iii), 97.412(b), 97.421(h), 97.421(j), 97.811(b)(2), 97.811(c)(5)(iii), 97.812(b), 97.821(h), 97.821(j), 97.611(b)(2), 97.611(c)(5)(iii), 97.612(b), 97.621(h), and 97.621(j)). Kentucky's SIP revision therefore meets the conditions under 52.38(a)(5)(iv), 52.38(b)(9)(vi), and 52.39(f)(4) that a SIP submittal must not impose any requirement on any unit in Indian country within the borders of the Commonwealth and must exclude certain provisions related to administration of Indian country NUSAs.

V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Kentucky Regulations 401 KAR 51:240, entitled ''Cross-State Air Pollution Rule (CSAPR) NO_X annual trading program''; 401 KAR 51:250, entitled ''Cross-State Air Pollution Rule (CSAPR) NO_X ozone season group 2 trading program''; and 401 KAR 51.260, entitled ''Cross-State Air Pollution Rule SO_2 (CSAPR) group 1 trading program.'' The rules became state-effective as of July 5, 2018. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

VI. Proposed Action

EPA is proposing to approve Kentucky's September 14, 2018, SIP submittals concerning the establishment for Kentucky units of CSAPR state trading programs for ozone season NO_X emissions and annual NO_X and SO_2 emissions. The proposed revisions would adopt into the SIP state trading program rules codified in Kentucky regulations at 401 KAR 51:240, ''Cross-State Air Pollution Rule (CSAPR) NO_X annual trading program,'' 401 KAR 51:250, ''Cross-State Air Pollution Rule (CSAPR) NO_X ozone season group 2 trading program,'' and 401 KAR 51.260, ''Cross-State Air Pollution Rule (CSAPR) SO_2 group 1 trading program.'' These Kentucky CSAPR state trading programs would be integrated with the federal CSAPR NO_X Annual Trading Program, the federal CSAPR NO_X Ozone Season Group 2 Trading Program, and the federal CSAPR SO_2 Group 1 Trading Program, respectively, and would be substantively identical to the federal trading programs.[39] If EPA approves these SIP revisions, Kentucky units therefore would generally be required to meet requirements under Kentucky's CSAPR state trading programs equivalent to the requirements the units otherwise would have been required to meet under the corresponding CSAPR federal trading programs. EPA is proposing to approve the September 14, 2018, SIP revisions because they meet the requirements of the CAA and EPA's regulations for approval of a CSAPR full SIP revision replacing a federal trading program with a state trading program that is integrated with and substantively identical to the federal trading program except for permissible differences, as discussed in section IV of this action.

EPA promulgated FIPs requiring Kentucky units to participate in the federal CSAPR NO_X Ozone Season Group 2 Trading Program, the federal CSAPR NO_X Annual Trading Program, and the federal CSAPR SO_2 Group 1 Trading Program in order to address Kentucky's obligations under CAA section 110(a)(2)(D)(i)(I) with respect to the 1997 8-hour ozone NAAQS, 1997 annual $PM_{2.5}$ NAAQS, 2006 24-hour $PM_{2.5}$ NAAQS, and 2008 8-hour ozone NAAQS in the absence of SIP provisions addressing those requirements. Approval of the Kentucky SIP submittals adopting CSAPR state trading program rules for ozone season NO_X and annual NO_X and SO_2 substantively identical to the corresponding CSAPR federal trading program regulations would satisfy Kentucky's obligation pursuant to CAA section 110(a)(2)(D)(i)(I) to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of these NAAQS in any other state and therefore would correct the same deficiency in the SIP that otherwise would be corrected by those CSAPR FIPs. Under the CSAPR regulations, upon EPA's full and unconditional approval of a SIP revision as correcting the SIP's deficiency that is the basis for a particular CSAPR FIP, the obligation to participate in the corresponding CSAPR federal trading program is automatically eliminated for units subject to the state's jurisdiction (but not for any units located in any Indian country within the state's borders).[40] Approval of Kentucky's SIP submittal establishing CSAPR state trading program rules for ozone season NO_X emissions and annual NO_X and SO_2 emissions therefore would result in automatic termination of the obligations of Kentucky units to participate in the federal CSAPR NO_X Ozone Season Group 2 Trading Program, the federal CSAPR NO_X Annual Trading Program, and the federal CSAPR SO_2 Group 1 Trading Program.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[39] As previously discussed in sections III and IV.B.2, under Kentucky's regulations, the Commonwealth will retain EPA's default allowance allocation methodology and EPA will remain the implementing authority for administration of the trading program.

[40] *See* 40 CFR 52.38(a)(6), (b)(10)(i); 52.39(j); *see also* 40 CFR 52.940(a)(1), (b)(2); 52.941(a).

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 17, 2019.

Mary S. Walker,

Regional Administrator, Region 4.

[FR Doc. 2019–16052 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0337; FRL–9996–10–Region 7]

Air Plan Approval; Missouri; Revisions to Cross-State Air Pollution Rule Annual Trading Program and Rescission of Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted on January 15, 2019, and two revisions on March 7, 2019, by the State of Missouri. The January 15, 2019, revision requests EPA remove from the Missouri Code of State Regulations (CSR), the regulations that established trading programs under the Clean Air Interstate Rule (CAIR). The EPA is proposing to act only on the revisions to the annual nitrogen oxides (NO_X) and sulfur dioxide (SO_2) trading program. The EPA will act on the revisions to the seasonal NO_X trading program in a separate action. The March 7, 2019, submissions revise Missouri's regulations related to the Cross-State Air Pollution (CSAPR) Annual Trading Program for SO_2 and NO_X, and for ozone season NO_X. Approval of these revisions will not impact air quality and ensures Federal enforceability of the State's rules. The EPA is proposing to approve these SIP revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before August 29, 2019.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2019–0337 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7214; email address *kemp.lachala@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2019–0337 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to the Missouri State Implementation Plan (SIP) that were submitted to EPA on January 15, 2019, and March 7, 2019.

The January 15, 2019, submission revises Missouri's regulations, title 10 Code of State Regulations (10 CSR) 10–6.362 and 10–6.366 [1] by rescinding and removing these rules. The EPA-administered trading programs under CAIR were discontinued on December 31, 2014, upon the implementation of the Cross-State Air Pollution Rule

[1] The January 15, 2019, submission also contained a revision to 10 CSR 10–6.364. EPA is not proposing to act on that portion of the submission in this action. EPA will address this portion of the submission in a separate action.

(CSAPR), which was promulgated by the EPA to replace CAIR. CSAPR established Federal trading programs for sources in multiple states, including Missouri, that replace the CAIR state and Federal trading programs.

Missouri submitted two revisions on March 7, 2019. The submissions revise Missouri's SIP to remove unnecessary use of restrictive language, update incorporations by reference, add definitions specific to the rule, and fully adopt the CSAPR Annual Trading Program for both SO_2 and NO_X into the Missouri SIP. The revisions amend Missouri's regulations, 10 CSR 10–6.372, ''Cross-State Air Pollution Rule Annual NO_X Trading Allowance Allocations'', 10 CSR 10–6.374, ''Cross-State Air Pollution Rule Ozone Season NO_X Trading Allowance Allocations'', and 10 CSR 10–6.376, ''Cross-State Air Pollution Rule Annual SO_2 Trading Allowance Allocations,'' which give Missouri authority for the CSAPR Annual Trading Programs for NO_X and SO_2, and ozone season NO_X Trading Program, and provides a process to allocate allowances to affected units in Missouri for compliance with the NO_X and SO_2 CSAPR Annual and ozone season NO_X Trading Programs.

III. Background

In 2005, the EPA promulgated CAIR (70 FR 25162, May 12, 2005) to address transported emissions that significantly contributed to downwind states' nonattainment and interfered with maintenance of the 1997 ozone and fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). CAIR required 28 states, including Missouri, to revise their SIPs to reduce emissions of NO_X and SO_2, precursors to the formation of ambient ozone and $PM_{2.5}$. Under CAIR, the EPA provided model state rules for separate cap-and-trade programs for annual NO_X, ozone season NO_X, and annual SO_2. The annual NO_X and annual SO_2 trading programs were designed to address transported $PM_{2.5}$ pollution, while the ozone season NO_X trading program was designed to address transported ozone pollution. The EPA also promulgated CAIR Federal Implementation Plans (FIPs) with CAIR Federal trading programs that would address each state's CAIR requirements in the event that a CAIR SIP for the state was not submitted or approved (71 FR 25328, April 28, 2006). Generally, both the model state rules and the Federal trading program rules applied only to electric generating units (EGUs), but in the case of the model state rule and Federal trading program for ozone season NO_X emissions, each state had the option to submit a CAIR SIP revision that expanded applicability to include certain non-EGUs [2] that formerly participated in the NO_X Budget Trading Program under the NO_X SIP Call.[3] Missouri submitted, and the EPA approved, a CAIR SIP revision based on the model state rules establishing CAIR state trading programs for annual SO_2, annual NO_X, and ozone season NO_X emissions, with certain non-EGUs included in the state's CAIR ozone season NO_X trading program. *See* 72 FR 71073 (December 14, 2007).

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina* v. *EPA,* 531 F.3d 896, *modified,* 550 F.3d 1176 (2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While the EPA worked on developing a replacement rule, the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, the EPA promulgated CSAPR to replace CAIR in order to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR required EGUs in affected states, including Missouri, to participate in Federal trading programs to reduce annual SO_2, annual NO_X, and/or ozone season NO_X emissions. The rule also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. CSAPR was intended to become effective January 1, 2012; however, the timing of CSAPR's implementation was impacted by a number of court actions.

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on December 30, 2011, the D.C. Circuit stayed CSAPR prior to its implementation and ordered the EPA to continue administering CAIR on an interim basis. On August 21, 2012, the D.C. Circuit issued its ruling, vacating and remanding CSAPR to the EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's *vacatur* of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the Supreme Court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects but remanded certain state emissions budgets. *EME Homer City Generation, L.P.* v. *EPA (EME Homer City II),* 795 F.3d 118, 138 (D.C. Cir. 2015).

Throughout the initial round of D.C. Circuit proceedings and the ensuing Supreme Court proceedings, the stay on CSAPR remained in place, and the EPA continued to implement CAIR. Following the April 2014 Supreme Court decision, the EPA filed a motion asking the D.C. Circuit to lift the stay in order to allow CSAPR to replace CAIR in an equitable and orderly manner while further D.C. Circuit proceedings were held to resolve remaining claims from petitioners. Additionally, the EPA's motion requested delay, by three years, of all CSAPR compliance deadlines that had not passed as of the approval date of the stay. On October 23, 2014, the D.C. Circuit granted EPA's request, and on December 3, 2014 (79 FR 71663), in an interim final rule, the EPA set the updated effective date of CSAPR as January 1, 2015 and delayed the implementation of CSAPR Phase I to 2015 and CSAPR Phase 2 to 2017. In accordance with the interim final rule, the EPA stopped administering the CAIR state and Federal trading programs with respect to emissions occurring after December 31, 2014, and the EPA began implementing CSAPR on January 1, 2015.[4]

In October 2016, the EPA promulgated the CSAPR Update (81 FR 74504, October 26, 2016) to address interstate transport of ozone pollution with respect to the 2008 ozone NAAQS and issued FIPs that established or updated ozone season NO_X budgets for 22 states, including Missouri. Starting in January 2017, the CSAPR update budgets were implemented via modifications to the CSAPR NO_X ozone season allowance trading program that

[2] These non-EGUs are generally defined in the NO_X SIP Call as stationary, fossil fuel-fired boilers, combustion turbines, or combined cycle systems with a maximum design heat input greater than 250 million British thermal units per hour (MMBtu/hr).

[3] In October 1998, EPA finalized the ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of ''Ozone''—commonly called the NO_X SIP Call. *See* 63 FR 57356 (October 27, 1998).

[4] EPA solicited comment on the interim final rule and subsequently issued a final rule affirming the amended compliance schedule after consideration of comments received. 81 FR 13275 (March 14, 2016).

was established under the original CSAPR.

As noted above, starting in January 2015, the CSAPR Federal trading programs for annual NO_X, ozone season NO_X, and annual SO_2 were applicable in Missouri. Thus, since January 1, 2015, the EPA has not administered the CAIR state trading programs for annual NO_X, ozone season NO_X, or annual SO_2 emissions established by the Missouri regulations.

On January 15, 2019, the State of Missouri, through the Missouri Department of Natural Resources (MoDNR), formally submitted a SIP revision that requests removal from its SIP of Missouri Code of State Regulations including 10 CSR 10–6.362 Clean Air Interstate Rule NO_X Annual Trading Program; 10 CSR 10–6.364 Clean Air Interstate Rule NO_X Ozone Season Trading Program; and 10 CSR 10–6.366 Clean Air Interstate Rule SO_2 Annual Trading Program (which implemented the CAIR annual NO_X, ozone season NO_X, and annual SO_2 trading programs in Missouri.[5]

IV. What part 52 revision is the EPA proposing to approve?

MoDNR's January 15, 2019, SIP revision requests the removal of regulations from the Missouri SIP under 10 CSR 10–6.362 Clean Air Interstate Rule Annual NO_X Trading Program, 10 CSR 10–6.364 Clean Air Interstate Rule Seasonal NO_X Trading Program, and 10 CSR 10–6.366 Clean Air Interstate Rule SO_2 Trading Program, which implemented the state's CAIR annual NO_X, seasonal NO_X, and SO_2 trading programs. The EPA has not administered the trading programs established by these regulations since January 1, 2015, when the CSAPR trading programs replaced the CAIR programs, and the state CAIR regulations have been repealed in their entirety from the Missouri Code of State Regulations. The amendments removing these regulations were adopted by the State Air Conservation Commission on September 27, 2018.

As noted previously, the CAIR annual NO_X, seasonal NO_X, and SO_2 trading programs addressed interstate transport of emissions under the 1997 $PM_{2.5}$ NAAQS and the 1997 ozone NAAQS. The D.C. Circuit remanded CAIR to the EPA for replacement, and in response the EPA promulgated CSAPR which, among other things, fully addresses Missouri's interstate transport obligation under the 1997 $PM_{2.5}$ NAAQS. (76 FR 48208 at 76 FR 48210, August 8, 2011). The EPA stopped administering the CAIR trading programs after 2014 and instead began implementing the CSAPR trading programs in 2015.

Therefore 10–6.362 and 10–6.366 do not play a role in addressing the transport obligations that the state initially adopted the rules to address: The CAIR trading programs are no longer being administered; the state's transport obligation under the 1997 $PM_{2.5}$ NAAQS is now being addressed by the CSAPR trading programs for annual NO_X and SO_2.

Missouri's CAIR trading programs for annual NO_X and SO_2 were adopted only to address Missouri's transport obligation under the 1997 $PM_{2.5}$ NAAQS, one of the two NAAQS underlying the EPA's CAIR rules.

In summary, Missouri's CAIR rules at 10 CSR 10–6.362 Clean Air Interstate Rule Annual NO_X Trading Program, and 10 CSR 10–6.366 Clean Air Interstate Rule SO_2 Trading Program no longer play any role in addressing the transport obligations that the rules were adopted to address. The EPA therefore finds Missouri's January 15, 2019, SIP revision requesting removal of these CAIR rules from the SIP approvable in accordance with section 110 of the CAA. The public comments received on the NPR are discussed in section III of this proposed rulemaking notice.

The EPA is also proposing to approve Missouri's revisions to 10 CSR 10–6.372, 10 CSR 10–6.374, and 10 CSR 10–6.376. The proposed revisions to 10–6.372 give Missouri responsibility for the CSAPR NO_X Annual Trading Program by incorporating by reference 40 CFR 97.404 through 40 CFR 97.428 into the Missouri SIP. The monitoring and recordkeeping provisions of the CSAPR NO_X Annual Trading Program, 40 CFR 97.430 through 40 CFR 97.435 are incorporated by reference into 10–6.372.

Missouri has also removed the unnecessary use of restrictive language including the removal of the word ''required'' in sections 10–6.372 (3)(A)2.B.; 10–6.372(3)(B)D.(I); and 10–6.372(3)(B)E. Missouri has also changed the word ''shall'' to ''will'' in 10–6.372(4)(B).

The proposed revisions to 10–6.374 give Missouri responsibility for the CSAPR ozone season NO_X Trading Program by incorporating by reference 40 CFR 97.804 through 40 CFR 97.828 into the Missouri SIP. The monitoring and recordkeeping provisions of the CSAPR ozone season NO_X Trading Program, 40 CFR 97.830 through 40 CFR 97.835 are incorporated by reference into 10–6.374.

The proposed revisions to 10–6.376 give Missouri responsibility for the CSAPR SO_2 Annual Trading Program by incorporating by reference 40 CFR 97.604 through 40 CFR 97.628 into the Missouri SIP. The monitoring and recordkeeping provisions of the CSAPR NO_X Annual Trading Program, 40 CFR 97.630 through 40 CFR 97.635 are incorporated by reference into 10–6.376.

Missouri has also removed the unnecessary use of restrictive language including the removal of the word ''required'' in sections 10–6.376 (3)(A)2.B.; 10–6.376(3)(B)D.(I); and 10–6.372(3)(B)E. Missouri has also changed the word ''shall'' to ''will'' in 10–6.376(4)(B). The revisions can be found in the docket to this action.

The EPA is proposing to approve these revisions to the Missouri SIP. These revisions incorporate by reference EPA's CSAPR Annual NO_X and SO_2, and ozone season NO_X trading programs and give Missouri the responsibility to administer these programs. The EPA encourages states to include such provisions in their state SIPs. The EPA does not believe that the language changes to the SIP reduce the stringency of the SIP. The EPA does not believe these language changes will affect air quality. Therefore, the EPA is proposing to approve Missouri's revisions to 10–6.372, 10–6.374, and 10–6.376.

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

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V.

The state provided public notice on the January 15, 2019, SIP revision from June 25, 2018 through August 2, 2018 and received no comments.

The state provided public notice on the March 7, 2019, SIP revisions from August 24, 2018 to October 4, 2018 and received seven comments from the EPA during the Regulatory Impact Review. The EPA's comments are in the docket for this proposed action. Missouri amended the rule in response to the comments and the EPA did not comment further. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

VI. What action is the EPA taking?

The EPA is proposing to approve the revisions to 10 CSR 10–6.362 and 10 CSR 10–6.366 that remove the CAIR annual trading program rules from the SIP. The EPA is also proposing to

[5] The EPA is not proposing to act on the requested revisions to 10 CSR 10–6.364 and will act on that submission in a separate action.

approve the revisions to 10–6.372, 10–6.374, and 10–6.376 that incorporate by reference the provisions of the Federal CSAPR program for annual NO_X and SO_2, and ozone season NO_X and make other wording changes.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Also, in this document, as described in the proposed amendments to 40 CFR part 52 set forth below, EPA is proposing to remove provisions of the EPA-Approved Missouri Regulations and Statutes from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 23, 2019.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart—AA Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by:

■ a. Removing entries ''10–6.362'' and ''10–6.366'';

■ b. Revising entries ''10–6.372'' and ''10–6.376''; and

■ c. Adding entry ''10–6.374''.

The revisions and addition read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c)* * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
*	* *	*	* *	* *
10–6.372	Cross-State Air Pollution Rule annual NO_X Trading Allowance Allocations.	3/30/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
10–6.374	Cross-State Air Pollution Rule ozone season NO_X Trading Allowance Allocations.	3/30/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
10–6.376	Cross-State Air Pollution Rule annual SO_2 Trading Allowance Allocations.	3/30/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	* *	*	* *	* *

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[FR Doc. 2019–16045 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R09–OAR–2019–0393; FRL–9997–60–Region 9]

Partial Approval, Partial Disapproval and Promulgation of State Plans for Designated Facilities and Pollutants; California; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove a Clean Air Act (CAA) section 111(d) plan submitted by the California Air Resources Board (CARB) to implement the EPA's Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (Emission Guidelines). This state plan submittal pertains to the regulation of landfill gas and its components from existing municipal solid waste (MSW) landfills. We are partially approving the state plan because it meets many of the requirements of the Emission Guidelines; however, we are partially disapproving the state plan because it does not fully address certain provisions of the Emission Guidelines.

DATES: Written comments must be received on or before August 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019—0393 at *http://www.regulations.gov,* or via email to *buss.jeffrey@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4152, *buss.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 2016, the EPA finalized Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills in 40 CFR part 60, subpart Cf, pursuant to section 111(d) of the CAA.[1] Section 111(d) of the CAA requires the EPA to establish a procedure for a state to submit a plan to the EPA which (A) establishes standards of performance for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 108(a) or emitted from a source category which is regulated under section 112 but (ii) to which a standard of performance under section 111 would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such standards of performance. The EPA has established requirements for state plan submittals in 40 CFR part 60, subpart B, and established Emission Guidelines for the control of designated pollutants [2] from certain MSW landfills. State submittals under CAA section 111(d) must be consistent with the relevant emission guidelines, in this instance 40 CFR part 60, subpart Cf, and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A.

On May 30, 2017, CARB submitted to the EPA a section 111(d) plan for existing MSW landfills, the ''California State Plan for Compliance with the Federal Emission Guidelines for Municipal Solid Waste Landfills'' (California plan). The plan was submitted in response to the August 29, 2016 promulgation of Federal emission guidelines requirements for MSW landfills, 40 CFR part 60, subpart Cf.

[1] 81 FR 59276 (August 29, 2016).

[2] Designated pollutant means any air pollutant, the emissions of which are subject to a standard of performance for new stationary sources, but for which air quality criteria have not been issued and that is not included on a list published under section 108(a) or section 112(b)(1)(A) of the Act. 40 CFR 60.21.

II. Summary of the Plan and EPA Analysis

The EPA has reviewed the California plan in the context of the requirements of 40 CFR part 60, subparts B and Cf, and part 62, subpart A. In this action, the EPA is proposing to partially approve the California plan as meeting the above-cited requirements as they pertain to landfill gas, and to partially disapprove the California plan because it omits the following operational, monitoring, recordkeeping and corrective action requirements relative to temperature and/or oxygen or nitrogen: 40 CFR 60.34f(c), 60.36f(a)(5), 60.37f(a)(2) and (3), 60.38f(k), and 60.39f(e)(2) and (5).

The primary mechanism selected by CARB to implement the emission guidelines for MSW landfills under state jurisdiction is through a demonstration that its MSW landfill regulations, ''Methane Emissions from Municipal Solid Waste Landfills,'' are no less stringent than 40 CFR part 60, subpart Cf.[3] The California plan will be federally applicable to MSW landfills in California upon the EPA's partial approval of the plan by final rulemaking. The EPA intends to address the aspects of the California plan underlying our proposed partial disapproval in a subsequent rulemaking when we promulgate a Federal plan to implement subpart Cf.[4]

The federally regulated pollutant under subpart Cf is MSW landfill emissions. While the stated purpose of California's MSW regulations is to ''reduce methane from [MSW] landfills pursuant to the California Global Warming Solutions Act of 2008,'' [5] the California plan demonstrates that the control of methane simultaneously controls landfill gas because ''the control system does not distinguish the compounds within the landfill gas.'' [6] Also, with this proposed partial approval and partial disapproval, the EPA's approval of the California plan is limited to those landfills that meet the criteria established in subpart Cf.[7] A detailed explanation of the rationale behind this proposed partial approval and partial disapproval is available in the EPA's Technical Support Document (TSD).

[3] California's MSW landfill regulations are codified at title 17 California Code of Regulations (CCR) CCR 95460–95476.

[4] The EPA is required to promulgate regulations setting forth a Federal plan on or before November 6, 2019. *State of California* v. *EPA,* No. 4:18–cv–03237 (N.D. Cal. 2019).

[5] 17 CCR 95460.

[6] California plan at 7.

[7] *Id.*

III. Proposed Action

Pursuant to 40 CFR 60.27, the EPA is proposing to partially approve and partially disapprove the California plan for MSW landfills submitted pursuant to 40 CFR part 60, subparts B and Cf. Therefore, the EPA is proposing to amend 40 CFR part 62, subpart F, to reflect this action. In addition, if the EPA finalizes this action as proposed, we intend to subsequently take action to update 40 CFR part 62, subpart F, upon promulgation of the Federal plan to identify the specific provisions corresponding to 40 CFR 60.34f(c), 60.36f(a)(5), 60.37f(a)(2) and (3), 60.38f(k), and 60.39f(e)(2) and (5) that MSW landfills in California will have to implement (in addition to the requirements of the state plan we are proposing to take action on today). Finally, the EPA's approval of the California plan is limited to those landfills that meet the criteria established in subpart Cf. This proposed partial approval and partial disapproval is based on the rationale discussed above and in the EPA's TSD associated with this action.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference of the California plan. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference CARB rules regarding MSW landfills discussed in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov,* Docket ID No. EPA–R09–OAR–2019–0393, and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

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

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

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

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. This action will not impose any requirements on small entities beyond those imposed by state law.

E. Unfunded Mandates Reform Act (UMRA)

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. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

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: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the section 111(d) plan is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern

environmental 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 impose additional requirements beyond those imposed by state law.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Landfills, Methane, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 23, 2019

Michael B. Stoker,

Regional Administrator, Region IX.

[FR Doc. 2019–16184 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1998–0006; FRL–9997–19–Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Peter Cooper Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is issuing a Notice of Intent to Delete the Peter Cooper Superfund Site (Site) located in the Village of Gowanda, Cattaraugus County, New York, 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 New York, through the Department of Environmental Conservation (NYSDEC), have determined that all appropriate response actions 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 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1998–0006, by mail to Sherrel Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007–1866. 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 issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sherrel Henry, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007–1866, (212) 637–4273, email: *henry.sherrel@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this issue of the **Federal Register**, we are publishing a direct final Notice of Deletion of the Peter Cooper Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of 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 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 16, 2019.

Peter D. Lopez,

Regional Administrator, Region 2.

[FR Doc. 2019–16063 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 18–213; FCC 19–64]

Promoting Telehealth for Low-Income Consumers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks to propose a Pilot program within the Universal Service Fund (USF or Fund) to support connected care for low-income Americans and veterans. The Commission specifically seeks to better understand how the Fund can play a role in helping patients stay directly connected to health care providers through telehealth services and improve health outcomes among medically underserved populations that are missing out on vital technologies.

DATES: Comments are due on or before August 29, 2019 and reply comments are due on or before September 30, 2019. If you anticipate that you will be submitting comments but find it

difficult to do so within the period of time allowed by this document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 18–213, by any of the following methods:

- *Federal Communications Commission's Website: http://fjallfoss.fcc.gov/ecfs2/.*

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th St. SW, Washington, DC 20554.
- *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CYA257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

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: Jodie Griffin, Wireline Competition Bureau, (202) 418–7550 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 18–213; FCC 19–64, adopted on July 10, 2019 and released on July 11, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th SW, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-19-64A1.pdf.*

I. Introduction

1. Telemedicine has assumed an increasingly critical role in health care delivery as technology and improved broadband connectivity have enabled patients to access health care services even when they cannot access a health care provider's physical location. Advances in telemedicine are transforming health care from a service delivered solely through traditional brick and mortar health care facilities to connected care options delivered via a broadband internet access connection directly to the patient's home or mobile location. Despite the numerous benefits of connected care services to patients and health care providers alike, patients who cannot afford or who otherwise lack reliable, robust broadband internet access connectivity are not enjoying the benefits of these innovative telehealth technologies. The Commission proposes a Pilot program within the USF to support connected care for low-income Americans and veterans. This Pilot program would help the Commission better understand how the Fund can play a role in helping patients stay directly connected to health care providers through telehealth services and improve health outcomes among medically underserved populations that are missing out on these vital technologies.

2. Specifically, in the NPRM, the Commission proposes the creation of a Pilot program that would allow the Commission to obtain valuable data concerning connected care services and also help to better understand the relationship of affordable patient broadband internet access service to the availability of quality health care, the health care cost savings that result from connected care services, and the role of connected care on patient health outcomes. The Commission's proposal seeks to bring these innovative telemedicine technologies to medically underserved populations, including low-income communities and veterans, by empowering health care providers to connect directly with their patients.

3. As discussed more fully in the following, the Commission proposes that the Connected Care Pilot program will operate as a new program within the USF, which would provide funding to eligible health care providers to defray the qualifying costs of providing connected care services to low-income Americans and veterans.

4. The Commission expects this Pilot could benefit Americans that are responding to a wide breadth of health challenges, including diabetes management, opioid dependency, high-risk pregnancies, pediatric heart disease, mental health conditions, and cancer. Data gathered from the Pilot program will help the Commission understand whether and how USF funds can be used to promote health care provider and consumer adoption and use of connected care services. The data and information collected through this Pilot program might also aid in the consideration of broader reforms—whether statutory changes or updates to rules administered by other agencies—that could support this trend towards connected care.

II. Discussion

5. To the extent that lack of affordable and robust broadband internet access service is an obstacle to the adoption of connected care services by health care providers and patients, the Commission believes universal service support could help address that obstacle. Further, by encouraging more health care providers to make use of connected care technologies, the Commission may help create a model for the nationwide adoption of such technologies, which could lead to improved health outcomes for patients and savings to the country's health care system overall.

6. Thus, the Commission proposes a three-year Connected Care Pilot program (Pilot) with a $100 million budget that would provide support for eligible health care providers to obtain universal service support to offer connected care technologies to low-income patients and veterans. Through this Pilot program, the Commission seeks to develop a record that will help to understand the benefits that subsidization of broadband service for connected care brings.

7. The Commission seeks to design a cost-effective and efficient Pilot program

that incentivizes participation from a wide range of eligible health care providers and broadband service providers, provides meaningful data about the use of connected care services provided over broadband for low-income Americans and veterans, and provides insight into how universal service funds could better promote the adoption of connected care services among low-income Americans and veterans and their health care providers.

8. The Commission proposes implementing a flexible Pilot program that will give health care providers some latitude to determine specific health conditions and geographic areas that will be the focus of the proposed projects. Under this proposal, the Pilot program would provide funding to selected Pilot project health care providers to defray the costs of purchasing broadband internet access service necessary for providing connected care services directly to qualifying patients. The Commission seeks comment on this proposal. The Commission believes its proposed approach will increase the variety of projects without discouraging or prejudging any applicants considering whether to participate. Nevertheless, the Commission proposes limiting the Pilot program to projects that primarily focus on health conditions that typically require at least several months or more to treat—such as behavioral health, opioid dependency, chronic health conditions (*e.g.,* diabetes, kidney disease, heart disease, stroke recovery), mental health conditions, and high-risk pregnancies. The Commission believes that collecting data across at least several months would provide more meaningful, statistically significant data to track health outcomes and cost savings—health conditions that do not require at least several months of treatment, therefore, may not provide the type of meaningful data the Commission seeks to collect through the Pilot program.

9. The *Notice of Inquiry* (FCC 18–112) sought comment on whether the Pilot program should focus on certain health conditions or geographic regions. Many commenters asserted that the Pilot program should not be limited to projects that treat specific health conditions. In addition, the record identifies numerous health conditions that can benefit from connected care services. To ensure that Pilot program funding is used for legitimate medical conditions and to guard against potential waste, fraud, and abuse, should the Commission adopt a specific definition of ''health condition'' for purposes of the Pilot program? If so, is there a generally accepted authority that provides a definition of ''health condition'' that would be appropriate to adopt for the Pilot program? The Commission also seeks information from commenters regarding the marketplace for connected care services, specifically whether health care providers typically purchase complete packages or suites of services that include patient broadband internet access service and other functionality necessary to provide connected care services, or whether health care providers typically purchase broadband internet access service connections for connected care as a stand-alone product. Additionally, the Commission seeks comment on the costs health care providers incur to purchase such services.

10. *Supported Services.* The *Notice of Inquiry* sought comment on providing funding for the costs of: (1) The broadband connectivity that eligible low-income patients of participating hospitals and clinics would use to receive connected care services; and (2) the broadband connectivity that a participating hospital or clinic would need to conduct its proposed connected care pilot project. The record demonstrates that many patients lack home broadband service or lack sufficient broadband service to receive connected care services, and evidences widespread support for funding broadband internet access connections for connected care through the Pilot program. Many commenters also expressed support for funding both fixed and mobile broadband for connected care. The record indicates that the VA's tablet program, which provides patient broadband connections for a small fraction of veterans who receive care through the VA, is the only federal agency program that currently funds patient broadband connections specifically for connected care.

11. The record indicates that health care providers typically purchase broadband internet access service that enables connected care through a broadband carrier or a connected care company (for example, a remote patient monitoring company). The health care provider then provides a connected care service, including the broadband internet access service underlying that connected care service, to the patient directly. To what extent are health care providers already funding patient broadband connections for connected care services and what are the costs associated with funding those connections? To what degree would providing universal service funding to offset these costs enable health care providers to extend service to additional patients or treat additional health conditions? Several health care providers asserted that the Pilot program should not fund internet connections between health care providers. The Commission agrees, as doing so would be duplicative with the existing Rural Health Care (RHC) programs and propose to exclude such connections from the Pilot program.

12. The Commission considers ''telehealth'' for the purposes of this proceeding to include a wide variety of remote health care services beyond the doctor-patient relationship; for example, involving services provided by nurses, pharmacists, or social workers. The Commission also defines the term ''telemedicine'' as using broadband internet access service-enabled technologies to support the delivery of medical, diagnostic, and treatment-related services, usually by doctors. The Commission seeks comment on these definitions and their applicability to the Connected Care Pilot program. In addition, the Commission also proposes to define the term ''connected care'' as a subset of telehealth that is focused on delivering remote medical, diagnostic, and treatment-related services directly to patients outside of traditional brick and mortar facilities. The Commission seeks comment on this proposed definition of connected care. Should the Commission place any additional qualifiers on this definition to ensure that the Pilot program is focused on medical services delivered directly to patients outside of traditional medical facilities through broadband-enabled technologies?

13. The Commission seeks comment on common existing uses of connected care technologies, such as remote patient monitoring devices. The record indicates that such devices are generally single-purpose, meaning that they cannot be used to access the public internet or for uses outside of the health care context. Are there other circumstances where health care providers are providing patient connectivity that enables them to access the internet for non-health care purposes? Are there any barriers to receiving connected care services for low-income patients and veterans, and, if so, what are those barriers? Would this Pilot enable additional connectivity not currently available to low-income patients and veterans?

14. The Commission also seeks comment on whether there are packages or suites of services that health care providers use to provide connected care services (such as a turnkey solution that includes software, remote patient

monitoring and remote monitoring devices, and patient broadband internet access) that are not currently funded under the existing RHC support programs that could be funded through the Pilot program as information services. What types of services would be considered information services, as well as any applicable precedents and should be funded through the Pilot program? How do service providers currently fund these types of services and what are the typical costs? Are specific types of health care providers or provider locations more likely to be unable to purchase these types of information services? Are there any federal or other grant programs or other funding sources that provide health care providers support for purchasing these types of services? Should the Commission provide support for internal connections for eligible health care providers through the Pilot program? Is such support needed for connected care services?

15. *Network Equipment.* The *Notice of Inquiry* sought comment on whether the Pilot program should fund ''network equipment necessary to make a broadband service functional'' and for consortia applicants ''equipment necessary to manage, control or maintain an eligible service or a dedicated health care broadband network'' as is done in the Healthcare Connect Fund program. At least one commenter supported funding this type of network equipment through the Pilot. Because the Commission currently funds the types of network equipment that are eligible for support through the Healthcare Connect Fund program, the Commission believes it has the authority to provide funding for similar equipment here, to the degree it is necessary to enable connectivity for the purposes of connected care. However, the Commission proposes not to permit duplication of funding for this equipment and equipment funded through the Healthcare Connect Fund program. The Commission seeks comment on this interpretation and approach. Would such network equipment be necessary to providing the broadband service underlying connected care, or part of a health care provider's purchase of a telehealth information service? Would health care providers still be interested in and be able to participate in the Pilot program if the Pilot program did not fund the types of health care provider network equipment that is eligible for support under the Healthcare Connect Fund program? If the Commission were to fund this type of equipment, how could the Commission ensure that the health care provider actually needs this equipment for the Pilot program and would not have needed or purchased this equipment but for participating in the Pilot program?

16. The Commission also acknowledged that a few commenters stated that the Pilot program should support health care provider administrative and outreach costs associated with participating in the Pilot program (such as personnel costs, and program management costs). Consistent with the existing RHC support programs and the RHC Pilot program, however, the Commission does not propose funding these expenses as part of the Pilot. As the Commission has previously explained, past experience in the RHC support programs and RHC Pilot program demonstrates that ''[health care providers] will participate even without the program funding administrative expenses.'' The Commission seeks comment on this approach.

17. *End-User Devices, Medical Equipment, Mobile Applications, and Health Care Provider Administrative Expenses.* The *Notice of Inquiry* also sought comment on whether the Pilot program should fund end-user equipment, medical devices, or mobile applications for connected care. Many commenters supported funding such items. That said, traditionally, the Commission has declined to fund these items through the Universal Service Fund because of section 254's focus on the availability of and access to services. As such, the Commission proposes to make end-user devices, medical devices, or mobile applications (excepting those applications that may be part of a service that could be considered an information service) ineligible for support in the Pilot program. Based on the record and other sources, some health care providers may be able to self-fund or obtain outside funding for end-user devices, medical devices, and connected care applications needed for their connected care pilot projects. The Commission seeks comment on the extent to which health care providers participating in the Pilot program may be able to obtain outside funding for end-user devices, medical devices, or mobile applications necessary to provide connected care services. Would health care providers still be interested in and be able to participate in the Pilot program if the Pilot program does not fund end-user devices, connected care medical devices, or connected care mobile applications?

18. *Other Program Structure Considerations.* The Commission seeks comment on whether there are any medical licensing laws or regulations, or medical reimbursement laws or regulations that would have a bearing on how the Commission structures the Pilot program. If so, how would those specific laws or regulations impact the Pilot program, and how should the Commission design the structure of the Pilot program in light of those impacts? For example, commenters in the record identify reimbursement as a major barrier to telehealth adoption. They urge the Commission to coordinate with the Centers for Medicare and Medicaid Services (CMS)—whether through a Memorandum of Understanding or other means—to implement reforms to reimbursement policies for telehealth. How should the Commission structure the Pilot to best ensure coordination between the Commission and other federal agencies, such as CMS? How can the Commission most easily obtain data through the Pilot that would be informative on issues such as reimbursement and licensure? Additionally, the Commission seeks comment on whether the provision of USF support to health care providers to provide connected care to low-income patients (or any other Pilot program funded item used by individual patients as part of the Pilot program) raises any issues under the Medicare and Medicaid Anti-Kick Back Statute, the Civil Monetary Penalties Act, or any other federal statutes.

19. *Budget.* The *Notice of Inquiry* sought comment on a potential $100 million budget for the Pilot program. Based on the broad support in the record, the Commission believes that targeting this amount of funding for the broadband underlying connected care technologies is substantial and sufficient to allow it to obtain meaningful data and ensure significant interest from a wide range of participants. The Commission therefore proposes to adopt that budget for the Pilot program. As discussed in the following, the Commission also proposes a three-year funding period for the Pilot program, during which selected projects would receive funding. The Commission seeks comment on these proposals. How should the total Pilot program budget be distributed over the three-year funding period? Should each selected project's funding commitment be divided evenly across the Pilot program duration? For example, if a selected project requests and receives a $9 million funding commitment and the funding period is three years, should the project receive $3 million for each year?

20. Several commenters expressed concern that the budget for the Pilot

program could be debited against the existing budgets for the Lifeline or Rural Health Care programs. However, the proposed Pilot program would not divert resources from the existing universal service support programs. Instead, the Commission proposes requiring the Universal Service Administrative Company (USAC) to separately collect on a quarterly basis the funds needed for the duration of the Pilot program. The Commission expects that funding the Pilot program in this manner would not significantly increase the contributions burden on consumers. This approach also would not impact the budgets or disbursements for the other universal service programs. The Commission seeks comment on this approach. Should the collection be based on the quarterly demand for the Pilot program? The Commission also proposes to have excess collected contributions for a particular quarter carried forward to the following quarter to reduce collections. Under this approach, the Commission also proposes to return to the Fund any funds that remain at the end of the Pilot program. Are there other approaches the Commission should consider for funding the Pilot program?

21. *Number of Pilot Projects and Amount of Funding per Project.* The *Notice of Inquiry* sought comment on funding up to 20 projects with awards of $5 million each. First, the Commission proposes to provide a uniform percentage of eligible services or equipment to be funded, rather than fully funding any Pilot projects, consistent with the Healthcare Connect Fund program and the RHC Pilot program. Several commenters similarly suggest that the Pilot program should not fund 100% of the eligible costs for each project. Based on the Commission's experience with the E-Rate and Rural Health Care programs, there are significant advantages to providing a set discount percentage that requires participants to contribute a portion of the costs, including being administratively simple, predictable, and equitable, and incentivizing participants to choose the most cost-effective services and equipment and refrain from purchasing a higher level of service or equipment than needed. In addition, the Commission believes that funding less than 100% of the costs minimizes the risk of non-usage of the supported services. The Commission seeks comment on this approach.

22. For services supported under this structure, the Commission proposes a discount level of 85%—the discount amount participants received in the Rural Health Care Pilot Program—and seeks comment on whether this amount would strike the right balance between requiring a health care provider contribution for such services and encouraging a wide range of eligible health care providers to participate in the Pilot program. Are there other grant or support programs or data that the Commission could look to in order to determine an appropriate discount level for these types of services that could be funded under this structure? For example, in the E-Rate program, the lowest discount level is 20% and ranges up to 90%. In contrast, the discount level for the Healthcare Connect Fund is 65%. To further ensure the cost-effective use of Pilot funds, in addition to adopting a flat, uniform discount percentage, should the Commission cap the monthly amount of support that can be paid for broadband internet access service to a health care provider for each participating patient? If so, what would be an appropriate cap, and what data and specific information would support this cap amount?

23. For the Healthcare Connect Fund program, the health care provider is required to pay the non-discounted share of the eligible costs from eligible sources (*e.g.,* the applicant, eligible health care provider, or state, federal, or Tribal funding or grants), and is prohibited from paying the non-discounted share of eligible costs from ineligible sources (*e.g.,* direct payments from vendors or service providers). The Commission seeks comment on whether it should apply this same limitation to health care providers participating in the Pilot program. If so, should participating patients also be considered an eligible source of the non-discounted share for services funded under the Pilot? Should the Commission limit the portion of the non-discounted costs that health care providers can require participating patients to pay for the supported broadband internet access service? If so, what would be an appropriate limit on the patient share of the costs? For purposes of the Pilot program, should the Commission place any limitation at all on the source of funding for the non-discounted share of the costs? Are there any other approaches the Commission should consider for limiting the source of funding that are not tied to the Healthcare Connect Fund program rules?

24. Next, the Commission addresses the number of projects and the per-project budget cap. Some commenters agreed that the Commission should fund up to 20 projects with awards of $5 million per project. Other commenters argued for the selection of fewer projects with larger funding amounts, or for the selection of a larger number of projects with varied or smaller funding amounts. On further consideration of the record, the Commission proposes not to expressly limit the number of funded Pilot projects, and to permit flexible and varied funding for each selected Pilot project. The Commission believes setting a fixed number of funded projects would not serve the goals of the Pilot program because it would artificially limit the number of funded projects before any proposals are even submitted. In addition, not setting a fixed number of projects to be funded will allow the Commission to better focus on selecting quality projects that can provide meaningful data rather than selecting a pre-determined number of projects. The Commission seeks comment on this view. The record likewise indicates that a uniform $5 million funding amount per project could artificially limit the scope of potential pilot projects and the data collected. While the Commission proposes allowing varied funding amounts for selected projects, the Commission does not anticipate spending all of the Pilot program funds on one or two large projects. Should the Commission establish a ceiling on the amount of the total budget that can be allocated to a single project and, if so, what would be an appropriate maximum funding amount for a single project?

25. *Cost Allocation.* The Commission also seeks comment on whether cost allocation should be required for services or other items supported through the Pilot program that are used for non-health care purposes or include ineligible components. For example, if a Pilot project permits patients to use the supported broadband service for non-health care purposes, should the Commission require cost allocation of the non-health care usage? If so, how should the cost allocation work? For supported patient broadband internet access service, should the cost allocations be based solely on the percentage of the service that is used for health care purposes? Should the cost allocations instead take into account the health care providers' savings associated with the use of the supported patient broadband internet access for health care purposes? If a health care provider contracts with a remote patient monitoring solution provider for a package that includes end-user devices and other items that are not broadband internet access service, how should cost allocation work for those devices or items? Should cost allocations for all

Pilot-supported costs follow the cost allocation rules and processes for the Healthcare Connect Fund? Which entity or entities (*e.g.,* the health care provider or service provider) should be responsible for providing the cost allocation and supporting documentation? What type of documentation should the Commission require to support the cost allocation?

26. *Duration.* The *Notice of Inquiry* sought comment on whether the Pilot program should have a two- or three-year funding duration and six-month ramp-up and wind-down periods. Many commenters asserted that a three-year duration is appropriate and would allow the Commission to obtain sufficient, meaningful data from the selected projects. A few commenters argued that more than three years would be necessary if broadband deployment was a Pilot program goal, or that the Pilot program duration should be as long as four or five years. USTelecom cautioned that a duration longer than three years (plus a ramp-up and wind-down and evaluation period) ''risks having the findings become obsolete by the time they could be effectuated . . . .'' Other commenters separately assert that a six-month ramp-up and six-month wind-down period should be part of the funding period.

27. Based on the record and the proposed Pilot program goals (which do not include broadband deployment), the Commission proposes a three-year funding period and separate ramp-up and wind-down periods of up to six months in order to give projects time to complete set up and other administrative matters related to the Pilot program. The Commission seeks comment on these proposals. When should the ramp-up period begin? Should the clock for the ramp-up period start after the selected project has been notified of its selection, or is there another event that should trigger the start of the ramp-up period? Should there be a uniform start date for funding under the Pilot program, and if so, how should the Commission determine that start date? Should the proposed three-year funding period for the Pilot program use a funding-year approach, with a fixed start date and end date for each Pilot program funding year, as is done in the E-Rate and Rural Health Care programs? If so, how would the ramp-up and wind-down periods work with a funding-year approach (*e.g.,* would the ramp-up period precede the start of the funding year)? Should funding disbursements begin during the ramp-up period, and if so how should funding be split between the ramp-up period and the Pilot project term? The Commission proposes setting a fixed end date for the Pilot program, with the possibility of extensions where circumstances warrant. The Commission seeks comment on this proposal.

28. *Eligible Health Care Providers.* The Commission proposes to limit health care provider participation in the Pilot program to non-profit or public health care providers within section 254(h)(7)(B): (i) Post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; (ii) community health centers or health centers providing health care to migrants; (iii) local health departments or agencies; (iv) community mental health centers; (v) not-for-profit hospitals; (vi) rural health clinics; (vii) skilled nursing facilities; (viii) and consortia of health care providers consisting of one or more entities described in clauses (i) through (vii).

29. The Commission seeks comment on whether section 254 requires it to limit health care provider participation to these categories of providers. And if not, the Commission believes that applying this limitation to the Pilot program would provide significant benefits: Leveraging the statutory definition of health care provider used for the Rural Health Care program would focus Pilot program funding on health care providers most in need of additional funding to reach eligible patients through connected care services, and would also realize administrative efficiencies by using existing definitions and application processes that parties are already familiar with through the Rural Health Care program. In addition, having a single uniform definition of ''health care provider'' would provide clarity for potential participants and facilitate the administration of the Pilot program.

30. While the statutory definition of ''health care provider'' may exclude certain health care providers, the Commission believes that it would still allow for a wide range of health care providers to participate in the Pilot program. For example, the Healthcare Connect Fund program is subject to this definition and over 8,600 distinct health care providers received funding commitments in the Healthcare Connect Fund program for funding year 2018. Additionally, the statutory definition encompasses many facilities serving medically underserved communities, including VA health administration facilities and facilities run by the Indian Health Service. The Commission seeks comment on this interpretation. Is there an interpretation of section 254(h)(7)(B) that would allow the Commission to provide funding to Emergency Medical Technicians, health kiosks, and school clinics through the Pilot program, as commenters request? Would the definition of ''health care provider'' under section 254(h)(7)(B) preclude sites like the VA's Virtual Living Room sites, community center or similar sites that provide dedicated rooms in convenient locations with broadband connections for patients to engage with technology and connect with the professionals providing them with medical care? The Commission seeks comment on whether limitations on eligible entities could limit the effectiveness of the Pilot program and the ability to obtain meaningful data on connected care services. Finally, are the proposed eligible health care providers sufficiently well versed in medical research methods to be able to properly evaluate the health outcomes linked to the provision of connected care?

31. In the event that the Commission limits Pilot program participants to the statutory definition of ''health care provider'' under section 254, the Commission proposes requiring interested health care providers to indicate their respective category(ies) for eligibility by submitting FCC Form 460, which USAC uses to determine the eligibility of health care providers in the Healthcare Connect Fund Program. The Commission proposes requiring eligible health care providers to have prior experience with telehealth and long-term patient care.

32. The Commission also proposes to borrow additional administrative procedures from the RHC programs in implementing the Pilot program. For example, the Commission proposes to have consortia applicants file FCC Form 460 identifying all sites that would participate in the Pilot program, including off-site data centers and administrative offices, and propose permitting consortia applicants to file FCC Form 460 on behalf of any site in the consortium that would participate in the Pilot program to determine that site's eligibility. Consistent with the Healthcare Connect Fund program, the Commission proposes requiring consortia applicants to have in place a Letter of Agency, which provides a consortium leader with authority to act on behalf of the participating health care providers. Additionally, the Commission proposes permitting third parties to ''submit forms and other documentation on behalf of the applicant'' if USAC receives written authorization from an ''officer, director, or other authorized employee stating that the [health care provider] or

Consortium Leader accepts all potential liability from any errors, omissions, or misrepresentations on the forms and/or documents being submitted by the third party.'' The Commission proposes that consortium applicants must update their FCC Form 460s if any information on their FCC Form 460 changes. Similarly, the Commission proposes that an eligible health care provider participating in the Pilot program, including those participating in consortia, submit an updated FCC Form 460 within 30 days of a material change. The Commission seeks comment on these proposals.

33. The Commission also proposes that the Pilot program be open to both urban and rural eligible health care providers. Several commenters assert that the Pilot should not be limited to projects serving only rural areas. To the extent that section 254(h)(2)(A) applies to the Pilot program, it does not limit universal service support to rural health care providers, and the Commission believes the Pilot program should not be limited to rural health care providers. The Fifth Circuit has found ''the language in section 254(h)(2)(A) demonstrates Congress's intent to authorize expanding support of 'advanced services,' when possible, for non-rural health [care] providers.'' Likewise, section 254(h)(2)(A) authorizes the Commission ''to enhance public and non-profit health care providers' access'' to broadband services. The Commission seeks comment on this proposal.

34. To promote geographic diversity, the Commission seeks comment on limiting participation in the Pilot program to health care providers that are located in or serve an area that has received the Health Resources and Services Administration's Health Professional Shortage Areas designation or Medically Underserved Areas designation, which correlate with professional shortages and lower-income areas, respectively, within a defined geographic area. What are the benefits and drawbacks of limiting participation by using these designations? Should the Commission also, or alternatively, consider limiting participation in the Pilot program only to eligible health care providers that currently provide care to at least a certain percentage of uninsured and underinsured patients, or to a certain percentage of Medicaid patients? The Commission seeks comment on these ideas. Would these types of limitations impact the interest and participation of health care providers in the Pilot program?

35. As connected care services continue to grow, health care providers that only offer connected care have entered the marketplace. These new market entrants may bring innovative new services and inject competition that benefits patients, but it is not clear whether they would qualify as eligible health care providers under section 254(h)(7)(B). The Commission seeks comment on this question. Additionally, the record indicates that these types of providers may not be involved in long-term patient treatment. What steps should the Commission take to ensure that participating health care providers have significant experience with providing long-term patient care, in order to guard against waste, fraud, and abuse in the Pilot program? The Commission also seeks comment on determining criteria that would demonstrate health care providers' experience with long-term care for patients. Are there types of connected care only companies that could demonstrate the level of experience with long-term patient care needed for the Pilot?

36. To ensure projects meet the goals of the Pilot program, should the Commission require participating health care providers to have experience integrating remote monitoring and telehealth services? Specifically, should the Commission limit eligibility in the Pilot program to health care providers that are federally designated as Telehealth Resource Centers or as Telehealth Centers of Excellence, or to otherwise demonstrate their experience providing telehealth services? Should the Commission exclude health care providers that have no prior connected care experience? Should participating health care providers have experience, or be required to partner with research bodies or firms with experience, conducting clinical trials in order to ensure statistically sound evaluation of patient outcomes?

37. *Eligible Service Providers.* In the RHC Program, the statute permits non-eligible telecommunications carriers (ETCs) to receive support; section 254(c)(3) makes clear that, in addition to the supported services included in the definition of universal service in section 254(c), ''the Commission may designate additional services for such support mechanisms for . . . health care providers for the purposes of subsection (h).'' Further, section 254(h)(2)(A) directs the Commission ''to enhance to the extent technically feasible and economically reasonable, access to advanced telecommunications services and information services'' for health care providers and, thus, allows support for non-ETCs. The Commission has previously explained that the ETC limitation in section 254(e) applies to the section 254(c) supported services, but not to additional supported services under section 254(h)(2)(A).

38. The *Notice of Inquiry* sought comment on whether the Pilot should be limited to ETCs, including facilities-based ETCs. Numerous parties opposed limiting the Pilot program to ETCs or facilities-based ETCs and explained that such a limitation would artificially limit participation in the Pilot program and could also limit the effectiveness of the Pilot program. The Commission proposes not to limit Pilot program funding to only ETCs. The Commission anticipates that it would provide funding to eligible health care providers to purchase broadband internet access service that would be provided to the patient through a connected care offering, or that the health care provider would use USF funding to purchase telehealth services that qualify as information services. As such, the Commission does not believe that health care providers should be restricted to purchasing broadband internet access service from only ETCs.

39. The Commission hopes that this will help incent participation in the program by a diverse range of both health care providers and service providers. The Commission seeks comment on this approach. What impact would this approach have on service provider and health care provider interest in participating in the Pilot program? If, instead, the Commission were to conclude that only ETCs would be able to receive support for providing broadband internet access service to patients participating in the Pilot, what impact would this approach have on service provider and health care provider participation in the Pilot program? As a practical matter, how could the Commission ensure that the Pilot program still leverages and supports the expertise of the health care provider as the main driver of each Pilot project, even if the monetary support must be paid to an ETC?

40. *Application Process.* The *Notice of Inquiry* requested comment on the application process for the Pilot program and proposed several categories of information that should be contained in the application. The Commission proposes that interested health care providers first submit an application describing the proposed pilot project and providing information that will facilitate the selection of high-quality projects that will best further the goals of the Pilot program. At the time of the application, should the

Commission require participating health care providers to have already identified specific broadband providers from which the health care provider will receive service? If the Commission requires broadband providers to be ETCs, should the Commission require all designations to be obtained prior to the application process? Or should the Commission require that if the project is selected, the service provider would obtain the necessary ETC designations before the project commences?

41. Based on the Commission's review of the record and prior experience with Pilot programs, it proposes that applications contain, at a minimum, the following information:

- Names and addresses of all health care providers that would participate in the proposed project and the lead health care provider for proposals involving multiple health care providers.
- Contact information for the individual(s) that would run the proposed pilot project (telephone and email).
- Health care provider number(s) and type(s) (*e.g.,* non-profit hospital, community mental health center, community health center, rural health clinic, community mental health center), for each health care provider included in proposal.
- Description of each participating health care provider's experience with providing connected care services and conducting clinical trials or the experience of a partnering health care provider.
- Description of the connected care services the proposed project will provide, the conditions to be treated, the health care provider's experience with treating those conditions, the goals and objectives of the proposed project (including the health care provider's anticipated goals with respect to reaching new or additional patients, improved patient health outcomes, or cost savings), and how the project will achieve the goals of the Pilot program.
- Description of the clinical trial design intended to measure the effect of the connected care pilot on health outcomes.
- Description of the estimated number of eligible low-income patients to be served.
- Description of the plan for implementing and operating the project, including how the project intends to recruit eligible patients, plans to obtain the end-user and medical devices for the connected care services that the project would provide, and transition plans for participating patients after Pilot program funding ends.
- List of all Department of Health and Human Services, Health Resources and Services Administration (HRSA) designated Health Care Professional Shortage Areas (for primary care or mental health care only) or HRSA designated Medically Underserved Areas that will be served by the proposed project.
- Description of whether the health care provider will primarily serve veterans or patients located in a rural area, or the provider is located in a rural area, on Tribal lands, or is associated with a Tribe, or part of the Indian Health Service.
- Description of the anticipated level of broadband service required for the proposed project, including the necessary speeds/technologies and relevant service characteristics (*e.g.,* 10/1 Mbps, or 4G).
- Detailed estimated break-down of the total estimated costs for the broadband internet access services and any other eligible costs.
- Estimated total ineligible costs and description of the anticipated sources of financial support for the project's ineligible costs.
- Description of how the participating health care provider will ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy and reimbursement laws and regulations, and applicable medical licensing laws and regulations, and how it will safeguard the collected patient information against data security breaches.
- Description of the health outcome metrics that the proposed project will measure and report on, and how those metrics will demonstrate whether the supported connected care services have improved health outcomes.
- Description of how the health care provider intends to collect and track the required Pilot program data.

42. Is there any additional information that the Commission should require health care providers to submit in the application? What types of information or documentation should the Commission require health care providers to include in their applications to demonstrate that the supported services would enhance the health care provider's access to advanced telecommunications and information services? Is there a minimum number of patients that a project must serve to provide statistically significant data? Is the proposed application information sufficient to determine whether projects have processes in place to ensure compliance with the applicable medical licensing laws and regulations, HIPAA and any other applicable privacy laws, and guard against data security breaches? Is there anything in HIPAA or privacy laws and regulations that would limit the Commission's ability to structure the Pilot program or collect data needed to evaluate the Pilot's success?

43. Should the Commission require health care providers to submit a self-certification regarding their patient care and telehealth qualifications with their applications? Moreover, should the Commission require applicants to certify that they are financially qualified? If so, what information should the Commission rely on to make that determination? Is there any supporting documentation the Commission should require to demonstrate that applicants are financially qualified? Likewise, should the Commission require health care providers to submit a self-certification that specifies that they will be able to meet patients' long-term care needs as well as provide the appropriate technology to help meet those needs? Should the Commission require applicants to certify that they have the capacity to conduct a valid clinical trial? If so, are there specific criteria the Commission should rely on to make such a showing? Should the Commission require applicants to certify that all information in their application is true and accurate?

44. The Commission intends to establish a deadline for submitting applications for the Pilot program. If the Commission ultimately issues an order establishing the proposed Pilot program, would requiring that applications be submitted within 120 days from the release of such an order give health care providers sufficient time to develop and submit a meaningful application for the Pilot program?

45. The Commission proposes to direct the Wireline Competition Bureau (Bureau) to review applications in coordination with the FCC's Office of Economics and Analytics, Office of Managing Director, Office of General Counsel, and the Connect2Health Task Force. The Commission proposes that it will then make any final selection decisions. To facilitate the review and selection of proposals, should the Commission also seek advice from other expert health care entities with telehealth expertise? For example, should the Commission consult with the federally designated Telehealth Resource Centers or Telehealth Centers of Excellence? Are there other organizations with whom the

Commission should consult during the application and selection process?

46. *Evaluation of Proposals and Selection of Projects.* The Commission seeks comment on the factors to evaluate the applications and select Pilot program projects. At a minimum, the Commission proposes considering whether each project would serve the Pilot program goals and whether the applicant is able to successfully implement, operate, and evaluate the outcomes of the project. The Commission also proposes considering the cost of the proposed project compared to the total Pilot program budget. What other objective factors should be used to evaluate the proposals and what should be the relative importance of each objective evaluation factor? For example, should a project's ability to further the goals of the Pilot program be more important than the estimated cost of the project compared to the total Pilot program budget? Should the Commission decline to consider proposals that do not have a plan for how participating patients will obtain the necessary connected care medical devices, end user devices (*e.g.,* smartphones or tablets), or connected care applications? Should the Commission decline to consider projects that cannot provide statistically sound evaluations of their proposed interventions?

47. To promote the selection of a diverse range of projects, the Commission proposes awarding additional points to proposed projects that would serve geographic areas or populations where there are well-documented health care disparities (Tribal lands, rural areas, or veteran populations) or that treat certain health crises or chronic conditions that significantly impact many Americans and are documented to benefit from connected care, such as opioid dependency, diabetes, heart disease, mental health conditions, and high-risk pregnancy. For all of the additional point factors the Commission proposes in the following, to seek comment on the relative importance of these factors compared to each other and compared to the other standard objective evaluation factors. Are there any other factors for which additional points should be awarded to a particular project?

48. It is well documented that there are significant health care shortages in rural areas and Tribal lands. In addition, the Department of Health and Human Services' Health Resources and Services Administration (HRSA) designates areas that are Healthcare Provider Shortage Areas (HPSA) or are Medically Underserved Areas (MUA)—these areas can be urban or rural. Given the significant health care disparities in these areas and potential benefits of increasing the adoption of connected care in these areas, the Commission proposes awarding extra points during the evaluation process to proposals that satisfy the following factors: (a) The health care provider is located in a rural area; (b) the project would primarily serve patients who reside in rural areas; (c) the project would serve patients located in five or more Health Professional Shortage areas (for primary care or mental health care only) or Medically Underserved Areas as designated by HRSA by geography; (d) the health care provider is located on Tribal lands, is affiliated with a Tribe, or is part of the Indian Health Service; or (e) the health care provider would primarily serve patients who are veterans. How should the relative importance of these additional factors be compared to each other and to the other proposed standard objective factors for evaluating proposals? Should projects receive additional points for each factor that they satisfy? What criteria should determine whether a health care provider is located in a rural area for purposes of these additional points? Would the definition of ''rural area'' in section 54.600 of the Rural Health Care program rules or the definition of ''urban area'' in section 54.505(b)(3)(i) of the E-Rate rules be appropriate for determining whether a project qualifies for additional points based on rurality? Is there another definition of ''rural area'' that the Commission should consider and, if so, what geographic level (*e.g.,* Census block, Census tract, Census block group) should the Commission use to determine eligibility for extra points based on rurality? How should this proposal apply to consortia?

49. The Commission also seeks comment on the criteria that should be used to determine whether a project would primarily serve patients who reside in rural areas. The Commission believes that relying on individual patient addresses for this purpose would be too complex to administer because of the potential volume of individual patient addresses. Are there other, non-patient address measures that could be used instead? For example, should the Commission use a metric that estimates average patient travel distance to the health care provider's facility?

50. The Commission proposes relying on the health care provider's certification that it is located on Tribal lands, affiliated with a Tribe or is part of the Indian Health Service. The Commission seeks comment on this proposal. For purposes of the additional points, should the Commission apply the definition of Tribal lands in section 54.400(e) of the Lifeline rules? Is there another definition that the Commission should consider? To receive the extra Tribal points, should the Commission require that the health care provider be located in a rural area as defined for the Pilot program? If so, how should rurality be defined? Should the Commission use the same definition for ''rural'' areas as that found in section 54.505(b)(3)(i) of the Commission's rules, or instead use a population density measure for a given geographic unit?

51. Similarly, the Commission seeks comment on the criteria that should be used to determine whether a project would primarily serve veterans. What threshold would be appropriate? For example, the Commission seeks comment on whether a project ''primarily serves'' veterans if more than 50% of its patient base are veterans. What documentation, if any, is appropriate to define a veteran population? Many veterans receive disability compensation from the VA, for instance, or cost-free health care based on certain factors. Would receipt of these benefits be sufficient to identify veteran status for purposes of the application?

52. The Commission seeks comment on awarding additional points for projects that are primarily focused on treating certain chronic health conditions or conditions that are considered health crises, such as opioid dependency, high-risk pregnancies, heart disease, diabetes, or mental health conditions. Opioid dependency is a well-documented epidemic in America and has had a particularly devastating impact in rural America where there are fewer opioid treatment centers. The *Notice of Inquiry* explains that connected care services have been frequently used to treat opioid dependency; thus, the Commission believes that it would be appropriate to award extra points for proposals that seek to use connected care to treat opioid dependency. Maternal mortality is also a crisis in America—the maternal mortality rate in the U.S. is higher than most other high-income countries and has increased over the last few decades. This crisis impacts both rural and urban areas and is particularly acute in rural areas where there is a significant shortage of hospitals and health care providers offering obstetric care, and also disproportionately impacts low-income, African-American women. In December 2018, Congress took action to

address the maternal mortality crises by passing the Preventing Maternal Deaths Act to create a federal infrastructure and resources for collecting and analyzing data on every maternal death in the United States. Accordingly, the Commission believes that it would be appropriate to award additional points for projects focused on treating high-risk pregnancy. Connected care has been used to treat heart disease and diabetes—two of the leading causes of death in America that are also associated with very high costs for patients and the health care system. Therefore, the Commission believes that it would also be appropriate to award additional points to proposals that seek to treat these conditions. Some organizations also have indicated that there is a mental health crisis in America—many Americans need mental health care but lack access or the ability to find it, particularly Americans who are low-income or reside in rural areas. Therefore, the Commission also believes that it would be appropriate to award additional points to proposals that seek to treat mental health conditions. The Commission seeks comment on these proposals. Are there any other health conditions that would warrant awarding additional points to specific project proposals during the selection process? Should the Commission expressly limit eligible health conditions in advance of receiving applications for Pilot projects?

53. Are there any other criteria the Commission should consider in the evaluation and selection of pilot projects? For example, the Commission seeks comment on whether to permit a project to serve a patient population that is primarily, but not entirely low-income? If so, should the Commission require health care providers to conduct a project where more than 50% of the patients are low-income? Or 75%? Similarly, how would the Commission evaluate whether a project includes low-income individuals? Should the Commission, for example, rely on the health care provider to identify patients for their project who are enrolled in Medicaid, receive cost-free health care from the VA, or who are uninsured or underinsured?

54. Consistent with the Commission's other universal service support programs, it is critical that the Commission ensures that the Pilot program funds are spent wisely and appropriately and that the Commission guards the Pilot program from waste, fraud, and abuse. At the same time, the Commission seeks to minimize the administrative burdens on service providers and health care providers participating in the Pilot program. In this section, the Commission proposes and seeks comment on potential requirements for Pilot program participants, including requirements for the vendor selection for Pilot-eligible costs, requesting funding, and requesting disbursements. For the Healthcare Connect Fund program, the Commission has developed robust rules and processes that are designed to minimize waste, fraud, and abuse. To promote the efficient and cost-effective use of Pilot program funds and guard against waste, fraud, and abuse, the Commission proposes extending many of these rules and processes to the proposed Pilot program.

55. *Selecting Service Providers.* The Commission proposes that participating health care providers, and not the participating patients, procure the services and equipment that could be funded through the Pilot program. The Commission believes that having participating health care providers select the service provider would be a better approach because health care providers are in the best position to know the specific service and performance requirements necessary to provide the specific connected care services supported by their particular Pilot project. In addition, aggregating eligible subscribers and streamlining benefit payments may lead to cost efficiencies and/or better service arrangements. The Commission seeks comment on this approach.

56. Consistent with the Commission's other universal service support programs, it is important that the Commission ensures the cost-effective, efficient use of Pilot program funds. To appropriately tailor the vendor selection requirements to the marketplace, the Commission requests additional information on how health care providers typically purchase broadband internet access service connections for connected care efforts. Do health care providers typically select and contract directly with a broadband service provider for patient broadband internet access service, or is the broadband service provider typically determined by a connected care service vendor, such as a remote patient monitoring service provider? Is the broadband internet access service for connected care, whether purchased as a stand-alone product or as part of a package, a commercially available product that is purchased at publicly-available rates? Are these rates typically negotiable? What is the typical contract term (*e.g.,* month-to-month, annual contract or multi-year contract) for these services? Are the health care provider costs for connectivity services for connected care determined on a per patient basis? Where health care providers purchase services for connected care as part of a complete package or suite of services, can the costs for the individual components be broken out separately? For example, for such a package or suite of services, is it possible to isolate the costs for the included software, or the broadband internet access service?

57. For all of the costs that could potentially be supported through the Pilot program, the Commission proposes requiring the participating health care providers to conduct a competitive bidding process, and select the most cost-effective service, as is required by the Healthcare Connect Fund program. For the E-Rate and Rural Health Care support programs, the Commission has traditionally required schools and libraries and health care providers to competitively bid for the supported services and equipment, with limited exemptions. These competitive bidding requirements are designed to ensure that applicants select the most cost-effective method of providing the requested service, ensure that service providers have sufficient information to submit a responsive proposal, seek the most cost-effective pricing for eligible services, and guard against waste, fraud, and abuse.

58. If the Commission requires health care providers to competitively bid any services and equipment that could be funded through the Pilot program, should the Commission use the existing Request for Services Form (Form 461) for the Healthcare Connect Fund program and, if so, what modifications would the Commission need to make to that form for purposes of the Pilot program? The Commission also proposes requiring the lead health care provider for projects involving multiple health care providers to secure a Letter of Agency from all participating providers before submitting a request for services. The Commission seeks comment on these proposals. Should the Commission allow exemptions from competitive bidding rules, as done in other USF programs? For example, should the Commission allow an exemption in the Pilot program if the health care provider is requesting commercially available services purchased at publicly-available rates and/or the total cost of the eligible services or equipment is below a specific monetary threshold (*e.g.,* total annual cost under $10,000 or monthly per-patient cost of $50 or below)? The Commission seeks comment on whether the other exemptions to the competitive bidding requirements for the Healthcare Connect Fund program should also be

extended to the Pilot program. Are there any other competitive bidding exemptions or alternatives to competitive bidding that the Commission should consider applying to the Pilot program?

59. Where an exemption to competitive bidding applies, are there public resources or entities that could help health care providers identify potential vendors or service providers? Should the Commission require ETCs to indicate their interest in participating in the Pilot program and their service areas, and make this information publicly available before the application deadline for the Pilot program? How can the Commission share similar interests to participate in the Pilot program from telecommunications providers that are not ETCs?

60. The Commission also proposes prohibiting gifts from participating service providers to participating health care providers. Are there any aspects of the competitive bidding requirements for the Healthcare Connect Fund program that would not work for the Pilot program and, if so, why not? If the Commission requires competitive bidding for the Pilot program, the Commission proposes requiring participating health care providers to submit the same competitive bidding information, make the same certifications, and use the same processes that are required for the Healthcare Connect Fund program, including any changes that may be made as a result of the *2017 Promoting Telehealth Order and Notice (FCC 17–164).*

61. *Requesting Funding.* The Commission further seeks comment on the most efficient methods for Pilot program participants to request funding. Should the Commission require selected Pilot projects to request funding under the Pilot program using the same forms and processes and making the same certifications that are required for the Healthcare Connect Fund program, including any changes that may be made as a result of the *2017 Promoting Telehealth Order and Notice*? Requiring health care providers to submit funding requests for the Pilot program would allow USAC to ensure that the Pilot projects only request funding for eligible services and that the health care providers requesting funding are in fact eligible. What modifications to the Healthcare Connect Fund funding request form, if any, are necessary to use for the Pilot program? Are there other HCF certifications or processes to import to the Pilot program as well? And how should the Commission modify these requirements, if at all? Would these modifications vary depending on the legal authority on which the Pilot program is based? If competitive bidding is required for the Pilot program, the Commission proposes requiring selected projects to submit a copy of their contract and supporting competitive bidding documentation with their funding request, as is currently required for the Healthcare Connect Fund program.

62. For purposes of administrative efficiency and to ensure that Pilot projects are not unreasonably delayed, the Commission proposes requiring Pilot program applicants who are selected to submit funding requests within six months of the date of their respective selection notices for the Pilot program. The Commission anticipates that USAC would promptly review funding requests of selected Pilot program health care providers on a rolling basis, irrespective of when they submit their funding requests within the six-month window. Would this proposed deadline for submitting the initial funding request give participating health care providers sufficient time to select a vendor and submit a funding request? Should the Commission require participating health care providers to submit a new funding request for each year of the Pilot program?

63. The Commission also proposes requiring selected projects to certify that the provided funding will only be used for the eligible Pilot program purposes for which the support is intended. Should the Commission also require participating health care providers to certify that the supported services and equipment will only be used for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under law? Additionally, the Commission proposes requiring projects involving multiple health care providers to identify the name and contact information for the organization that will be legally and financially responsible for the activities supported through the Pilot (*e.g.,* submitting funding requests, submitting invoicing and disbursement forms, submitting competitive bidding forms (if required)), as is required for consortia participating in the Healthcare Connect Fund program. This requirement would identify the responsible party if disbursements must be recovered for violations of program rules or requirements. The Commission seeks comment on these proposals.

64. *Disbursements.* The *Notice of Inquiry* sought comment on how disbursements should be issued for the Pilot program. Few commenters specifically addressed the issue of how often disbursements should be issued and which entity should receive disbursements through the Pilot program. One commenter supported monthly disbursements. Another commenter asserted that disbursements should be issued to service providers to minimize health care providers' administrative burdens, while two other commenters asserted that the disbursements should be issued directly to health care providers. Another commenter recommended issuing disbursements in the form of vouchers directly to participating patients, but other commenters argued that this approach would complicate the administration of the Pilot program, create unnecessary consumer burdens, and raise potential program integrity concerns.

65. The Commission proposes issuing disbursements to the service provider, as is the current practice for the RHC programs, for the purchase of connectivity or other eligible items pursuant to its legal authority. In practice, this would equate to monthly discounts paid towards the cost of service or eligible equipment purchased by the health care provider. The Commission seeks comment on this proposal and any alternatives that commenters may provide. The Commission also proposes requiring that all reimbursement requests for any health care provider-purchased services funded through the Pilot program be submitted within six months of the date of receipt of the eligible service or network equipment, and allow for extensions to this deadline where good cause exists. Based on the Commission's experience with the existing RHC programs, establishing deadlines for submitting invoices would facilitate effective administration of the Pilot program.

66. For all services supported through the Pilot program, should the project's compliance with the data reporting requirements discussed in the following be a requirement for issuing each disbursement to the service provider? Since the purpose of Pilot program is to collect data and test the efficacy of a connected universal service support mechanism, would delay or failure to comply with data reporting requirements create sufficient reason to hold disbursements until the error is corrected? The Commission seeks comment on the best methods to ensure participants are regularly reporting useful and required program data including whether and how to tie the data submission requirement to the

reimbursement of Pilot program support.

67. *Ensuring Effective and Responsible Use of Funds.* Consistent with the other existing universal service support programs, to ensure the fiscally responsible use of Pilot program funds and guard against waste, fraud, and abuse, the Commission proposes adopting document retention and production requirements for health care providers and service providers participating in the Pilot program, and also proposes making individual projects subject to random compliance audits. Specifically, the Commission proposes applying to the Pilot program (1) section 54.648(a) of the Healthcare Connect Fund program rules, which makes participating health care providers and service providers subject to random compliance audits, and (2) section 54.648(b)(1)–(3) of the Healthcare Connect Fund program rules, which require participating health care providers and service providers to retain documentation sufficient to establish compliance with the rules and requirements for the Pilot program for at least five years and produce such documents to the Commission, any auditor appointed by the Administrator or the Commission, or any other state or federal agency with jurisdiction. Are there any other rules or requirements for the RHC support programs, the E-Rate program, or the Lifeline program not specifically mentioned in the NPRM that the Commission should apply to the Pilot program?

68. With respect to audits, the Office of the Managing Director and the Bureau would have the authority to direct USAC to conduct targeted audits as necessary to ensure Pilot program funds are being used consistent with the program. The Commission believes that a five-year document retention period after the final disbursement is made would provide sufficient time to conduct audits and any other investigations related to the Pilot program. The Commission seeks comment on this proposal.

69. The *Notice of Inquiry* sought comment on several potential goals for the Pilot program. In addition, the *Notice of Inquiry* proposed several metrics and methodologies for gathering data and measuring progress towards the proposed goals. The Commission proposes to focus on four primary program goals and seeks comment on this approach: (1) Improving health outcomes through connected care; (2) reducing health care costs for patients, facilities, and the health care system; (3) supporting the trend towards connected care everywhere; and (4) determining how USF funding can positively impact existing telehealth initiatives. Further, the Commission seeks comment on appropriate metrics and methodologies to measure Pilot projects' progress towards these goals.

70. The Commission believes these constitute sound goals for the Pilot program and they are consistent with our statutory obligation to promote universal service. Section 254(c)(1), for example, directs the Commission to keep in mind when establishing the definition of services supported by USF ''the extent to which such telecommunications services are essential to education, public health, or public safety.'' Moreover, section 254(h)(2)(A) directs the Commission to establish rules to enhance access to advanced telecommunications and information services for health care providers. Additionally, section 254(b)(3) provides that ''[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to advanced telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.'' The Commission believes the proposed goals will help advance these principles, and seeks comment on that conclusion.

71. *Proposed Program Goals.* First, the Commission intends that the Pilot will help improve health outcomes through connected care. Several comments in the record expressed support for including this as a program goal. For example, Hughes stated that the ''provision of telehealth services expands access to high-level care and closes geographic barriers experienced by patients.'' TruConnect stated that the ''use of telemedicine applications on smartphones and devices benefits those who use them and will especially help rural patients who must travel great distances to health care providers.'' According to the American Heart Association, a ''strong and growing body of evidence identifies telehealth and remote patient monitoring as cornerstones of advanced healthcare systems.''

72. Commenters also identified several specific ways in which broadband access can improve health outcomes. For example, the Medical University of South Carolina (MUSC) and Gila River Telecommunications, Inc. (GRTI) both note that greater access to telehealth can enable health care providers to more easily engage their patients in the daily management of chronic conditions. Commenters also note that broadband access for telehealth purposes increases the likelihood that patients will seek out medical care, and also increases the likelihood that patients will follow a prescribed course of treatment. Commenters stated that telehealth can reduce emergency room visits and hospital admissions and readmissions, and can lead to increased contact with specialists. The Commission agrees with these assessments and therefore proposes to include improvement of health outcomes through connected care as a goal of the Pilot program.

73. The Commission also believes the Pilot program can ultimately help reduce health care costs for patients, facilities, and the health care system, and proposes to adopt that program goal. The Commission seeks comment on this proposal. In the *Notice of Inquiry,* the Commission asked how the Pilot program could help identify effective means of improving health care affordability for patients, including by reducing the burden of out-of-pocket expenses like transportation costs for rural and remote patients. Similarly, the Commission stated that the Pilot program could help identify the circumstances in which support for telehealth services could create savings for health care providers and the Medicaid program.

74. Many commenters noted the potential for the Pilot program to greatly reduce travel time for rural and remote patients, significantly reducing out-of-pocket costs for patients, in addition to reducing the need to miss work or school to see a health care provider. Commenters also noted that reduction in travel times could lower costs for physicians and health care providers. The University of Arkansas for Medical Sciences stated that insurers will ''witness cost savings when fewer beneficiaries experience long-term, costly morbidities.'' The Medical Home Network described the ability of telemedicine to increase communication between a primary care physician and a specialist, ''expediting wait times for patient appointments, and reducing unnecessary referrals and emergency room visits.'' In particular, Hughes, citing to videoconferencing capabilities at the University of California, Davis, found that ''patients avoided nearly 5 million miles of travel and $3 million in travel expenses by being able to videoconference the treatment center in Sacramento.'' CHRISTUS Health provided data on a remote monitoring pilot in partnership with a carrier and vendor in Texas, and found that after

one year of study, the pilot program reduced the cost of care by an estimated $236,000 per year for congestive heart failure patients enrolled in the pilot. Thus, based on the record, the Commission believes the program could help reduce health care costs for patients, facilities, and the health care system overall and seeks comment on this program goal.

75. Next, the Commission proposes to establish a goal of supporting the trend toward bringing health care directly to the consumer. The *Notice of Inquiry* observed that there is a trend away from relying on connectivity solely within and between physical health care centers and towards a ''connected care everywhere'' model—a trend that has shown promising results for patients, communities, and the health care system. The *Notice of Inquiry* sought comment on using the Pilot program to support the current movement towards direct-to-consumer health care to ensure that low-income Americans can realize the benefits of this trend.

76. Commenters broadly support making this a program goal for the Pilot. GRTI, for example, noted that the Commission ''has an opportunity to support the trend towards greater use of connected care and the benefits of such a policy,'' and supports the goal of evaluating success of the Pilot program based in part on how it furthers this trend. The American Heart Association, commenting on the benefits and costs of the move towards ubiquitous connected care, noted the ability of telehealth to provide ''instant healthcare at a fraction of the cost regardless of the patient's health care status or geographic location,'' but also noted potential ethical issues, including questions of trust, confidentiality, privacy, and informed consent. MUSC stated that as part of the movement towards connected care everywhere, the Pilot program should support the participation of rural and underserved consumers in the direct-to-consumer health care market. The Commission seeks comment on adopting this program goal. The Commission encourages commenters to specifically address how making USF dollars available to support the connectivity that enables telehealth applications can promote access to health care services for patients outside of the confines of brick-and-mortar medical facilities.

77. Finally, the Commission anticipates that the Pilot will help to determine how USF funding can positively impact existing telehealth initiatives, and the Commission proposes to include this as a goal of the Pilot program. In the *Notice of Inquiry,* the Commission stated that it sought ''to ensure that the pilot program enhances existing telehealth initiatives by the Commission and other federal agencies.'' The Commission observed that it currently has several initiatives to assist with the expansion of health care connectivity in rural and underserved areas including through the Rural Health Care programs and the Connect2Health Task Force. In addition, the Commission noted various other telehealth programs established by other federal agencies, for example, the VA's Home Telehealth Program and several initiatives run by the Department of Health and Human Services (HHS).

78. Numerous commenters assert that the Commission should consider working with HHS, in particular CMS, the National Coordinator for Health Information Technology (ONC), the Health Resources and Services Administration (HRSA), and the Indian Health Service. The Virginia Telehealth Network similarly proposed that the Commission consider collaborating with private sector entities that are providing broadband internet access service to vulnerable populations that might benefit from connected care services.

79. The Commission seeks comment on this proposed goal. How can the funding of connectivity for telehealth through the Connected Care Pilot complement other Commission initiatives, such as the Rural Health Care Program and the Connect2Health Task Force? How can the Pilot program complement other Commission programs to provide connectivity to low-income consumers, like the Lifeline Program, and rural and remote consumers, like the High Cost Fund? Other than the VA's Home Telehealth program, what existing federal programs, if any, specifically fund connectivity for patients to enable the provision of telehealth? How can the Commission best collaborate with other federal agencies pursuing this goal?

80. *Metrics.* The Commission seeks comment on the best metrics and methodologies for measuring progress towards its proposed program goals. For example, are there specific ways in which broadband-enabled telehealth applications can improve health outcomes that could be demonstrated through the Pilot program? In the *Notice of Inquiry,* the Commission proposed several metrics: Reductions in emergency room or urgent care visits in a particular geographic area or among a certain class of patients; decreases in hospital admissions or re-admissions for a certain patient group; condition-specific outcomes such as reductions in premature births or acute incidents among sufferers of a chronic illness; and patient satisfaction as to health status. Are there other metrics for measuring this goal? For example, commenters suggested measuring adherence to medication and care plans as a possible metric, because of the correlation with reducing morbidity and mortality. How can the Commission best measure whether and to what extent telehealth can promote adherence to medication and care plans? Similarly, how can the Commission measure patient satisfaction as to health status?

81. The Commission also encourages commenters to explain the specific ways itmeasures how universal service support for connectivity will improve health outcomes through telehealth. Do low-income consumers face budget constraints that are not adequately addressed by existing programs that prevent them from adopting connected care services via broadband internet access service? In such cases, what alternatives do those consumers use to obtain medical care, and do those alternatives result in poorer health outcomes? Do health care providers face budgetary shortfalls with respect to funding broadband internet access connections for connected care services, or other information services or equipment that health care providers need to provide connected care services such that the Fund can help serve a crucial funding need? In what other ways will universal service funding for connectivity promote improved health outcomes through telehealth?

82. The Commission also asks commenters to provide, where available, data and other information to help evaluate the potential for cost savings through telehealth. In addition to the specific areas of cost savings discussed in this document, in what other ways can the provision of telehealth produce cost savings for patients, facilities, and the health care system? The Commission further asks commenters to provide information on the specific way in which universal service support for connectivity to enable telehealth will produce cost savings. And the Commission seeks comment on the best metrics to evaluate progress towards this goal. How can the Commission best measure the savings from, for example, reduction in travel miles and travel time for patients and physicians? How can the Commission measure the effect of healthier patients on costs faced by health care providers and insurers? To what extent do these measures depend on accurate metrics on the health outcomes of the patients of pilot programs? What metrics exist to determine the cost savings from a

reduction in hospital admissions or re-admissions, or a reduction in emergency room visits?

83. How can the Commission measure its progress in supporting the trend toward bringing health care directly to the consumer? Will that funding enable access for patients and providers that would not otherwise have access to telehealth, perhaps by bringing telehealth into new geographic areas or attracting new funding for existing telehealth services? Will funding connected care pilots draw attention to, and increase the effectiveness of, future connected care applications, thereby promoting the development of connected care? Would it help incent more health care providers to purchase broadband, in order to bring connected care services to more patients? The Commission also seeks comment on any potential costs of ubiquitous connected care, including the ethical issues raised by the American Heart Association. How should these issues impact whether the Commission sets increased use of connected care as a goal of the Pilot program?

84. Finally, the Commission seeks comment on how it can determine whether the Pilot program supports existing Commission and federal efforts to promote telehealth. How can the Commission avoid duplicating existing efforts or otherwise overlap with programs that promote connectivity for telehealth? The Commission proposes to require Pilot program proposals to identify non-USF sources of funding or support, and to also require reporting from Pilot program participants to help the Commission identify how USF support for connected care broadband connectivity can leverage existing or new efforts to support other components of successful telehealth services. The Commission seeks comment on this approach.

85. For the Commission to evaluate the success of the Pilot program, it is critical to establish tools and procedures to gather data from the Pilot program participants on progress toward achieving the stated Pilot program goals. In addition, this information will allow the Commission to evaluate the progress of each project and ensure that Pilot program funds are being used efficiently and effectively. Ultimately, this data will determine the success of the Pilot program and will help inform the Commission about the long-term viability of a connected care program.

86. *Reporting Intervals.* The Commission proposes requiring participating health care providers to submit regular reports with anonymized, aggregated data that will enable the Commission to monitor the progress of each project and ultimately evaluate the Pilot program, as a condition of receiving the proposed support. The Commission seeks comment on the required reporting intervals (*e.g.,* quarterly, annually) and the information that should be included in the reports. For example, TeleHealthCare America proposed quarterly reports, and the Commission seeks comment on whether quarterly intervals would be sufficient. Is there a shorter or longer reporting interval that would be more appropriate when analyzing outcomes from clinical trials? Do clinical trials commonly report interim results before completion of the trial? What types of information are reported on an interim basis and would such results provide reliable information? Or should the Commission delay reporting of health outcomes until the study is completed? What is the standard practice in medical research? Could such reports create difficulties for blinding protocols?

87. *Clinical Trials.* The Commission seeks comment on the appropriate methods for measuring the health effects of the connected care Pilot projects. Should all projects be required to conduct randomized controlled trials to determine the effect of the treatments on patients' health? Are there alternative, less costly methods that are statistically sound and can accurately measure the effect of the treatment? Are these alternative methods generally accepted in the scientific and medical communities? If the proposed treatment in a Pilot project has already been extensively studied and the health benefits are generally accepted by the medical community, and the pilot's purpose is to uncover other effects, such as the impact on the costs of providing health care or the broader impacts of subsidized access to broadband internet access services for connected care, is there any need to require the reporting of health outcomes?

88. Would different clinical trials be better served by different reporting requirements and, if so, could these be judged as part of the proposed project methods? Should the Commission require participants to file a detailed annual report, and shorter reports on a quarterly basis? The Commission is mindful of the burden that reporting can create for participants, particularly those that do not regularly report information to the Commission and seek to minimize this burden while still providing a mechanism for participants to provide valuable information. The Commission encourages commenters to discuss the burdens and the best methods to alleviate them.

89. *Data Fields.* The Commission proposes that the regular reports from each participating project include information on a number of data fields that will enable the Commission to monitor the progress of each project towards the overall goals of the Pilot program. The Commission seeks comment on the data Pilot program participants should provide in regular reports to enable measuring progress towards these goals. The Commission proposes several data fields that should be part of regular reporting from Pilot participants. These fields include: The number of patients participating in the pilot project each month; the number of patients participating in the pilot project being treated for specific health conditions; the types of connected care services provided for each condition; average frequency of patient use of each type of connected care service; health outcomes for patients; and average cost-savings per patient. The Commission seeks comment on the proposed use of these data fields. Are there other types of information the Commission should require Pilot program participants to report on a regular basis? Should the Commission require pilot beneficiaries to submit raw health data on study participants or is it sufficient for beneficiaries to provide estimates of the effect of the treatment? Should the Commission require any type of certification as to the accuracy of the information provided?

90. To obtain information regarding patient experience, the Commission proposes requiring health care providers to conduct regular surveys of participating patients. The purpose of these surveys is to collect information regarding data such as patient cost savings, saved travel miles, patient satisfaction and comfort with the provided connected care services. Given the additional time and expense in administering patient surveys, reviewing data, and reporting it to the Commission, should health care providers conduct these surveys on a quarterly basis, or on a longer timeframe, such as after the completion of the clinical trial?

91. The Commission also proposes collecting additional information from Pilot program patient participants at the time of enrollment to better understand the impact of the Pilot program on the goals identified in this document, including whether the patient already has a mobile and/or home broadband connection, the speed, technology and broadband data usage for any broadband connection the patient already has, and

what devices the patient uses to connect to the internet. What other information might be important to know at the time of enrollment to help establish a baseline for measuring the impact of the Pilot program? Which party would be in the best position to collect this information from participants?

92. As noted in this document, the Commission proposes that all data provided by Pilot program participants should be anonymized and aggregated, and if that is impossible, for example, because there are so few participants within a reporting area their data could be used to identify individuals, then masked. Should the regular reports from each pilot project be made publicly available? If so, is the Commission's website, or USAC's website, the best place to host this information? Should the Commission allow project participants to request delay of publication until the project is completed if publication might impact the experiment? The Commission anticipates that these reports would not raise any HIPAA or other privacy concerns because the proposed required data would be submitted on an aggregated, anonymized basis. The Commission seeks comment on this conclusion. Further, are there other privacy or security measures that the Commission and USAC should take to ensure proper receipt, storage, and use of the data? The Commission is acutely aware of the data protections and sensitivities surrounding health data and seeks comment on the best ways to ensure proper handling of this information.

93. The Commission also proposes that Pilot program participants provide information regarding their experience with the Pilot program. For example, the Commission is interested in measuring the costs that Pilot program participants experience in designing their programs, submitting applications to the Commission, and ensuring ongoing compliance with the Pilot's rules and procedures. The Commission proposes to ask on a regular basis for these types of cost and time estimates to evaluate whether the Pilot program is an administratively feasible method of distributing funding for connected care services. This information will be critical if, following the Pilot, the Commission chooses to make a connected care program permanent, and seeks to minimize applicant burdens in so doing.

94. *Forms.* In addition, the Commission seeks comment on the forms that participants will use to provide this information. Are there existing Commission forms from other USF programs, in particular the Rural Health Care program, that can be used to report data for the Pilot program? Should the Commission establish new forms for the purposes of the Pilot program?

95. The Commission's stewardship of the universal service support mechanisms and determinations concerning the services that are eligible for universal service funding are bound by section 254 of the Act, as amended by the 1996 Act. The *Notice of Inquiry* sought comment on the Commission's legal authority to establish the Pilot program. In the following, the Commission proposes and seeks comment on itssources of legal authority for the Pilot program. The Commission seeks comment on the potential impact of its legal authority on the structure, administrability, and effectiveness and efficiency of the Pilot program. Are there any additional potential sources of legal authority that the Commission should consider?

96. Based on review of the record and reading of the statute, the Commission believes that the Commission's rural health care legal authority in section 254(h)(2)(A) of the Act supports the proposed Pilot program. Section 254(h)(2)(A) directs the Commission to ''establish competitively neutral rules, (A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit . . . health care providers. . . .'' The Commission has previously explained that it has ''broad discretion regarding how to fulfill this statutory mandate.'' The Commission seeks comment on whether to rely on the rural health care legal authority in section 254(h)(2)(A) as its authority to create the proposed Pilot program, and how relying on this legal authority would impact the structure of the Pilot program.

97. Several commenters argued that section 254(h)(2)(A) provides the Commission with legal authority to establish the proposed Pilot program. The Commission previously relied on this statutory provision as its legal authority for the RHC Pilot program and the Healthcare Connect Fund program, which were designed to develop dedicated health care provider networks and fund broadband internet access services used directly by health care providers, and network equipment necessary to make the supported services functional. The Commission has not previously relied on this statutory provision to provide support for connectivity between patients and health care providers, however. The Commission believes the most feasible way to structure the Pilot program would be to have the health care provider purchase the broadband internet access service needed by the patient to access connected care services from a broadband carrier or a connected care company (*e.g.,* a remote patient monitoring company) and then provide the telehealth service, including the underlying internet broadband access service, to the patient directly. The Commission therefore seeks comment on whether and how section 254(h)(2)(A) could be interpreted to authorize the creation of a Pilot program that would support patient broadband internet access service connections for connected care.

98. The Commission requests information on how providing health care providers support for patient-centered connected care enhances health care provider ''access to advanced telecommunications and information services'' consistent with section 254(h)(2)(A). Is there an argument that patient broadband internet access service falls within section 254(h)(2)(A) when it is purchased by a health care provider and used for medical purposes? Is the legal argument for supporting connectivity underlying technologies such as remote patient monitoring under section 254(h)(2)(A) stronger where the health care provider purchases the residential broadband internet access service as part of a complete solution or package and provides the connected care services to the patient? Does the fact that a health care provider cannot serve a patient at the patient's location through connected care unless the patient has a broadband internet access connection provide a basis for relying on the rural health care authority in section 254(h)(2)(A)? Is there an argument that individual patient broadband connections for connected care services fall within the scope of section 254(h)(2)(A) because they extend the health care provider's network by allowing the health care provider to send and receive communications to its patients wherever the patients are located, and thus would enhance access to advanced service ''for'' the health care provider, as required by section 254(h)(2)(A)?

99. The Commission also seeks comment on whether section 254(h)(2)(A) would also authorize the Commission to provide funding under the Pilot program for health care provider purchases of services—other than patient connectivity—that are used to provide connected care services but that are not already eligible for support

through the Healthcare Connect Fund program. For example, companies may offer cloud-based solutions, finished service packages, or complete suites of services that allow health care providers to provide telehealth, including connected care. Are these services ''information services'' under section 254(h)(2)(A), for which the Commission is required to develop competitively neutral rules to enhance access for health care providers? Are there other types of services that qualify as ''information services'' under section 254(h)(2)(A)? The Commission seeks additional information about, and examples of, these services and the components of these services, including any network equipment required to make these services functional. The Commission also seeks specific information and data that would help it to determine whether these types of services could qualify as supportable information services under section 254(h)(2)(A). Finally, the Commission seeks information on how these types of services help health care providers provide connected care services, and whether health care providers have difficulty affording these types of services without USF support.

100. The Commission believes that the universal service principles in sections 254(b)(1) and (b)(3) of the Act, and section 254(j) of the Act provide additional statutory support for a Pilot program that would provide USF support to enable health care providers to provide connected care technologies to eligible low-income consumers. Sections 254(b)(1) and (b)(3), provide, respectively, that the Commission's universal service policies must be based on the principles that ''[q]uality services should be available at just, reasonable, and affordable rates'' and ''[c]onsumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to those services provided in urban areas.'' Section 254(j) ensures the continuation of the Lifeline program through any subsequent changes to the Universal Service Fund. In addition, section 154(i) also authorizes the Commission to ''perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.''

101. The Commission believes that using a discrete, time-limited Pilot program to obtain additional data about the benefits of broadband-enabled connected care services, and how universal service funds could better support the adoption of broadband-enabled connected care services, as well as broadband internet access service more generally, is consistent with these statutory provisions. The Commission notes that it has previously relied on sections 254(b)(1) and (b)(3) and 154(i) to establish the limited Lifeline Broadband Pilot program, which provided participating low-income consumers support for bundled broadband service or stand-alone broadband service to test the impact of Lifeline support on broadband adoption. The Commission seeks comment on relying in part on the low-income legal authority for the proposed Pilot program and how relying on the low-income legal authority would impact the structure of the Pilot program. For example, would relying on the low income legal authority require the Commission to limit Pilot projects to those serving exclusively low-income individuals?

102. The Commission also seeks comment on whether it should rely on its low-income legal authority to provide support for broadband internet access connections for connected care services through the Pilot program, and rely on its rural health care legal authority to provide support for information services not already funded through the Healthcare Connect Fund program that health care providers use to provide connected care services. How would this approach impact the structure and administrability of the Pilot program? Would it result in a Pilot program structure that incentivizes participation from eligible health care providers, service providers, and patients better than under the other proposed legal authorities?

103. For example, if a health care provider contracts with a remote patient monitoring solution provider for a package that includes broadband connectivity for patients, patient remote monitoring equipment, and software for the health care provider to process data received by the patient's remote monitoring equipment, could the Commission fund some parts of that overall package via its Rural Health Care legal authority and other parts through its low-income legal authority? If the health care provider needed additional broadband capacity to its location to support that remote monitoring service, could the Commission also support that additional capacity through this Pilot program?

104. Are there other services the Commission should consider supporting consistent with its legal authority? For example, in the Commission's Rural Health Care Pilot Program, participants were permitted to purchase equipment integral to running their broadband networks, such as servers, routers, firewalls, and switches, or to upgrade their existing equipment and increase bandwidth. The Commission seeks comment on its legal authority to fund such services here.

III. Procedural Matters

A. Initial Paperwork Reduction Act Analysis

105. This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how to further reduce the information collection burden for small business concerns with fewer than 25 employees.

106. *Ex Parte Rules—Permit-But-Disclose.* The proceeding the NPRM initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to

be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 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.

107. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) for the NRPM, of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

108. *Need for, and Objectives of, the Proposed Rules.* The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254 and ''to establish competitively neutral rules—(A) to enhance to the extend technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit . . . health care providers . . . .'' The Commission is also required to base policies for the preservation and advancement of universal services on principles including ''[q]uality rates should be available at just, reasonable, and affordable rates'' and ''[c]onsumers in all regions of the Nation, including low-income consumers . . . should have access to telecommunications service and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.'' In the NPRM, the Commission proposes a Connected Care Pilot program (Pilot) that will assist in satisfying these requirements by providing support for eligible health care providers to provide connected care to low-income patients, including veterans and those in medically underserved communities. The Commission seeks comment on whether the Pilot program should fund broadband internet access services or other information services used by health care providers to provide connected care services and network equipment necessary to make the supported services functional. The Commission expects that the data gathered from the Pilot program will help to understand how and whether USF funds could be used to promote health care provider and low-income patient adoption and use of connected care services.

109. The Commission proposes four goals for the proposed Pilot program and also propose a three-year duration and budget of $100 million for the Pilot program. The Commission also proposes and seeks comment on the application process and the objective criteria for selecting projects among the applications the Commission receives for the Pilot program, and proposes and seeks comment on awarding additional points during the evaluation process for proposed projects that would primarily serve veterans or rural or Tribal areas or populations or primarily treat diabetes, heart disease, opioid addiction, mental health conditions, or high-risk pregnancy. The Commission should be able to fund a range of diverse projects throughout the country. The Commission proposes the specific requirements for health care providers, including vendor selection requirements, requirements for requesting funding and reimbursements, and audit and document retention requirements, and data reporting requirements. Finally, the Commission proposes specific requirements for participating service providers including indicating interest in participating in the Pilot program, requesting disbursements, and document retention and audit requirements. Participating consumers may also be required to complete consumer surveys.

110. *Legal Basis.* The legal basis for the Notice of Proposed Rulemaking is contained in sections 1 through 4, 201, 254, and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201, 254, and 403.

111. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

112. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 29.6 million businesses.

113. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

114. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 general purpose governments (county,

municipal and town or township) with populations of less than 50,000 and 12,184 special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

115. Small entities potentially affected by the proposals herein include eligible non-profit and public health care providers and the service providers offering them services, including telecommunications service providers, internet Service Providers (ISPs), and vendors of the eligible services and equipment that would be supported by the Pilot program.

116. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* In the NPRM, the Commission seeks comment on a proposed Connected Care Pilot program with a $100 million budget and three-year duration, that would provide support for eligible low-income patients to receive discounts on residential broadband service for purposes of connected care.

117. To participate in the Pilot program, the Commission proposes that health care providers satisfy the definition of an eligible health care provider under section 254(h)(7)(B) of the Act and submit an application by the application deadline that the Commission ultimately adopts for the Pilot program. The NPRM proposes specific information that health care providers would be required to submit in an application for each pilot project proposal, including, but not limited to, information on the participating health care provider(s), description of the project and how it would further the goals of the Pilot program, estimated project budget, patient populations and the geographic areas to be served and health conditions to be treated. The NPRM also proposes that the applications be made publicly available.

118. The NPRM proposes requirements for participating health care providers to select service providers for the supported services and other potential Pilot-program supported items, including the possibility of requiring health care providers to competitively bid the supported services. In addition, the NPRM proposes requiring health care providers for participating projects to submit funding requests and invoices for services and other items that are eligible for support through the Pilot program, and reports at regular intervals that would allow the Commission to monitor the status of each project and how each project is using the funding and seeks comment on the appropriate interval and contents of those reports. Participating service providers may also have requirements related to requesting disbursements. The NPRM also proposes that participating health care providers and service providers be subject to random compliance audits, and a three or five-year document retention period.

119. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

120. The Commission does not expect the requirements for the Pilot program to have a significant economic impact on eligible service providers or eligible health care providers because service providers and health care providers have a choice of participating. The Commission also does not expect small entities to be disproportionately impacted. The Bureau will consider whether the proposed projects will promote entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services, consistent with section 257 of the Communications Act, including those that may be socially and economically disadvantaged businesses. All eligible health care providers that choose to participate may be required to collect and submit data at regular intervals during the Pilot program and at the end of the Pilot program to USAC and the Commission, as described in section III(E) of the NPRM. The collection of this information is necessary to evaluate the impact of the Pilot program, including whether the Pilot program achieves its goals. The benefits of collecting this information outweigh any costs.

121. The NPRM proposes an application process that would encourage a wide variety of eligible health care providers and eligible service providers to participate, including small entities. The Commission seeks to strike a balance between requiring applicants to submit enough information that would allow the selection of high-quality, cost-effective projects that would best further the goals of the Pilot program, but also minimizing the administrative burdens on entities that seek to apply.

122. The Commission proposes awarding additional points during the application process for projects that are located in a rural area, would primarily serve rural patients or veterans, would serve five or more Medically Underserved Areas and Healthcare Provider Shortage Areas, as designated by the Health Resources and Services Administration by geography, or are located on Tribal lands, associated with a Tribe, or part of the Indian Health Service. This recognizes the disparities in health care in rural areas and Tribal areas, and areas that are designated as Medically Underserved Areas and Healthcare Provider Shortage Areas and is aimed at increasing the likelihood projects serving these areas will be selected.

123. The reporting requirements, compliance audit requirements, and document retention requirements the Commission proposes are tailored to ensure that Pilot program funding is used for its intended purposes and so that the Commission can obtain meaningful data to evaluate the Pilot program and inform its policy decisions. The proposed compliance audit and document retention requirements the Commission proposes are the same measures that apply to health care providers and service providers that participate in the Healthcare Connect Fund program. The proposed reporting requirements are tailored to ensure that the Commission receive regular, meaningful data about each project. The Commission finds that ensuring that participating health care providers and service providers, including small entities, are accountable in the use of Pilot program funds and that participating health care providers submit regular, meaningful information about their projects outweighs the burdens associated with these requirements.

IV. Ordering Clauses

124. *It is ordered* that, pursuant to the authority contained in sections 1

through 4, 201, 254, and 403 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. 151 through 154, 201, 254, and 403 the Notice of Proposed Rulemaking *is adopted.*

125. *It is further ordered* that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the NPRM on or before August 29, 2019, and reply comments September 30, 2019.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–16077 Filed 7–29–19; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 84, No. 146
Tuesday, July 30, 2019

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FGIS–19–0059]

Grain Inspection Advisory Committee Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Agricultural Marketing Service (AMS) Grain Inspection Advisory Committee (Advisory Committee). The Advisory Committee meets no less than once annually to advise the AMS on the programs and services delivered under the U.S. Grain Standards Act. Recommendations by the Advisory Committee help AMS better meet the needs of its customers who operate in a dynamic and changing marketplace. The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. The grain inspection activities formerly part of GIPSA are now organized under AMS.

DATES: August 15, 2019, 8:00 a.m. to 4:30 p.m. & August 16, 2019, 8:00 a.m. to 12:00 p.m.

ADDRESSES: The Advisory Committee meeting will take place at the AMS National Grain Center, 10383 N. Ambassador Drive, Kansas City, Missouri 64153.

Requests to orally address the Advisory Committee during the meeting or written comments to be distributed during the meeting may be sent to: Kendra Kline, AMS–FGIS, U.S. Department of Agriculture, 1400 Independence Avenue SW, STOP 3614, Washington, DC 20250–3601. Requests and comments may also be emailed to *Kendra.C.Kline@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Kendra Kline by phone at (202) 690–2410 or by email at *Kendra.C.Kline@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to AMS with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71–87k). Information about the Advisory Committee is available on the AMS website at *https://www.ams.usda.gov/about-ams/facas-advisory-councils/giac.*

The agenda will include updates on resolutions from the September 2018 meeting, a general program update, an update on AMS rulemaking activities, discussion of organic labeling on Federal Grain Inspection Service (FGIS) documents, an update and discussion on boundary exceptions, a discussion on the implementation of the FGIS-Food and Drug Administration memorandum of understanding, and a review and discussion on the policy and procedural manual that will set forth guidelines for the Advisory Committee.

Public participation will be limited to written statements and interested parties who have registered to present comments orally to the Advisory Committee. If interested in submitting a written statement or presenting comments orally, please contact Kendra Kline at the telephone number or email listed above. Oral commenting opportunities will be first come, first serve. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Kendra Kline at the telephone number or email listed above.

Dated: July 24, 2019.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2019–16079 Filed 7–29–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Food Programs Reporting System

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved information collection request for the electronic submission of programmatic and financial data through the Food Programs Reporting System (FPRS). The data is currently collected on approved Office of Management and Budget (OMB) forms.

DATES: Written comments must be received on or before September 30, 2019.

ADDRESSES: Comments may be sent to: Tim Kreh, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 706, Alexandria, VA 22302. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Tim Kreh at 703–305–2339.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to

be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Food Programs Reporting System (FPRS).

Form Numbers: SF–425; FNS–10; FNS–13; FNS–44.

OMB Number: 0584–0594.

Expiration Date: 09/30/2019.

Type of Request: Revision of a currently approved information collection request.

Abstract: The Food and Nutrition Service (FNS) is the Federal agency responsible for managing the domestic nutrition assistance programs. Its mission is to increase food security and reduce hunger in partnership with cooperating organizations by providing children and low-income people access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence. The domestic nutrition assistance programs include the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition programs such as the National School Lunch (NSLP) and School Breakfast Programs (SBP), Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Commodity Supplemental Food Program (CSFP), Food Distribution Program on Indian Reservations (FDPIR), The Emergency Food Assistance Program (TEFAP), and the Senior Farmers' Market Nutrition Program (SFMNP). Currently, the nutrition assistance programs managed by FNS touch the lives of 1 in 4 Americans over the course of a year.

Federal nutrition assistance programs operate as partnerships between FNS, State, Indian Tribal Organizations (ITOs), and local organizations that interact directly with program participants. States and ITOs voluntarily enter into agreements with the Federal Government to operate programs according to Federal standards in exchange for program funds that cover all benefit costs, and a significant portion of administrative expenses. Under these agreements, FNS is responsible for implementing statutory requirements that set national program standards for eligibility and benefits, providing Federal funding to States, ITOs and local partners, and monitoring and evaluation to make sure that program structures and policies are properly implemented and effective in meeting program missions. States, ITOs and local organizations are responsible for delivering benefits efficiently, effectively, and in a manner consistent with national requirements. States and ITOs may operate all or some of the 15 different domestic nutrition assistance programs.

The FNS is consolidating certain programmatic and financial data reporting requirements that are currently approved by the Office of Management and Budget, under the Food Programs Reporting System (FPRS), an electronic reporting system. The purpose is to give States and ITO agencies one portal for the various reporting required for the programs that the States and ITOs operate. The data collected is used for a variety of purposes; mainly program evaluation, planning, audits, funding, research, regulatory compliance and general statistics.

Affected Public: State, Local and Tribal Government.

Estimated Number of Respondents: 12,708.

The average estimated number of respondents varies depending on which specific nutrition assistance program is being reported on.

Estimated Number of Responses per Respondent: 2.889.

The average estimated number of responses per respondent varies depending on the program report. Reporting is completed monthly, quarterly, semi-annual and annually, depending on the type of report.

Estimated Total Annual Responses: 36,709.

Estimated Time per Response: 2.879.

The average estimated time of response varies depending on respondent group and type of program report, as shown in the table.

Estimated Total Annual Burden on Respondents: 105,670.

FOOD AND NUTRITION SERVICE DATA COLLECTION INFORMATION

[By program]

Affected public	Respondent program	Estimated number of respondents	Frequency of response per respondent	Total annual response	Estimated hours per response	Annual burden hours
Annual Burden Hours						
State Agencies Child Nutrition Program.	CN—NSLP, SBP, SMP, CACFP and Food Distribution Program (FDP) State Agency Program Staff.	3,335.00	4.077	13,597.0	1.725	23,457.0
State Agencies Supplemental Nutrition Assistance Program.	SNAP, SNAP–ED, CNMI and Puerto Rico Program Staff.	4,350.00	2.099	9,130.0	6.078	55,492.8
Food Distribution Program	CSFP, FDPNE, FDPIR and TEFAP Program Staff.	1,335.00	3.859	5,152.0	2.653	13,670.8
Special Supplemental Food Program for Women, Infants and Children (WIC).	WIC, AARA, Farmers Market; Senior Farmers Market Program Staff.	3,688.00	2.394	8,830.0	1.478	13,049.9
Overall Summary of Total Reporting Burden Hours Estimates for State Agency Program Staff.		12,708.00	2.889	36,709.0	2.879	105,670.5

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2019–16178 Filed 7–29–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–45–2019]

Foreign-Trade Zone (FTZ) 38—Spartanburg County, South Carolina; Notification of Proposed Production Activity; ZF Chassis Systems Duncan, LLC, (Automotive Suspension Systems), Duncan, South Carolina

ZF Chassis Systems Duncan, LLC (ZF Chassis) submitted a notification of proposed production activity to the FTZ Board for its facility in Duncan, South Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on July 23, 2019.

ZF Chassis already has authority to produce automotive suspension systems within FTZ 38. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt ZF Chassis from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, ZF Chassis would be able to choose the duty rates during customs entry procedures that apply to automotive suspension systems (2.5%). ZF Chassis would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Plastic fittings for tubes, pipes, and hoses; plastic mounting clips; paper and paperboard labels; iron or steel self-tapping screws; steel threaded nuts; steel non-threaded clips; copper non-threaded screws and bolts; copper threaded nuts and plugs; vacuum pipes; steel check valves; wheel speed sensors/ABS sensors; insulated wiring sets; plastic cable trays; steel front axle carriers; drive axles with differentials; steering boxes; steering columns; steering gears; steering wheels; angle joint assemblies for front axles; and, level sensors (duty rate ranges from duty-free to 8.6%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is September 9, 2019.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: July 24, 2019.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2019–16158 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) continues to find that manufacturers/exporters of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China) sold solar cells at less than normal value during the period of review (POR) December 1, 2016 through November 30, 2017.

DATES: Applicable July 30, 2019.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen and Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2769 and (202) 482–4037, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2018, Commerce published in the **Federal Register** the preliminary results of the 2016–2017 administrative review of the antidumping duty order on solar cells from the China.[1] For events subsequent to the *Preliminary Results, see* Commerce's Issues and Decision Memorandum.[2] The final weighted-average dumping margins are listed below in the ''Final Results of Review'' section of this notice.

On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from December 22, 2018 through January 27, 2019.[3] Subsequently, Commerce extended the deadline for the final results of this review until July 24, 2019.[4]

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.[5] Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.80, 8541.40.6015, 8541.40.6020, 8541.40.6025, 8541.40.6030, 8541.40.6035, 8541.40.6045, and 8501.31.8000. Although these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016–2017,* 83 FR 67222 (December 28, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2016–2017 Antidumping Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China'' (Issues and Decision Memorandum), dated concurrently with, and hereby adopted by, this notice.

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memoranda, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated May 23, 2019; and ''Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated July 11, 2019.

[5] For a complete description of the scope of the order, *see* Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/*. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Affiliation and Single Entity Determination

We preliminarily found that Chint Energy (Haining) Co., Ltd.; Chint Solar (Jiuquan) Co., Ltd.; and Chint Solar (Hong Kong) Company Limited are affiliated with Chint Solar (Zhejiang) Co., Ltd. (CSZ) (collectively, Chint Solar), pursuant to section 771(33)(E) of the Tariff Act of 1930, as amended (the Act), and that all of these companies should be treated as a single entity, pursuant to 19 CFR 351.401(f)(1)–(2). We also found that Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Twinsel Electronic Technology Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Jiujiang Shengchao Xinye Technology Co., Ltd.; Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch; and Risen Energy (Hong Kong) Co., Ltd. are affiliated with Risen Energy Co., Ltd. (Risen Energy) (collectively, Risen), pursuant to sections 771(33)(E) and (F) of the Act, and all of these companies should be treated as a single entity, pursuant to 19 CFR 351.401(f)(1)–(2). No interested party commented on these treatments, and these findings remain unchanged for these final results.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made revisions to our preliminary calculations of the weighted-average dumping margin for the mandatory respondents, Chint Solar and Risen, which also resulted in a revision of the dumping margin for the separate rate respondents.

In the *Preliminary Results,* we inadvertently stated that Lightway Green New Energy Co., Ltd. (Lightway) failed to file a separate rate certification. However, Lightway did timely file a separate rate certification on March 26, 2018.[6] Lightway's separate rate certification was complete and we noted no deficiencies. Further, the evidence placed on the record of this administrative review by this Chinese-owned company demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers*[7] and *Silicon Carbide*.[8] Accordingly, Commerce has determined that Lightway is eligible for a separate rate.

Final Determination of No Shipments

In the *Preliminary Results,* we preliminarily found that the following companies had no shipments during the POR: Anji DaSol Solar Energy Science & Technology Co., Ltd.; BYD (Shangluo) Industrial Co., Ltd.; Jiawei Solarchina Co., Ltd.; LERRI Solar Technology Co., Ltd.; Ningbo ETDZ Holdings, Ltd.; Sunpreme Solar Technology (Jiaxing) Co., Ltd.; Toenergy Technology Hangzhou Co., Ltd.; Wuxi Suntech Power Co., Ltd/Luoyang Suntech Power Co., Ltd.; and Zhejiang ERA Solar Technology Co., Ltd. Other than a comment regarding no shipments submitted by LONGi Solar Technology Co. Ltd. (LONGi), we did not receive any comments from interested parties regarding our preliminary finding of no shipments from the above companies. Based on LONGi's comment, and in the absence of record evidence demonstrating otherwise, we are now determining that LONGi also had no shipments during the POR.

Consistent with Commerce's assessment practice in non-market economy cases, we completed the review with respect to the above-named companies. Based on the certifications submitted by the aforementioned companies, and our analysis of U.S. Customs and Border Protection (CBP) information, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the ''Assessment'' section below, we will issue appropriate instructions with respect to these companies to CBP based on our final results.[9] In addition, these companies will maintain their rate from the most recent segment in which they participated.

Separate Rates

In the *Preliminary Results,* we found that evidence provided by Chint Solar, Risen, and 20 other companies/company groups supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies/company groups. We received no comments since the issuance of the *Preliminary Results* regarding our determination that these 22 companies/company groups are eligible for a separate rate. As explained above, in addition to these 22 companies, we have also granted a separate rate to Lightway. Therefore, for the final results, we find that 23 entities are eligible for separate rates. Commerce assigned a dumping margin to the separate rate companies that it did not individually examine, but which demonstrated their eligibility for a separate rate, based on the mandatory respondents' dumping margins.[10]

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period December 1, 2016 through November 30, 2017:

[6] *See* Lightway's March 26, 2018 Separate Rate Certification.

[7] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers*).

[8] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (Assessment of Antidumping Duties); *see also* the ''Assessment'' section of this notice, below.

[10] *See* Memorandum ''Calculation of the Final Dumping Margin for Separate Rate Recipients,'' dated concurrently with this notice.

Exporter	Weighted-average dumping margin (percent)
Chint Solar (Zhejiang) Co., Ltd./Chint Energy (Haining) Co., Ltd./Chint Solar (Jiuquan) Co., Ltd./Chint Solar (Hong Kong) Company Limited	2.67
Risen Energy Co. Ltd./Risen (Wuhai) New Energy Co., Ltd./Zhejiang Twinsel Electronic Technology Co., Ltd./Risen (Luoyang) New Energy Co., Ltd./Jiujiang Shengchao Xinye Technology Co., Ltd./Jiujiang Shengzhao Xinye Trade Co., Ltd. Ruichang Branch/RISEN ENERGY (HONGKONG) CO., LTD	4.79
Canadian Solar International Limited/Canadian Solar Manufacturing (Changshu), Inc./Canadian Solar Manufacturing (Luoyang)Inc./CSI Cells Co., Ltd./CSI–GCL Solar Manufacturing (YanCheng) Co., Ltd./CSI Solar Power (China) Inc	4.06
ET Solar Energy Limited	4.06
Hengdian Group DMEGC Magnetics Co., Ltd	4.06
JA Solar Technology Yangzhou Co., Ltd	4.06
Jiangsu High Hope Int'l Group	4.06
Jiawei Solarchina (Shenzhen) Co., Ltd	4.06
JingAo Solar Co., Ltd	4.06
Jinko Solar Import and Export Co., Ltd	4.06
Lightway Green New Energy Co., Ltd	4.06
Nice Sun PV Co., Ltd	4.06
Ningbo Qixin Solar Electrical Appliance Co., Ltd	4.06
Shanghai BYD Co., Ltd	4.06
Shanghai JA Solar Technology Co., Ltd	4.06
Shenzhen Sungold Solar Co., Ltd	4.06
Shenzhen Topray Solar Co., Ltd	4.06
Sumec Hardware & Tools Co., Ltd	4.06
Taizhou BD Trade Co., Ltd	4.06
Wuxi Tianran Photovoltaic Co., Ltd	4.06
Xiamen Eco-sources Technology Co., Ltd	4.06
Yingli Energy (China) Company Limited/Baoding Tianwei Yingli New Energy Resources Co., Ltd./Tianjin Yingli New Energy Resources Co., Ltd./Hengshui Yingli New Energy Resources Co., Ltd./Lixian Yingli New Energy Resources Co., Ltd./Baoding Jiasheng Photovoltaic Technology Co., Ltd./Beijing Tianneng Yingli New Energy Resources Co., Ltd./Hainan Yingli New Energy Resources Co., Ltd./Shenzhen Yingli New Energy Resources Co., Ltd	4.06
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company	4.06

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[11] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and we did not self-initiate a review of the entity, the entity is not under review, and the entity's dumping margin (*i.e.,* 238.95 percent) is not subject to change as a result of this review.[12]

Assessment

We will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after the publication date of these final results of review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- or customer-specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer- or customer-specific assessment rates for merchandise subject to this review. Where the respondent reported reliable entered values, we calculated importer- or customer-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer or customer and dividing this amount by the total entered value of the sales to the importer or customer.[13] Where we calculated an importer- or customer-specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions, we will direct CBP to assess importer- or customer-specific assessment rates based on the resulting per-unit rates.[14] Where an importer- or customer- specific *ad valorem* or per-unit rate is greater than *de minimis,* we will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer or customer-specific *ad valorem* or per-unit rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

For merchandise whose sale/entry was not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), we will instruct CBP to liquidate such entries at the China-wide rate. Additionally, if we determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the China-wide rate.[16]

[11] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[12] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 35616 (July 27, 2018).

[13] *See* 19 CFR 351.212(b)(1).

[14] *Id.*

[15] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[16] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed in the table in the ''Final Results of Review'' section above, the cash deposit rate will be the rate listed for each exporter in the table, except if the rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), then the cash deposit rate will be zero; (2) for previously investigated Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the China-wide entity (*i.e.,* 238.95 percent); [17] and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied the non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed for these final results within five days of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a 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 POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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.

Notification to Interested Parties

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: July 24, 2019.

Jeffrey I. Kessler

Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

[FR Doc. 2019–16159 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–DS–P

[17] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012–2013,* 80 FR 40998 (July 14, 2015).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

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 Institute of Standards and Technology (NIST).

Title: NIST Associates Information System (NAIS).

OMB Control Number: 0693–0067.

Form Number(s): None.

Type of Request: Revision and extension of a current information collection.

Number of Respondents: 4,000.

Average Hours per Response: 30 minutes.

Burden Hours: 2,000.

Needs and Uses: NIST Associates (NA) will include guest researchers, research associates, contractors, and other non-NIST employees that require access to the NIST campuses or resources. The NIST Associates Information System (NAIS) information collection instruments(s) are completed by incoming NAs. They are asked to provide personal identifying data including home address, date and place of birth, employer name and address, and basic security information. The data provided by the collection instruments is input into NAIS which automatically populates the appropriate forms and is routed through the approval process. NIST's Office of Security receives security forms through the NAIS process and allows preliminary access to NIST for NAs. The data collected is the basis for further security investigations as necessary.

Affected Public: Individuals or households.

Frequency: Once.

Respondent's Obligation: Required to obtain or retain benefits.

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. 2019–16142 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV008

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Groundfish Subcommittee of the Pacific Fishery Management Council's (Pacific Council's) Scientific and Statistical Committee (SSC) will hold a meeting to review new benchmark and update assessments and catch-only update assessment projections to inform new 2021 and 2022 groundfish harvest specifications. The meeting is open to the public.

DATES: The SSC Groundfish Subcommittee webinar will be held Tuesday, August 20 and Wednesday, August 21, 2019, beginning at 8:30 a.m. each day and continuing until 5:30 p.m. Pacific Daylight Time or until business for the day has been completed.

ADDRESSES: The SSC's Groundfish Subcommittee meeting will be an in-person meeting and will also be held by webinar. The SSC's Groundfish Subcommittee meeting will be held in the Auditorium at the National Marine Fisheries Service, Northwest Fisheries Science Center, 2725 Montlake Blvd. E, Seattle, WA 98111; telephone: (206) 860–3200. To attend the webinar, visit: *https://nwfscfram.webex.com/nwfscfram.* Enter the Webinar Access Code, which is 626 668 260, and your name and email address (required). After logging into the webinar, dial the TOLL number (not a toll-free number) 1–650–479–3208 or connect audio using the computer. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7 or newer; Mac®-based attendees are required to use Mac OS® X 10.10 or newer. Webex supports all major iPhone®, iPad®, Android™ phone or Android tablet OS 4.3 or newer (See webex system requirements: *https://help.webex.com/en-us/nki3xrq/Webex-Meetings-Suite-System-Requirements#reference_91D7DC41368764B9E37B8593ED86A11C*). You may send an email to Dr. Owen Hamel at *Owen.Hamel@noaa.gov* or contact him at (206) 860–3481 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The purpose of the SSC Groundfish Subcommittee meeting is to review groundfish stock assessments and catch-only updates that will inform management decisions for 2021 and beyond. Specifically, the SSC Groundfish Subcommittee will review new benchmark assessments and Stock Assessment Review panel reports for cabezon, longnose skate, big skate, sablefish, cowcod, and gopher/black-and-yellow rockfish; as well as new update assessments for petrale sole and widow rockfish. The SSC Groundfish Subcommittee will also review catch-only update projections for black rockfish, blackgill rockfish, brown rockfish, California blue/deacon rockfish north of Pt. Conception, canary rockfish, China rockfish, darkblotched rockfish, Dover sole, lingcod, longspine thornyhead, rougheye/blackspotted rockfish, shortspine thornyhead, and yelloweye rockfish.

No management actions will be decided by the SSC's Groundfish Subcommittee. The SSC Groundfish Subcommittee members' role will be development of recommendations and reports for consideration by the SSC and Pacific Council at the September meeting in Boise, ID.

Although nonemergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed 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 of the SSC Groundfish Subcommittee to take final action to address the emergency.

Visitors who are foreign nationals (defined as a person who is not a citizen or national of the United States) will require additional security clearance to access the NMFS Northwest Fisheries Science Center. Foreign national visitors should contact Ms. Stacey Miller at (541) 867–0535 at least two weeks prior to the meeting date to initiate the security clearance process.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, (503) 820–2411, at least 10 business days prior to the meeting date.

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

Dated: July 25, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–16143 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV007

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Bluefish Monitoring Committee will hold a meeting.

DATES: The meeting will be held on Wednesday, September 18, 2019, beginning at 9 a.m. and conclude by 11:30 a.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the

Bluefish Monitoring Committee to recommend 2020–21 annual catch limits, trip limits, discards and other management measures for the bluefish fishery.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: July 25, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–16138 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG737

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Confined Rock Blasting Near Ketchikan, Alaska

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

ACTION: Notice; issuance of an Incidental Harassment Authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Ketchikan to incidentally harass, by Level B and Level A harassment only, marine mammals during underwater confined rock blasting activities associated with a rock pinnacle removal project in Ketchikan, Alaska.

DATES: This Authorization is effective from September 16, 2019 to September 15, 2020.

FOR FURTHER INFORMATION CONTACT: Gray Redding, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable [adverse] impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On December 10, 2018, NMFS received a request from the City of Ketchikan for an IHA to take marine mammals incidental to underwater confined blasting and excavation in southeastern Alaska. The application was deemed adequate and complete on February 7, 2019. City of Ketchikan's request is for take of a small number of nine marine mammal species by Level B harassment and three marine mammal species by Level A harassment. Neither the City of Ketchikan nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Specified Activity

Overview

The City of Ketchikan plans to conduct underwater confined blasting of a rock pinnacle in the Tongass Narrows, southeastern Alaska. Removal of the underwater pinnacle will expand the area of safe navigation depths for cruise ships that presently visit Berths I and II. Removing the pinnacle will provide a more reliable ingress and egress for ships over a much wider range of wind and water level conditions. The project is scheduled to occur from September 16, 2019 through April 30, 2020. The blasting portion of the activities is expected to occur between November 15, 2019 and March 15, 2020, but blasting is not restricted to this time period, in order to allow appropriate flexibility for the applicant to complete the project. The action has the potential to affect waters in the Tongass Narrows and nearby Revillagigedo Channel, approximately 3 miles to the south.

There will be up to 50 days of blasting (currently anticipating between 25 and 50 total blasts) limited to at most, one blast per day. A blast consists of a detonation of a series of sequential charges, delayed from one another at an interval of 8 milliseconds (ms), with the total blast typically lasting less than 1 second (one second = 1000 milliseconds). Each delayed charge in the blast will contain a maximum of 75 total lbs (34 kg) of explosive. The timing of the blast must assure that the maximum pounds per delay does not exceed 75 lbs. The planned daily blast will consist of a grid of boreholes, each containing a delayed charge (total number may vary but typically it ranges between 30 to 60 holes), with the top section of the hole then filled in with stone (this process is referred to as ''rock stemming'').

Following blasting, the material freed by blasting will be dredged. As discussed in the proposed **Federal Register** Notice, take is highly unlikely and is not authorized for dredging activities.

A detailed description of the planned rock pinnacle removal project is provided in the **Federal Register** notice for the proposed IHA (84 FR 11508; March 27, 2019). Since that time, no changes have been made to the planned confined underwater blasting activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue and IHA to the City of Ketchikan was

published in the **Federal Register** on March 27, 2019 (84 FR 11508). The notice described, in detail, the City of Ketchikan's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received one comment from the Marine Mammal Commission (Commission).

Comment 1: The Commission recommended that NMFS estimate and ultimately authorize take by Level B harassment due to behavioral harassment during all activities involving explosives, including single detonation events, for this and all future IHAs. Additionally if NMFS elects not to authorize these takes, it should in the **Federal Register** Notices explain the basis for assuming no behavioral harassment occurs.

Response: NMFS believes that the best scientific evidence available indicates that it is appropriate to use a behavioral onset threshold for multiple detonations and to consider detonations with microdelays between them as a single detonation. The blasts conducted by the City of Ketchikan are confined blasts with charge detonations separated by microdelays, constituting a single detonation event per day with blasts occurring for at most 50 days.

Comment 2: The Commission recommends that NMFS refrain from implementing its proposed renewal process and instead use abbreviated **Federal Register** notices and reference existing documents to streamline the IHA process. If NMFS adopts the proposed renewal process, the Commission recommends that NMFS provide the Commission and the public a legal analysis supporting its conclusion that the process is consistent with section 101(a)(5)(D) of the MMPA.

Response: The notice of the proposed IHA (84 FR 11508, March 27, 2019) expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Additional reference to this solicitation of public comment has recently been added at the beginning of the **Federal Register** notices that consider renewals, requesting input specifically on the possible renewal itself. NMFS appreciates the streamlining achieved by the use of abbreviated **Federal Register** notices and intends to continue using them for proposed IHAs that include minor changes from previously issued IHAs, but which do not satisfy the renewal requirements. However, we believe our method for issuing renewals meets statutory requirements and maximizes efficiency. However, importantly, such renewals will be limited to circumstances where: The activities are identical or nearly identical to those analyzed in the proposed IHA; monitoring does not indicate impacts that were not previously analyzed and authorized; and, the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency will consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA will be published in the **Federal Register**, as they are for all IHAs. The option for issuing renewal IHAs has been in NMFS' incidental take regulations since 1996. We will provide any additional information to the Commission and consider posting a description of the renewal process on our website before any renewal is issued utilizing this process.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find*-species).

Table 1 lists all species with expected potential for occurrence in waters near Ketchikan, Alaska and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2018). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (*e.g.,* Muto *et al.,* 2018). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2017 SARs (Muto *et al.,* 2018) and draft 2018 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE PLANNED ACTION AREA

Common name	Scientific name	MMPA Stock	ESA/ MMPA status; Strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray Whale	*Eschrichtius robustus*	Eastern North Pacific	-, -, N	26,960 (0.05, 25,849, 2016).	801	138
Family Balaenidae:						
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	E, D,Y	10,103 (0.3; 7,890; 2006)	83	25
Minke whale	*Balaenoptera acutorostrata*	Alaska	-, N	N.A	N.A.	N.A.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orcinus orca*	Alaska Resident	-, N	2,347 (N.A.; 2,347; 2012)	24	1
	West Coast Transient		-, N	243 (N.A, 243, 2009)	2.4	0
	Northern Resident		-, N	261 (N.A; 261; 2011)	1.96	0
	Gulf of Alaska Transient		-, N	587 (N.A; 587; 2012)	5.87	1
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	North Pacific	-,-; N	26,880 (N.A.; N.A.; 1990)	N.A.	0
Family Phocoenidae:						
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, Y	975 (0.10; 896; 2012)	8.95	34
Dall's porpoise	*Phocoenoides dalli*	Alaska	-, N	83400 (0.097, N.A., 1993).	N.A.	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Steller sea lion	*Eumetopias jubatus*	Eastern U.S	-,-, N	41,638 (N.A.; 41,638; 2015).	2,498	108
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	Clarence Strait	-, N	31,634 (N.A.; 29,093; 2011).	1,222	41

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable (N.A.).

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

All species that could potentially occur in the planned action areas are included in Table 1. As described below, all 9 species (with 12 managed stocks) temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized it. In addition, the northern sea otter (*Enhydra lutris*) may be found in waters near Ketchikan, Alaska. However, northern sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A detailed description of the of the species likely to be affected by the City of Ketchikan's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (84 FR 11508; March 27, 2019); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 (decibels) dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Nine marine mammal species (seven cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to co-occur with the planned blasting activities. Please refer to Table 1. Of the cetacean species that may be present, three are classified as low-frequency cetaceans (*i.e.,* all mysticete species), two are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Kogia spp.).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from confined underwater blasting activities for the Ketchikan pinnacle removal project have the potential to result in temporary threshold shifts (TTS) (Level B harassment) and a small degree of permanent threshold shifts (PTS) (Level A harassment) of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (84 FR 11508; March 27, 2019) included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice (84 FR 11508; March 27, 2019) for that information.

The main impact to marine mammal habitat associated with the Ketchikan pinnacle removal project would be temporarily elevated sound levels and the associated direct effects on marine mammals. The project would not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, because the underwater pinnacle to be removed is not prime foraging habitat. The project may have potential minor impacts to food sources such as forage fish and smaller marine mammals (transient killer whale prey), and permanent but minor impacts to the seafloor due to dredging and blasting as part of the pinnacle removal project. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (84 FR 11508; March 27, 2019), therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

After public comment and review of the proposed authorization, the following items have changed in the final authorization.

(1) Estimated group sizes, which were the basis for take estimates in this project, were increased for some species, including Pacific white sided dolphin, killer whale, minke whale, and gray whale. Changes to group size were made to more conservatively account for the variability possible in group size, and these changes are outlined for each species in the ''Marine Mammal Occurrence'' section below.

(2) The expected frequency of occurrence for minke whales was increased based on behavioral information suggested by the Commission. The details of this increase are discussed in the ''Marine Mammal Occurrence'' section below.

(3) These changes in group size and occurrence resulting in changes to the estimated take for these species. These changes are discussed in the ''Take Calculation and Estimation'' section below.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment (via TTS), as use of the explosive source (*i.e.,* blasting) for a very short period each day has the potential to result in TTS for individual marine mammals. There is also some potential for auditory injury and slight tissue damage (Level A harassment) to result, primarily for mysticetes, porpoise, and phocids because predicted auditory injury zones are larger than for mid-frequency cetaceans and otariids. The planned mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. The primary relevant mitigation measure is avoiding blasting when any marine mammal is observed in the PTS zone. While this measure should avoid all take by Level A harassment, NMFS is authorizing takes by Level A harassment to account for the possibility that marine mammals escape observation in the PTS zone. Additionally, while the zones for slight lung injury are large enough that a marine mammal could occur within the zone (42 meters), the mitigation and monitoring measures, such as avoiding blasting when marine mammals are observed in PTS zone, are expected to minimize the potential for such taking to the extent practicable. Therefore the potential for non-auditory physical

injury is considered discountable, and all takes by Level A harassment are expected to occur due to PTS.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will incur some degree of hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to incur TTS (equated to Level B harassment) or PTS (equated to Level A harassment) of some degree. Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation. TTS is possible and Table 3 lists TTS onset thresholds.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The City of Ketchikan's planned activity includes the use of an impulsive source, blasting.

These thresholds are provided in Table 3 below. Table 3 also provides threshold for tissue damage and mortality. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 3—EXPLOSIVE ACOUSTIC AND PRESSURE THRESHOLDS FOR MARINE MAMMALS

Group	Level B harassment		Level A harassment	Serious injury		Mortality
	Behavioral (multiple detonations)	TTS	PTS	Gastro-intestinal tract	Lung	
Low-freq cetacean	163 dB SEL	168 dB SEL or 213 dB SPL_{pk}.	183 dB SEL or 219 dB SPL_{pk}.	237 dB SPL	39.1$M^{1/3}$ (1+[D/10.081])½ Pa-sec. where: M = mass of the animals in kg. D = depth of animal in m.	91.4$M^{1/3}$ (1+[D/10.081])½ Pa-sec. where: M = mass of the animals in kg. D = depth of animal in m.
Mid-freq cetacean	165 dB SEL	170 dB SEL of 224 dB SPL_{pk}.	185 dB SEL or 230 dB SPL_{pk}.			
High-freq cetacean	135 dB SEL	140 dB SEL or 196 dB SPL_{pk}.	155 dB SEL or 202 dB SPL_{pk}.			
Phocidae	165 dB SEL	170 dB SEL or 212 dB SPL_{pk}.	185 dB SEL or 218 dB SPL_{pk}.			
Otariidae	183 dB SEL	188 dB SEL or 226 dB_{pk}.	203 dB SEL or 232 dB SPL_{pk}.			

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Blasting—While the NMFS Technical Guidance (2016) and associated User Spreadsheet include tools for predicting threshold shift isopleths for multiple detonations, the Marine Mammal Commission noted in response to a previous proposed IHA (83 FR 52394, October 17, 2018) that the User Spreadsheet contained some errors in methodology for single detonations. Following a method generated through consultation with the Marine Mammal Commission, NMFS computed cumulative sound exposure impact zones from the blasting information provided by the City of Ketchikan. Peak source levels of the confined blasts were calculated based on Hempet *et al.* (2007), using a distance of 4 feet and a weight of 75 pounds for a single charge. The total charge weight is defined as the product of the single charge weight and the number of charges. In this case, the maximum number of charges is 60. Explosive energy was then computed from peak pressure of the single maximum charge, using the pressure and time relationship of a shock wave (Urick 1983). Due to time and spatial separation of each single charge by a distance of four feet, the accumulation of acoustic energy is added sequentially, assuming the transmission loss follows cylindrical spreading within the matrix of charges. The SEL from each charge at its source can then be calculated, followed by the received SEL from each charge. Since the charges will be deployed in a grid with a least 4 ft by 4 ft spacing, the received SELs from different charges to a given point will vary depending on the distance of the charges from the receiver. As stated in the ''*Detailed Description of Specific Activity,*'' the actual spacing between charges will be determined based on how the rock responds to the blasting. Modeling was carried out using 4 ft spacing as this closest potential spacing results in the most conservative (highest) source values and largest resulting impact zones. Without specific information regarding the layout of the

charges, the modeling assumes a grid of 7 by 8 charges with an additional four charges located in peripheral locations. Among the various total SELs calculated, the largest value, SELtotal (max) is selected to calculate the impact range. Using the pressure versus time relationship (Urick 1983), the frequency spectrum of the explosion can be computed by taking the Fourier transform of the pressure (Weston, 1960). Frequency specific transmission loss of acoustic energy due to absorption is computed using the absorption coefficient, α (dB/km), summarized by François and Garrison (1982a, b). Seawater properties for computing sound speed and absorption coefficient were based on Ketchikan ocean temperatures recorded from November through March (National Centers for Environmental Information, 2018) and salinity data presented in Vanderhoof and Carls (2012). Transmission loss was calculated using the sonar equation:

$TL = SEL_{total(m)} - SEL_{threshold}$

where $SEL_{threshold}$ is the Level A harassment and Level B harassment (TTS) threshold. The distances, R, where such transmission loss is achieved were computed numerically by combining both geometric transmission loss, and transmission loss due to frequency-specific absorption. A spreading coefficient of 20 is assumed. While this spreading coefficient would normally indicate an assumption of spherical spreading, in this instance, the higher coefficient is actually used to account for acoustic energy loss from the sediment into the water column. The outputs from this model are summarized in Table 4 below. For the dual criteria of SELcum and SPLpk shown in Table 4, distances in bold are the larger of the two isopleths, and were used in further analysis. Because the blast is composed of multiple charges arranged in a grid, these distances are measured from any individual charge, meaning that measurement begins at the outermost charges. For additional information on these calculations please refer to the ''Ketchikan Detonation Modeling Concept'' document which can be found at the following address: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

TABLE 4—MODEL RESULTS OF IMPACT ZONES FOR BLASTING IN METERS (M)

Marine mammal hearing group	Mortality *	Slight lung injury *	GI Tract	PTS: SELcum	PTS: SPLpk	TTS: SELcum	TTS: SPLpk
Low frequency cetacean	6	12	24	** 430	188	2350	375
Mid frequency cetacean	14	31	24	90	53	430	106
High frequency cetacean	18	42	24	1420	1328	5000	2650
Otariid	12	28	24	30	** 42	150	84
Phocid	16	37	24	210	211	1120	420

* Estimates for Mortality and Slight lung injury are based on body size of each individual species, so multiple estimates exist for some marine mammal hearing groups. The value entered into the table is the most conservative (largest isopleth) calculated for that group.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Expected marine mammal presence is determined by past observations and general abundance near the Ketchikan waterfront during the construction window. The take requests for this IHA were estimated using local marine mammal data sets (*e.g.,* National Marine Mammal Laboratory databases; Dahlheim *et al.,* 2009) and observations from local Ketchikan charter operators and residents. A recent IHA and associated application for nearby construction (83 FR 37473, August 1, 2018) was also reviewed to identify marine mammal group size and potential frequency of occurrence within the project vicinity.

Harbor Seals

Low numbers of harbor seals are a common observation around the Ketchikan waterfront, and likely utilize other, less developed nearshore habitats within and adjacent to the Level B harassment zone. Harbor seals can occur in the project area year-round with an estimated maximum group size of three animals (83 FR 37473, August 1, 2018, Solstice 2018), and up to three groups of three animals occurring daily in the Level B harassment (TTS) zone (1,120 meters). Additionally, harbor seals could occasionally be found in the Level A harassment (PTS) zone.

Steller Sea Lions

Known Steller sea lion haulouts are well outside of the pinnacle blasting Level B harassment zone. However, Steller sea lions are residents of the wider vicinity and could be present within the Level B harassment zone on any given day of construction. Steller sea lion observations in the project area typically include groups composed of up to 10 animals (83 FR 37473, August 1, 2018, Solstice 2018), with one group potentially present each day.

Harbor Porpoise

Based on observations of local boat charter captains and watershed stewards, harbor porpoise are infrequently encountered in the Tongass Narrows, and more frequently in the nearby larger inlets and Clarence Strait. Therefore, they could potentially transit through both the Level B harassment zone and Level A harassment zone during a blasting event. They could occupy the Ketchikan waterfront and be exposed to the Level A harassment zone during transit between preferred habitats. Harbor porpoises observed in the project vicinity typically occur in groups of one to five animals with an estimated maximum group size of eight animals (83 FR 37473, August 1, 2018, Solstice 2018). For our impact analysis, we are considering a group to consist of five animals, a value on the high end of the typical group size. The frequency of harbor porpoise occurrence in the project vicinity is estimated to be one group passing through the area per month (83 FR 37473, August 1, 2018, Solstice 2018), but, for our analysis, we conservatively consider a group of five animals could be present every five days (approximately once per week).

Humpback Whales

Based on observations of local boat charter captains and watershed stewards, humpback whales regularly utilize the surrounding waters and are occasionally observed near Ketchikan, most often on a seasonal basis. Most observations occur during the summer with sporadic occurrences during other periods. The typical humpback whale group size in the project vicinity is

between one and two animals observed at a frequency of up to three times per month (83 FR 37473, August 1, 2018, Solstice 2018), but conservatively, a group of two whales could be present every third day.

Killer Whales

Killer whales could occur within the action area year-round. Typical pod sizes observed within the project vicinity range from 1 to 10 animals and the frequency of killer whales passing through the action area is estimated to be once per month (83 FR 37473, August 1, 2018, Solstice 2018). In the **Federal Register** Notice announcing the proposed IHA, NMFS assumed a group of five whales will be present every fifth day (approximately once per week). However, in order to more conservatively account for the reported range of group sizes, the expected group size was increased to 7 killer whales expected to be present each week, which is the still in the reported range of 1 to 10 animals. Note that groups could be larger, but we expect that the overall number of authorized takes is sufficient to account for this possibility given the conservative assumption that a pod would be present once per week.

Dall's Porpoise

Based on local observations and regional studies, Dall's porpoise are infrequently encountered in small numbers in the waters surrounding Ketchikan. This body of evidence is supported by Jefferson *et al.*'s (2019) presentation of historical survey data showing very few sightings in the Ketchikan area and conclusion that Dall's porpoise generally are rare in narrow waterways, like the Tongass Narrows. Tongass Narrows is not a preferred habitat, so if they are present, they would most likely be traveling between areas of preferred forage, which are not within the blasting work window. However, they could still potentially transit through the Level B or Level A harassment zone infrequently during blasting. Typical Dall's porpoise group sizes in the project vicinity range from 10 to 15 animals observed roughly once per month (83 FR 37473, August 1, 2018, Solstice 2018). In this project, NMFS assumes a group of 10 Dall's porpoises could be present every 10th day, or approximately every other week.

Minke Whale

Based on observations of local marine mammal specialists, the possibility of minke whales occurring in the Tongass Narrows is rare. Minke whales are generally observed individually or in groups of up to three animals. This, along with scientific survey data showing that this species has not been documented within the vicinity, indicates that there is little risk of exposure to blasting. However, the accessible habitat in the Revillagigedo Channel leaves the potential that minke whale could enter the action area. In the **Federal Register** Notice announcing the proposed IHA, NFMS assumed that a group of two whales may be present every tenth day, or approximately every other week. The Commission commented that minke whales tend be seen individually, not as members of groups. Additionally, the expected frequency of occurrence was conservatively increased from two whales every other week, to two whales each week, based on potentially increasing observations in Southeast Alaska. Therefore, in the final authorization is based on an expected occurrence of two individual whales being present every fifth day, or approximately every week.

Gray Whale

No gray whales were observed during surveys of the inland waters of southeast Alaska conducted between 1991 and 2007 (Dahlheim *et al.,* 2009). It is possible that a migrating whale may venture up Nichols Passage and enter the underwater Level B harassment zone. In the **Federal Register** Notice announcing the proposed IHA, NMFS estimated that one whale may be present every tenth day, or approximately every two weeks. The Commission commented that gray whales tend to be observed in groups, of generally around two whales. Therefore, in the final authorization, NMFS estimates that a group of two gray whales will be present every tenth day, or approximately every two weeks.

Pacific White-Sided Dolphin

Dolphins are regularly seen within Clarence Strait but have been reported to prefer larger channel areas near open ocean. Their presence within the Tongass Narrows has not been reported. They are not expected to enter the Tongass Narrows toward their relatively small injury zone, so no take by Level A harassment is requested. Pacific white-sided dolphin group sizes generally range from between 20 and 164 animals. For the purposes of this assessment, within the proposed IHA, we assumed one group of 20 dolphins may be present within the Level B harassment zone every tenth day, or about every other week. However, NMFS has conservatively increased the expected group size to 30 dolphins, which is still within the reported group size range for the species.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. Incidental take is estimated for each species by considering the likelihood of a marine mammal being present within the Level A or B harassment zone during a blasting event. Expected marine mammal presence is determined by past observations and general abundance near the Ketchikan waterfront during the construction window, as described above. The calculation for marine mammal exposures is estimated by the following two equations:

Level B harassment estimate = N (number of animals) × number of days animals are expected within Level B harassment zones for blasting.

Level A harassment estimate = N (number of animals) × number of days animals are expected to occur within the Level A harassment zone without being observed by PSOs.

For many species, the equation may also include a term to factor in the frequency a group is expected to be seen, which is explained within the paragraphs for that species.

Harbor Seals

We conservatively estimate that three groups of three harbor seals could be present within the Level B harassment zone on each day of construction and two additional harbor seals could be present within the Level A harassment zone on each day of construction. Because take estimates are based on anecdotal occurrences, including these additional individual harbor seals that could occur in the Level A harassment zone is another conservative assumption. Potential airborne disturbance would be accounted for by the Level B harassment zone, which covers a wider distance. Using these estimates the following number of harbor seals are estimated to be present through the construction period.

Level B harassment: Three groups of animals × three animals per group × 50 blasting days = 450

Level A harassment: Two animals × 50 days of blasting = 100

Steller Sea Lions

We conservatively estimate that a group of 10 sea lions could be present within the Level B harassment zone on any given day of blasting. No exposure within the blasting Level A harassment

zone is expected based on the small size of this zone and behavior of the species in context of the planned mitigation. The Level A harassment zones can be effectively monitored during the marine mammal monitoring program and prevent take by Level A harassment. Using these estimates the following number of Steller sea lions are estimated to be present in the Level B harassment zone:

Level B harassment: 10 animals daily over 50 blasting days = 500

No take by Level A harassment was requested or is authorized because the small Level A harassment zone can be effectively observed.

Harbor Porpoise

We conservatively estimate and assume that a group of five harbor porpoise could be sighted in the Level B harassment zone every 5th day, or approximately once per week. Additionally, while the City of Ketchikan does not anticipate take by Level A harassment to occur, the cryptic nature of harbor porpoises and large Level A harassment isopleth mean the species could be in the Level A harassment zone without prior observation. Therefore, one additional group of 5 animals could be present in the Level A harassment zone every second week or 10th day, a conservative assumption because this group is in addition to those anticipated in the Level B harassment zone.

Level B harassment: Five animals × 50 days of work divided by 5 (frequency of occurrence) = 50

Level A harassment: Five animals × 50 days of work divided by 10 (frequency of occurrence) = 25

Humpback Whale

Based on occurrence information in the area, we conservatively estimate that a group of two humpback whales will be sighted within the Level B harassment zone every third day. The City is requesting authorization for 33 takes by Level B harassment of humpback whales. Of this number, we estimate 31 humpback whales will belong to the unlisted Hawaii DPS while three will belong to the ESA listed Mexico DPS based on the estimated occurrence of these DPSs (Wade *et al.,* 2016). It should be noted that these estimates sum to 34, because take estimates were rounded up to avoid fractional takes of individuals in the DPSs.

Level B: Two animals × 50 days of work divided by 3 (frequency of occurrence) = 33

No take by Level A harassment was requested or is authorized because these large whales can be effectively monitored and work can be shutdown when they are present.

Killer Whale

Based on information presented above (*Marine Mammal Occurrence*), including the change in group size which has occurred since proposed IHA, we conservatively estimate that a group of seven whales may be sighted within the Level B harassment zone once every fifth day, or about once per week. Using this number, the following number of killer whales are estimated to be present within the Level B harassment zone:

Level B: Seven animals × 50 days of work divided by 5 (frequency of occurrence) = 70.

This number of expected takes has been increased from 50 killer whales in the proposed IHA to 70 in the final authorization.

No take by Level A harassment was requested or is authorized because the relatively small Level A harassment zone can be effectively monitored to prevent take by Level A harassment.

Dall's Porpoise

Based on information presented above (*Marine Mammal Occurrence*) we conservatively estimate and assume that a group of 10 Dall's porpoise could be sighted within the Level B harassment zone every tenth day, or about every other week. Additionally, while the City of Ketchikan does not anticipate take by Level A harassment to occur, the large Level A isopleth mean the species could be in the Level A harassment zone without prior observation. Therefore, one additional group of 10 animals could be present in the Level A harassment zone every month, which is a conservative assumption because this group is in addition to those anticipated in the Level B harassment zone.

Using this assumption, the following number of Dall's porpoise are estimated to be present in the Level B harassment zone:

Level B harassment: 10 animals × 50 days of work divided by 10 (frequency of occurrence) = 50

Level A harassment: 10 animals × 50 days of work divided by 20 (frequency of occurrence) = 25; because this is a fraction of group, this number is rounded up to 30 to represent 3 full groups of Dall's porpoise

Minke Whale

Based on information presented above (*Marine Mammal Occurrence*) we conservatively estimate that two minke whales may be sighted within the Level B harassment zone every fifth day, or about once every week. The frequency of occurrence has been increased from every tenth day, as stated in the proposed IHA, to every fifth day here.

Level B harassment: Two individual animals × 50 days work divided by 5 (frequency of occurrence) = 20.

The expected rate of occurrence has been increased, resulting in a final authorization of 20 minke whales, compared to 10 in the proposed IHA.

No take by Level A harassment was requested or is authorized because the City of Ketchikan can effectively monitor for these whales and shutdown if are present in the Level A harassment zone.

Gray Whale

Based on information presented above (*Marine Mammal Occurrence*) we conservatively estimate that a group of two whales may be sighted within the Level B harassment zone every tenth day, or about every 2 weeks. This group size has been increased from one individual gray whale as shown in the proposed IHA.

Level B harassment: two animal × 50 days work divided by 10 (frequency of occurrence) = 10.

The final authorized take of gray whales has increased from 5 to 10 individuals due to the change in group size.

No take by Level A harassment was requested or is authorized because the City of Ketchikan can effectively monitor for these whales and shutdown if are present in the Level A harassment zone.

Pacific White-Sided Dolphin

Based on the assumption that Pacific white-sided dolphins are not expected to enter Tongass Narrows, despite their regular occurrence in the Clarence Strait, we estimate that one group of 30 dolphins may be sighted within the Level B harassment zone every tenth day, or about every other week. As explained above in ''Marine Mammal Occurrence,'' the group size has been increased from 20 to 30 dolphins in the final authorization.

Level B harassment: 30 animals × 50 days of work divided by 10 (frequency of occurrence) = 150.

The final authorized take of gray whales has increased from 100, in the proposed IHA, to 150 individuals due to the change in group size.

No take by Level A harassment was requested or is authorized because the relatively small Level A harassment zone can be effectively monitored in

order to avoid take by Level A harassment.

TABLE 5—AUTHORIZED TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (NEST)	Level A	Level B	Percent of stock
Humpback Whale	Hawaii DPS (11,398) [a]	0	[a] 31	0.34
	Mexico DPS (3,264) [a]		2	
Minke Whale	Alaska (N/A)	0	20	N/A
Gray Whale	Eastern North Pacific (26,960)	0	10	0.04
Killer Whale	Alaska Resident (2,347)	0	70	2.98
	Northern Resident (261)			26.82
	West Coast Transient (243)			28.81
	Gulf of Alaska Transient (587)			[c] 11.93
Pacific White-Sided Dolphin	North Pacific (26,880)	0	150	0.56
Dall's Porpoise	Alaska (83,400)	30	50	0.10
Harbor Porpoise	Southeast Alaska (975) [b]	25	50	7.69
Harbor Seal	Clarence Strait (31,634)	100	450	1.74
Steller Sea Lion	Eastern U.S (41,638)	0	500	1.20

[a] Total estimated stock size for Central North Pacific humpback whales is 10,103. Under the MMPA humpback whales are considered a single stock (Central North Pacific); however, we have divided them here to account for DPSs listed under the ESA. Based on calculations in Wade *et al.* (2016), 93.9 percent of the humpback whales in Southeast Alaska are expected to be from the Hawaii DPS and 6.1 percent are expected to be from the Mexico DPS.

[b] In the SAR for harbor porpoise (NMFS 2017), NMFS identified population estimates and PBR for porpoises within inland Southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative)

[c] These percentages assume all 50 takes come from each individual stock, thus the percentage are likely inflated as multiple stocks are realistically impacted.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned). and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Between the proposed IHA and this **Federal Register** notice announcing the final IHA, NMFS has made changes to required mitigation measures. NMFS increased the post-blast monitoring from 30 minutes to 1 hour to help ensure that all effects from the blast can be effectively monitored. NMFS also added timing restrictions related to sunrise and sunset to ensure that blasting was conducted during daylight and required monitoring could be completed. NMFS also increased to time between a marine mammal observation in the shutdown zone and when the shutdown zone can be considered cleared to 30 minutes, from 15 minutes, to help ensure that take by Level A harassment is minimized.

Shutdown Zone for In-Water Heavy Machinery Work

For in-water heavy machinery work (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or equipment used to place or remove material), a minimum 10 meter shutdown zone shall be implemented. If a marine mammal comes within 10 meters of such operations, operations shall cease (safely) and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include (but is not limited to) the following activities: (1) Movement of blasting barge; (2) drilling of boreholes; (3) dredging of rubble; and (4) transport of dredge material. An operation that requires completion due to safety reasons (*e.g.* material actively being handled by excavator/clamshell), that singular operation will be allowed to be completed. The monitoring of this 10 m shutdown zone can be conducted by construction personal as they perform their other duties.

Additional Shutdown Zones and Monitoring Zones

For blasting, the Level B harassment zone will be monitored for a minimum of 30 minutes prior to the planned blast, and continue for 1 hour (60 minutes) after the blast. If a marine mammal with authorized take remaining is sighted within this monitoring zone, blasting can occur and take will be tallied against the authorized number of takes by Level B harassment. Data will be recorded on the location, behavior, and disposition of the mammal as long as the mammal is within this monitoring zone.

The City of Ketchikan will establish a shutdown zone for a marine mammal species that is greater than its corresponding Level A harassment zone,

as measured from any charge in the blasting grid. If any cetaceans or pinnipeds are observed within the shutdown zone, the blasting contractor would be notified and no blast would be allowed to occur until the animals are observed voluntarily leaving the shutdown zone or 30 minutes have passed without re-sighting the animal in the shutdown zone, or up until 1 hour before sunset. When weather conditions prevent accurate sighting of marine mammals, blasting activities will not occur until conditions in the shutdown zone return to acceptable levels and the entire Level A zone can be monitored and cleared.

TABLE 6—BLASTING SHUTDOWN AND MONITORING ZONES

Marine mammal hearing group	Shutdown zone (m)	Monitoring zone (m)
Low frequency cetacean	*1,000	2,500
Mid frequency cetacean	100	500
High frequency cetacean	1,500	5,000
Otariid	*100	200
Phocid	250	1,500

Note: These distances are measured from the outermost points of the grid of charges that make up a blast.

*The City of Ketchikan expressed an opinion that the PTS distances for Otariids and LF cetaceans presented in Table 4 seemed uncharacteristically small when compared to the other thresholds resulting from the model. The PTS zones were therefore doubled to 84 m for Otariids and 860 m for LF cetaceans for purposes of mitigation and monitoring, resulting in the Shutdown Zones presented here.

If blasting is delayed due to marine mammal presence, PSO's will continue monitoring for marine mammals during the delay. If blasting is delayed for a reason other than marine mammal presence, and this delay will be greater than 30 minutes, marine mammal monitoring does not need to occur during the delay. However, if monitoring is halted, a new period of the 30 minute pre-blast monitoring must occur before the rescheduled blast.

Timing and Daylight Restrictions

In-water blasting work is expected to occur from November 15, 2019, to March 15, 2020, but will be limited to September 16, 2019, to April 30, 2020. Pinnacle blasting will be conducted during daylight hours (sunrise to sunset) to help ensure that marine mammal observers have acceptable conditions to survey the shutdown and monitoring zones. To ensure that blasting does occur between daylight hours, and required pre- and post-blast monitoring can be conducted, blasting must be planned to occur at least 30 minutes after sunrise and 1 hour before sunset. Non-blasting activities, including but not limited to dredging and borehole drilling can occur outside of daylight hours, but the 10-meter general shutdown zone must be maintained.

Non-Authorized Take Prohibited

If a marine mammal is observed within the monitoring zone and that species is either not authorized for take or its authorized takes are met, blasting must not occur. Blasting must be delayed until the animal has been confirmed to have left the area or an observation time period of 15 minutes has elapsed without seeing the marine mammal in the monitoring zone.

Blasting BMPs

The City of Ketchikan will use industry BMPs to reduce the potential adverse impacts on protected species from in-water noise and overpressure. These include the use of multiple small boreholes, confinement of the blast (rock stemming), use of planned sequential delays, and all measures designed to help direct blast energy into the rock rather than the water column. Additional BMPs to minimize impact on marine mammals and other species include adherence to a winter in-water work window, accurate drilling, shot duration, and limiting the blasts to a maximum of one per day. The project will adhere to all Federal and state blasting regulations, which includes the development and adherence to blasting plans, monitoring, and reporting.

Based on our evaluation of the applicant's mitigation measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Since the proposed IHA, there have been some changes to the monitoring and reporting measures. NMFS has added a requirement to conduct acoustic and pressure monitoring for a ''production'' blast in addition to the test blast, to ensure blasting isopleths in this IHA are correct. NMFS has also further specified what measurements and information the results of this blast monitoring should include to ensure the results are informative. Additionally, NMFS has added a requirement to notify the Alaska Regional Office and Alaska Stranding Network prior to, and following blasting in order to conform with previous blasting authorizations.

Visual Monitoring

Monitoring by NMFS-approved protected species observers (PSOs) will begin 30 minutes prior to a planned blast and extend through 30 minutes after the blast. This will ensure that all marine mammals in the monitoring zone are documented and that no

marine mammals are present within the shutdown zone. No PSOs will be required during other activities associated with pinnacle removal including, but not limited to, bore-hole drilling and dredging. Hauled out marine mammals within the shutdown and monitoring zones will be tallied and monitored closely. PSOs will be stationed at the best vantage points possible for monitoring the monitoring zone (see Figure 3 and 4 of the IHA application); however, should the entire zone not be visible, take will be extrapolated daily, based on anticipated marine mammal occurrence and documented observations within the portion of the monitoring zone observed.

During blasting, there will be two land-based PSOs and one PSO on the barge used for blasting operations, with no duties other than monitoring. Establishing a monitoring station on the barge will provide the observer with an unobstructed view of the injury zones during blasting and direct communication with the operator.

Land based PSOs will be positioned at the best practical vantage points based on blasting activities and the locations of equipment. The land-based observers will be positioned with a clear view of the remaining of the injury zone and will monitor the shutdown zones and monitoring zones with binoculars and a spotting scope. The land-based observers will communicate via radio to the lead monitor positioned on the barge. Specific locations of the observers will be based on blasting activities and the locations of equipment. Shore-based observers will be stationed along the outer margins of the largest shutdown zone.

The monitoring position of the observers will be identified with the following characteristics:

1. Unobstructed view of blasting area;
2. Unobstructed view of all water within the shutdown zone;
3. Clear view of operator or construction foreman in the event of radio failure (lead biologist); and
4. Safe distance from activities in the construction area.

Monitoring of blasting activities must be conducted by qualified PSOs (see below), who must have no other assigned tasks during monitoring periods. The applicant must adhere to the following conditions when selecting observers:

- Independent PSOs must be used (*i.e.,* not construction personnel);
- At least one PSO must have prior experience working as a marine mammal observer during construction activities;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience;
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction; and
- The applicant must submit PSO curriculum vitae (CVs) for approval by NMFS Permits and Conservation Division.

The applicant must ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the blasting operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Blast Monitoring

The City of Ketchikan will perform a minimum of one test blast to confirm underwater overpressure values. The City of Ketchikan will conduct underwater monitoring of both this test blast and at least one full scale ''production'' blast. During blast monitoring, overpressure will be measured during all blasting monitoring with pressure transducers and hydrophones at pre-determined locations. This work will be performed by an experienced contractor with process documents, results, and the blast reports all being approved by a blasting consultant. For monitoring of these blasts, the City of Ketchikan will be required to record the following information:

- Hydrophone equipment and methods: Recording device, sampling rate, distance of recording devices from the blast where recordings were made; depth of recording devices;
- Number of charges and the weight of each charge detonated during the blast;
- Spectra and/or waveform of blasts of blasts including power spectral density reported as dB re 1 μPa2/Hz; and
- Mean, median, and maximum sound levels (dB re: 1μPa) of SPLrms, SELcum, single-shot SEL, and SPLpeak.

Reporting

At least 24 hours (+/− 4 hours) prior to blasting, the City of Ketchikan will notify the Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Regional Stranding Coordinator that blasting is planned to occur, as well as notify these parties within 24 hours (+/− 4 hours) after blasting that blasting actually occurred.

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of blasting activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from construction activity;
- Distance from construction activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and
- Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Additionally, the City of Ketchikan will submit the report and results of their test blast to NMFS prior to beginning production blasting. This report will include the information outlined in *Test Blast Monitoring.*

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner

prohibited by the IHA (if issued), such as a serious injury or mortality, The City of Ketchikan would immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report would include the following information:

- Description of the incident;
- Environmental conditions (*e.g.,* Beaufort sea state, visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the City of Ketchikan to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City of Ketchikan would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the City of Ketchikan discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), the City of Ketchikan would immediately report the incident to the Office of Protected Resources, NMFS (301–427–8401), and the Alaska Regional Stranding Coordinator *(*877–925–7773). The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with the City of Ketchikan to determine whether modifications in the activities are appropriate.

In the event that the City of Ketchikan discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City of Ketchikan would report the incident to the Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator, within 24 hours of the discovery. The City of Ketchikan would provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Coordinator.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all species listed in Table 5, given that NMFS expects the anticipated effects of the planned blasting to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

NMFS does not anticipate that serious injury or mortality would occur as a result of the City of Ketchikan's planned blasting. In the absence of mitigation including shutdown zones, these impacts are possible, but at very short distances from the blasts (Table 4). NMFS feels that the mitigation measures stated in ''Mitigation,'' include adequate shutdown zones, marine mammal monitoring, and blasting BMPs sufficient to prevent serious injury or mortality. Thus, no serious injury or morality authorized. As discussed in the *Potential Effects* section, non-auditory physical effects are not expected to occur.

The authorized number of takes by both Level A harassment and Level B harassment is given in Table 5. Take by Level A harassment is only authorized for harbor seals, harbor porpoises, and Dall's porpoises. As stated in ''Mitigation'' the City of Ketchikan will establish shutdown zones, greater than Level A harassment zones for blasting, and a blanket 10 m shutdown zone will be implemented for all other in-water use of heavy machinery. The authorization of take by Level A harassment is meant to account for the slight possibility that these species escape observation by the PSOs within the Level A harassment zone. Any take by Level A harassment is expected to arise from a small degree of PTS, because the isopleths related to PTS are consistently larger than those associated with slight lung and GI tract injury (Table 4).

Blasting is only planned to occur on a maximum of 50 days, with just one blast per day, from November 15, 2019, to March 15, 2020. Because only one blast is authorized per day, and this activity would only generate noise for approximately one second, no behavioral response that could rise to the level of take is expected to occur. Therefore, all takes by Level B harassment are expected to arise from TTS, but we expect only a small degree of TTS, which is fully recoverable and not considered injury.

Although the removal of the rock pinnacle would result in the permanent alteration of habitat available for marine mammals and their prey, the affected area would be discountable. Overall, the area impacted by the project is very small compared to the available habitat around Ketchikan. The pinnacle is adjacent to an active marine commercial and industrial area, and is regularly disturbed by human activities. In addition, for all species except humpbacks, there are no known biologically important areas (BIA) near the project zone that would be impacted by the blasting activities. For humpback whales, Southeast Alaska is a seasonally important BIA from spring through late fall (Ferguson *et al.,* 2015), however, Tongass Narrows is not an important portion of this habitat due to development and human presence. Additionally, the work window is not expected to overlap with periods of peak foraging, and the action area

represents a small portion of available habitat. While impacts from blasting to fish can be severe, blasting will occur for a relatively short period of 50 days, meaning the duration of impact should also be short. Any impacts on prey that would occur during that period would have at most short-terms effects on foraging of individual marine mammals, and likely no effect on the populations of marine mammals as a whole. Therefore, indirect effects on marine mammal prey during the construction are not expected to be substantial, and these insubstantial effects would therefore be unlikely to cause substantial effects on marine mammals at the individual or population level.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Blasting would not occur during fish runs, avoiding impacts during peak foraging periods;
- Only a very small portion of marine mammal habitat would be temporarily impacted;
- The City of Ketchikan would implement mitigation measures including shut down zones for all blasting and other in-water activity to minimize the potential for take by Level A harassment and the severity if it does occur; and
- TTS that will occur is expected to be of a small degree and is recoverable.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 5, in the *Take Calculation and Estimation* section, presents the number of animals that could be exposed to received noise levels that may result in take by Level A harassment or Level B harassment for the planned blasting by the City of Ketchikan. Our analysis shows that at most, approximately 29 percent of the best population estimates of each affected stock could be taken, but for most species and stocks, the percentage is below 2 percent. There was one stock, minke whale, where the lack of an accepted stock abundance value prevented us from calculating an expected percentage of the population that would be affected. The most relevant estimate of partial stock abundance is 1,233 minke whales for a portion of the Gulf of Alaska (Zerbini *et al.,* 2006). Given 20 authorized takes by Level B harassment for the stock, comparison to the best estimate of stock abundance shows less than 2 percent of the stock is expected to be impacted. Therefore, the numbers of animals authorized to be taken for all species, including minke whale, would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an unlikely scenario for pinnipeds, but a possibility for other marine mammals based on their described transit through Tongass Narrows. For pinnipeds, especially harbor seals and Steller sea lions, occurring in the vicinity of the project site, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

In August of 2018, the City of Ketchikan and its representatives attempted to contact the Alaska Harbor Seal Commission and contacted the Alaska Sea Otter and Steller Sea Lion Commission and the Ketchikan Indian Commission to inform them about the project and gather comment. Neither of the organizations that were successfully contacted expressed concern about the project.

In 2012, the community of Ketchikan had an estimated subsistence take of 22 harbor seals and 0 Steller sea lions (Wolf *et al.,* 2013). Hunting usually occurs in October and November (Alaska Department of Fish and Game (ADF&G) 2009), but there are also records of relatively high harvest in May (Wolfe *et al.,* 2013). All project activities will take place within the industrial area of Tongass Narrows immediately adjacent to Ketchikan where subsistence activities do not generally occur. The project will not have an adverse impact on the availability of marine mammals for subsistence use at locations farther away, where these activities are expected to take place. Some minor, short-term harassment of the harbor seals could occur, but this is not likely to have any measureable effect on subsistence harvest activities in the region. Additionally, blasting associated with the project is expected to occur from November 15 to March 15. This means that blasting, and the associated harassment of marine mammals will only overlap with a small portion of the expected period of subsistence harvest. Based on the spatial separation and partial temporal separation of blasting activities and subsistence harvest, no changes to availability of subsistence resources are expected to result from the City of Ketchikan's planned activities.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from City of Ketchikan's planned activities.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS Office of Protected Resources consults internally, in this case with the NMFS Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

There is one marine mammal species (Mexico DPS humpback whale) with confirmed occurrence in the project area that is listed as endangered under the ESA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion on July 16, 2019 under section 7 of the ESA, on the issuance of an IHA to the City of Ketchikan under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of Mexico DPS humpback whale, and is not likely to destroy or adversely modify critical habitat because none exists.

Authorization

NMFS has issued an IHA to the City of Ketchikan for the potential harassment of small numbers of nine marine mammal species incidental to the rock pinnacle removal project in Tongass Narrows, near Ketchikan, Alaska, provided the previously mentioned mitigation, monitoring and reporting are incorporated.

Dated: July 25, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–16155 Filed 7–29–19; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Monday, August 12, 2019, 12:30 p.m.–1:30 p.m. (ET).

PLACE: Corporation for National and Community Service, 250 E Street SW, Suite 4026, Washington, DC 20525. Please go to the first floor lobby for escort.

Call-In Information: This meeting is available to the public by conference call to toll-free number 877–917–3613, using access code 3899107. Any interested member of the public may call this number and listen to the meeting. Callers may be charged for mobile phone calls, and CNCS will not refund any incurred charges. There is no charge for calls made by landline to the toll-free number. Call replays are generally available one hour after a call ends. A replay will be available through August 26, 2019 at 800–925–2994.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Comments
II. CEO Report
III. Public Comments
IV. Final Comments and Adjournment

Members of the public who would like to comment on the business of the Board may do so in writing or in person. Individuals may submit written comments to *ssoper@cns.gov* with the subject line: ''Comments for August 12, 2019 CNCS Board Meeting'' by 5:00 p.m. (ET) on August 5, 2019. Individuals attending the meeting in person who would like to comment will be asked to sign in when they arrive. Comments are requested to be limited to two minutes.

Reasonable Accommodation: The Corporation for National and Community Service provides reasonable accommodation to individuals with disabilities where appropriate. Anyone who needs an interpreter or other accommodation should notify Sandy Scott at *sscott@cns.gov* or 202–606–6724 by 5:00 p.m. (ET) on August 5, 2019.

CONTACT PERSON FOR MORE INFORMATION: Sandy Scott, Corporation for National and Community Service, 250 E Street SW, Washington, DC 20525. Phone: 202–606–6724. Fax: 202–606–3460. TTY: 800–833–3722. Email: *sscott@cns.gov.*

Helen Serassio,

Deputy General Counsel.

[FR Doc. 2019–16310 Filed 7–26–19; 4:15 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory subcommittee meeting of the Department of the Army Historical Advisory Subcommittee (DAHAS), a subcommittee of the Army Education Advisory Committee. This meeting is open to the public.

DATES: The Department of the Army Historical Advisory Subcommittee will meet from 8:40 a.m. to 3:30 p.m. on August 15, 2019 and 8:40 a.m. to 1:00 p.m. on August 16, 2019.

ADDRESSES: The meeting will be held at the Fort Eustis Club, 2123 Pershing Avenue, Newport News, VA 23604.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Crecca, the Alternate Designated Federal Officer for the subcommittee, in writing at U.S. Army Center of Military History, ATTN: ATMH–FPF, 102 4th Ave., Bldg. 35, Fort McNair, Washington, DC 20319–5060 by email at *thomas.w.crecca.civ@mail.mil* or by telephone at (202) 685–2627.

SUPPLEMENTARY INFORMATION: The subcommittee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review the Army historical program and provide advice

and recommendations to the Executive Director of the U.S. Army Center of Military History and to the Secretary of the Army.

Agenda: August 15–16: The subcommittee is chartered to provide independent advice and recommendations to the Secretary of the Army on the educational, doctrinal, and research policies and activities of U.S. Army educational programs. At this meeting the subcommittee will review the Army historical program and discuss ways to improve the provision of historical support to the Army. The subcommittee will also discuss ways to increase cooperation between the historical and military professions in advancing the purpose of the Army Historical Program and furthering the mission of the U.S. Army Center of Military History to promote the study and use of military history in both civilian and military schools.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mr. Crecca, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public attending the subcommittee meetings will not be permitted to present questions from the floor or speak to any issue under consideration by the subcommittee.

Because the meeting of the subcommittee will be held in a Federal Government facility on a military post, security screening is required. A photo ID is required to enter post. Please note that security and gate guards have the right to inspect vehicles and persons seeking to enter and exit the installation. The Fort Eustis Club is fully handicapped accessible. Wheelchair access is available in front at the main entrance of the building. For additional information about public access procedures, contact Mr. Crecca, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Mr. Crecca, the subcommittee Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The Alternate Designated Federal Officer will review all submitted written comments or statements. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Alternate Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow a member of the public to speak or otherwise address the subcommittee during the meeting. Members of the public will be permitted to make verbal comments during the subcommittee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least seven business days in advance to the subcommittee's Alternate Designated Federal Official, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The Alternate Designated Federal Officer will log each request, in the order received, and in consultation with the Subcommittee Chair, determine whether the subject matter of each comment is relevant to the Subcommittee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three minutes during the period, and will be invited to speak in the order in which their requests were received by the Alternate Designated Federal Officer.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–16146 Filed 7–29–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2019–0021; OMB Control Number 0704–0478]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Cyber Incident Reporting and Cloud Computing; Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 29, 2019.

SUPPLEMENTARY INFORMATION:

A. Title and OMB Number

Safeguarding Covered Defense Information, Cyber Incident Reporting, and Cloud Computing; OMB Control Number 0704–0478.

B. Needs and Uses

Offerors and contractors must report cyber incidents on unclassified networks or information systems, within cloud computing services, and when they affect contractors designated as providing operationally critical support, as required by statute.

C. Annual Burden

Number of Respondents: 2,017.

Responses per Respondent: 17.35.

Annual Responses: 34,974.

Average Burden per Response: .29 hours.

Annual Burden Hours: 10,071.

Reporting Frequency: On Occasion.

Affected Public. Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Type of Request: Renewal of a currently approved collection.

D. Public Comments

A 60-day notice was published in the **Federal Register** at 84 FR 23532 on May 22, 2019. One respondent provided four comments, which are summarized below along with responses; however, the comments did not change the estimate of the burden.

Comment: To ensure proper safeguarding of contractors' attributional/proprietary information, the respondent recommends that the contractor submitting the information be: (1) Afforded an opportunity to review and propose redactions prior to release; (2) permitted to apply protective markings to information after its submission to the Government; and (3) allotted additional time to pursue any administrative or legal remedies in the event that the Government plans to disclose information that the contractor has otherwise proposed to be withheld.

Response: DFARS 252.204–7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, authorizes DoD to release information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD. It further states that: (1) The Government will protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information; and (2) in making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released. A foundational element of the mandatory reporting requirement is the recognition that the information being shared between the parties may include extremely sensitive information that requires protection. Information regarding the Government's safeguarding of information received from the contractors that require protection can be referenced in the DoD Privacy Impact Assessment (PIA). The PIA provides detailed procedures for handling personally identifiable information (PII), attributional information about the strengths or vulnerabilities of specific covered contractor information systems, information providing a perceived or real competitive advantage on future procurement action, and contractor information marked as proprietary or commercial or financial information (see OMB Control Number 0704–0489, DoD's Defense Industrial Base (DIB) Cybersecurity (CS) Activities Cyber Incident Reporting). Additionally, 32 CFR part 236 implements mandatory information sharing requirements of 10 U.S.C. 391 and 393 by requiring DoD contractors to report key information regarding cyber incidents, and to provide access to equipment or information enabling DoD to conduct forensic analysis to determine if or how DoD information was impacted in a cyber incident. The rule's implementation of these requirements is tailored to minimize the sharing of unnecessary information (whether sensitive or not), including by carefully tailoring the information required in the initial incident reports (32 CFR 236.4(c)), by expressly limiting the scope of the requirement to provide DoD with access to only such information that is ''necessary to conduct a forensic analysis,'' and by affirmatively requiring the Government to safeguard any contractor attributional/proprietary information that has been shared (or derived from information that has been shared) against any unauthorized access or use. In the event that the contractor believes that there is information that meets the criteria for mandatory reporting, but the contractor desires not to share that information due to its sensitivity, then the contractor should immediately raise that issue to the DoD points of contact (*i.e.,* contracting officer, contracting officer's representative, or requiring activity) for the contract(s) governing the activity in question.

Comment: The respondent commented that the ''rapidly reporting'' requirement at DFARS 252.204–7012(c)(1)(2) is extremely burdensome on contractors. The respondent recommends either extending the period to report or, otherwise, amending the clause to explain that the 72-hour reporting period begins to run once a contractor knows or should have known that covered defense information (CDI) was adversely impacted or it is ''highly likely'' that CDI was adversely impacted. The respondent also recommends that a medium assurance certificate need not be required for initial reporting, since this limits the person(s) within the entity who may report and may impede the ability to report within the requisite time period.

Response: The contractor is required to report known or potential cyber incidents within 72 hours of discovery. Timeliness in reporting cyber incidents is a key element in cybersecurity and provides the clearest understanding of the cyber threat targeting DoD information. The 72-hour period has proven to be an effective balance of the need for timely reporting while recognizing the challenges inherent in the initial phases of investigating a cyber incident. Contractors should report available information within the 72-hour period and provide updates if more information becomes available. The requirement to have medium assurance certificates is important to communicate securely with DoD and to securely access DoD's reporting website.

Comment: The respondent commented that there is often ambiguity as to what is considered CDI under specific contracts, which ought to be resolved by the Government, as agency personnel are best suited to identify the CDI being provided to a contractor and make appropriate notifications. The respondent recommended that DoD develop processes and procedures for engaging with contractors on the designation of information as CDI during the solicitation process or otherwise before the contract is finalized.

Response: Processes already exist for the contractor to engage with DoD personnel to request clarification regarding CDI, both during the solicitation phase and during contract performance.

Comment: The respondent commented that certain commands within the Department have created contract-specific requirements mandating that contractors apply the protections and reporting requirements of DFARS 252.204–7012—including the reporting and record-keeping obligations—to categories of information much broader than CDI. The respondent recommends that commercial-item contractors and contractors that do not possess CDI, regardless of contract-specific cybersecurity requirements, be exempt from the reporting and recordkeeping requirements. The respondent further suggests that agencies be required to obtain approval from a centralized office within the Department and to explain the basis for requiring protections in excess of what is required by DFARS 252.204–7012.

Response: Covered defense information is a term used to identify information that requires protection under DFARS clause 252.204–7012 that means unclassified controlled technical information or other information that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies. When the acquisition of commercial items or services involves

covered defense information, DFARS clause 252.204–7012 and any additional contract-specific cybersecurity requirements incorporated by the requiring activity will apply to both the solicitation and resulting contract. DFARS 252.204–7012 requires the contractor to provide adequate security on any unclassified information system that is owned, or operated by or for, the contractor and that processes, stores, or transmits covered defense information. Covered defense information, when provided to the contractor, by or on behalf of DoD in support of the performance of the contract, must be marked or otherwise identified in the contract, task order, or delivery order. If a contractor has reason to question whether the information requires protection under this clause, the contractor should consult with the cognizant contracting officer for clarification. DoD agencies follow the Department's policies for information protection contained in DoD Manual (DoDM) 5200.01 Vol 4, DoD Information Security Program: CUI, and in DoD Instruction (DoDI) 5230.24, Distribution Statements on Technical Documents. As these policies have been in place for several years, the Department does not require a centralized office to oversee their execution.

E. Desk Officer

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, to: *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

F. DoD Clearance Officer

Ms. Angela James. Written requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2019–16149 Filed 7–29–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Planning Grants for Increasing Instructional Time and Reducing Administrative Burdens

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice; correction.

SUMMARY: On July 15, 2019, we published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2019 for Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Planning Grants for Increasing Instructional Time and Reducing Administrative Burdens program, Catalog of Federal Domestic Assistance (CFDA) number 84.326A. The NIA published with the incorrect application period, which should be 45 days instead of 30. We are also correcting the award size, which should be a range from $150,000 to $250,000, which updates the estimated number of awards from 10 to a range of 6 to 10.

DATES: This correction is applicable July 30, 2019.

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW, Room 5163, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–7334. Email: *David.Egnor@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 15, 2019, we published in the **Federal Register** an NIA for new awards for FY 2019 for Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Planning Grants for Increasing Instructional Time and Reducing Administrative Burdens (84 FR 33762). In the NIA, an error was made regarding the application period, which should be 45 days instead of 30. With this correction, the deadline for transmittal of applications is August 29, 2019. In addition, we are correcting the award size from $150,000 to a range between $150,000 to $250,000. This correction to the award size is necessary because planning costs may vary from State to State. Consequently, the estimated number of awards are corrected from 10 to a range of 6 to 10. Applicants are not limited to a maximum award size of $150,000 for a project period of 12 months.

Corrections

In FR Doc. 2019–14890 appearing on page 33762 in the **Federal Register** on July 15, 2019, the following corrections are made:

1. On page 33762, under **DATES** at the bottom of the middle column, we are revising the Deadline for Transmittal of Applications so that the date reads as follows: August 29, 2019.

2. On page 33764, in section II. Award Information, in the right column, we are revising Maximum Award to read as follows:

Award Size: We recognize that planning costs may vary from State to State and anticipate awarding planning grants that range from $150,000 to $250,000 for a single budget period of 12 months.

3. On page 33764, in section II. Award Information, in the right column, we are revising Estimated Number of Awards to read as follows: Estimated Number of Awards: 6–10.

Program Authority: 20 U.S.C. 1463 and 1481.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this 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.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2019–16135 Filed 7–29–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension for Exchange/Sale report, Excess Personal Property Furnished to Non-Federal Recipients, and Federal Automotive Statistical Tool, OMB Control 1910–1000. The proposed collection will cover information necessary to prepare and submit the annual property reports required by OMB Circular A–11.

DATES: Comments regarding this collection must be received on or before August 29, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4650.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503. And to: Scott L. Whiteford, Director, Office of Asset Management, Suite 7056–950 L'Enfant, 1000 Independence Avenue SW, Washington, DC 20585–1615, *scott.whiteford@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Scott L. Whiteford, at the above address, or by telephone at (202) 287–1563, or by fax (202) 287–1656 *scott.whiteford@hq.doe.gov.*

Information for the Excess Personal Property Furnished to Non-Federal Recipients and the Exchange/Sale Report is collected using GSA's Personal Property Reporting Tool and can be found at the following link: *https://www.property.reporting.gov/PPRT/PPRTLogin.*

Information for the Federal Fleet Report is collected using the Federal Automotive Statistical Tool and can be found at the following link: *https://fastweb.inl.gov/.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1910–1000;

(2) *Information Collection Request Title:* Exchange/Sale Report, Excess Personal Property Furnished to Non-Federal Recipients, Federal Automotive Statistical Tool Report;

(3) *Type of Request:* Renewal;

(4) *Purpose:* The information being collected is data required in order to submit annual personal property reports as required by 41 CFR part 102 and the Office of Management and Budget. Respondents to this information collection request will be the Department of Energy's Management and Operating Contractors and other major site contractors;

(5) *Annual Estimated Number of Respondents:* 92 respondents for each of the three reports;

(6) *Annual Estimated Number of Total Responses:* 276 (92 respondents × 3 reports);

(7) *Total Annual Estimated Number of Burden Hours:* 2,024. A breakout of the burden hours for each report is listed below:

- Exchange/Sales is estimated at 2 hours for each of the 92 respondents for a total of 184 burden hours
- Non-Federal Recipient Report is estimated at 2 hours for each of the 92 respondents for a total of 184 burden hours
- Federal Automotive Statistical Tool is estimated at 18 hours for each of the 92 respondents for a total of 1,656 burden hours.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $216,568:

Statutory Authority: (A) 41 CFR 102–39.85, (B) 41 CFR 102–36.295 and 102–36.300, (C) OMB Circular A–11 section 25.5, (D) 41 CFR 102–34.335.

Signed in Washington, DC, on July18, 2019.

Scott L. Whiteford,

Director, Office of Asset Management.

[FR Doc. 2019–16161 Filed 7–29–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–1064–001.

Applicants: Stingray Pipeline Company, L.L.C.

Description: Request for Extension of Time to Implement NAESB 3.1 Standards Per Order No. 587–Y of Stingray Pipeline Company, L.L.C. under RP19–1064.

Filed Date: 7/19/19.

Accession Number: 20190719–5060.

Comments Due: 5 p.m. ET 7/25/19.

Docket Numbers: RP19–1390–000.

Applicants: Northern Border Pipeline Company.

Description: § 4(d) Rate Filing: Future Sales of Capacity to be effective 8/19/2019.

Filed Date: 7/19/19.

Accession Number: 20190719–5054.

Comments Due: 5 p.m. ET 7/31/19.

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 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16111 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2434–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Citizens Imperial Solar LLC

This is a supplemental notice in the above-referenced Citizens Imperial 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 12, 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 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16117 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–8750–000]

Notice of Filing: Donald G Keairns

Take notice that on July 23, 2019, Donald G. Keairns filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), and Part 45 of the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 45 (2019).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is 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.

Comment Date: 5:00 p.m. Eastern Time on August 13, 2019.

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16119 Filed 7–29–19; 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: EG19–154–000.

Applicants: Lapetus Energy Project, LLC.

Description: Self-Certification of Exempt Wholesale Generator Status of Lapetus Energy Project, LLC.

Filed Date: 7/23/19.

Accession Number: 20190723–5017.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: EG19–155–000.

Applicants: Palmer Solar, LLC.

Description: Self-Certification of Exempt Wholesale Generator Status of Palmer Solar, LLC.

Filed Date: 7/23/19.

Accession Number: 20190723–5019.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: EG19–156–000.

Applicants: South Field Energy LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of South Field Energy LLC.

Filed Date: 7/23/19.

Accession Number: 20190723–5117.

Comments Due: 5 p.m. ET 8/13/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2794–031; ER14–2672–016; ER12–1825–029.

Applicants: EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.

Description: Notice of Non-Material Change in Status of EDF Trading North America, LLC, et al.

Filed Date: 7/22/19.

Accession Number: 20190722–5156.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER14–225–005; EL19–68–000.

Applicants: New Brunswick Energy Marketing Corporation.

Description: Response to May 25, 2019 Show Cause Order of New Brunswick Energy Marketing Corporation, et al.

Filed Date: 7/23/19.

Accession Number: 20190723–5110.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–1183–001; ER10–2434–010; ER10–2467–010; ER17–1666–007; ER18–1709–003; ER10–2436–010.

Applicants: Brickyard Hills Project, LLC, Fenton Power Partners I, LLC, Hoosier Wind Project, LLC, Red Pine Wind Project, LLC, Stoneray Power Partners, LLC, Wapsipinicon Wind Project LLC.

Description: Notice of Change in Status of the EDFR MISO Sellers et al.

Filed Date: 7/22/19.

Accession Number: 20190722–5157.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2437–000.

Applicants: Emmons-Logan Wind, LLC.

Description: Baseline eTariff Filing: Emmons-Logan Wind, LLC Application for MBR Authority to be effective 9/21/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5131.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2438–000.

Applicants: Hickory Run Energy, LLC.

Description: Request for Limited Waiver, et al. of Hickory Run Energy, LLC.

Filed Date: 7/22/19.

Accession Number: 20190722–5145.

Comments Due: 5 p.m. ET 8/1/19.

Docket Numbers: ER19–2439–000.

Applicants: Tampa Electric Company.

Description: Petition for Waiver of Affiliate Transaction Pricing Rule of Tampa Electric Company.

Filed Date: 7/23/19.

Accession Number: 20190723–5044.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2440–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Baseline eTariff Filing: Tri-State Stated Rate Filing, FERC Electric Tariff Volume No. 1 to be effective 9/21/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5061.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2441–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Baseline eTariff Filing: Baseline Open Access Transmission Tariff to be effective 9/21/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5063.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2442–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Baseline eTariff Filing: Tri-State Baseline Market-Based Rate Tariff to be effective 9/21/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5073.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2443–000.

Applicants: Thermo Cogeneration Partnership, L.P.

Description: Baseline eTariff Filing: Thermo Cogeneration Baseline Market-Based Rate Tariff to be effective 9/21/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5075.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2444–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Baseline eTariff Filing: Tri-State Wholesale Electric Service Contracts to be effective 9/21/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5077.

Comments Due: 5 p.m. ET 8/13/19.

Docket Numbers: ER19–2445–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and LMR Solar Engineering and Construction for Affected System Agreement to be effective 7/24/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5131.

Comments Due: 5 p.m. ET 8/13/19.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR19–7–000.

Applicants: North American Electric Reliability Corporation.

Description: North American Electric Reliability Corporation Five-Year Electric Reliability Organization (ERO) Performance Assessment Report.

Filed Date: 7/22/19.

Accession Number: 20190722–5155.

Comments Due: 5 p.m. ET 8/22/19.

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 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16110 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–487–000]

Notice of Request Under Blanket Authorization: Columbia Gas Transmission, LLC

Take notice that on July 12, 2019, Columbia Gas Transmission, LLC (Columbia Gas), 700 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP19–487–000 a prior notice request pursuant to sections 157.205, and 157.216 of the Commission's regulations under the Natural Gas Act for authorization to abandon three injection/withdrawal wells and associated pipelines and appurtenances, located in its Brinker Storage Field in Columbiana County, Ohio. Columbia proposes to abandon these facilities under authorities granted by its blanket certificate issued in Docket No. CP83–76, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Sorana Linder, Director, Modernization & Certificates, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, at (832) 320–5209 or *sorana_linder@transcanada.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA

for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: July 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16113 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 190–105]

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests: Moon Lake Electric Association, Inc.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor, new license.

b. *Project No.:* P–190–105.

c. *Date filed:* January 31, 2017.

d. *Applicant:* Moon Lake Electric Association, Inc.

e. *Name of Project:* Uintah Hydroelectric Project.

f. *Location:* The project is located near the Town of Neola, Duchesne County, Utah and diverts water from primarily the Uinta River as well as Big Springs Creek and Pole Creek. The project is located almost entirely on the tribal lands of the Uintah and Ouray Native American Reservation and federal lands managed by Ashley National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Patrick Corun, Engineering Manager, Moon Lake Electric Association, Inc., 800 West U.S. Hwy 40, Roosevelt, Utah 84066, (435) 722–5406, *pcorun@mleainc.com.*

i. *FERC Contact:* Quinn Emmering, (202) 502–6382, *quinn.emmering@ferc.gov.*

j. Deadline for filing motions to intervene and protests and requests for cooperating agency status: 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–190–105.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. *Project Description:* The Uintah Hydroelectric Project operates as a run-of-river facility delivering water to the project facilities from primarily the Uinta River as well as Big Springs and Pole Creek. Existing project facilities include: (1) A stop-log diversion structure on the that conveys flow from Big Springs Creek and a non-project canal to a 916-foot-long, 28-inch diameter, steel pipeline that connects to the point of diversion on the Uinta River; (2) an 80-foot-long, 4-foot-wide, 3-foot-high overflow-type concrete diversion structure with a 10-foot-high, 6.5-foot-wide steel slide gate on the Uinta River; (3) a concrete structure with manual slide gates for dewatering the main supply canal and returning water to the Uinta River immediately downstream of the Uinta diversion; (4) an emergency slide gate about midway along the main supply canal; (5) a 16-foot-wide, 8-foot-deep, 25,614-foot-long, clay-lined main supply canal which conveys water from Big Springs Creek and the Uinta River; (6) a stop-log diversion structure with non-functional control gates which diverts water from Pole Creek; (7) a 6-foot-wide, 4-foot-deep, 6,200-foot-long Pole Creek canal that collects water from the Pole Creek diversion; (8) an 86-inch-wide, 80-inch-long, 43-inch-high transition bay and a 140-foot-long, 14-inch diameter steel penstock collects water from the Pole Creek canal; (9) a 23-foot by 13-foot concrete forebay structure containing trashracks with 2.5-inch spacing, a headgate that is located at the termination of the main supply canal and the Pole Creek penstock, and an overflow channel; (10) a single 5,238-foot-long, 36-inch diameter polyurethane and steel penstock which delivers water to a concrete powerhouse with two Pelton turbines driving two 600-kilowatt (KW) generators; (11) a 600-foot-long tailrace; (12) an 8.5-mile-long, 4.75-mile-long 24.9-kilovolt (KV) single wood pole distribution line; and (13) appurtenant facilities.

The estimated average annual generation is about 6,073 megawatt-hours. Moon Lake proposes to modify the project boundary to account for an update to the project transmission line that reduced its total length from 8.5 miles to 4.75 miles.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210,

385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST or MOTION TO INTERVENE; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. Procedural schedule: The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Commission issues Scoping Document 2 July 2019
Commission Issues Letter Requesting Additional Information and Studies July 2019
Additional Information and Study Reports due October 2019
Issue Ready for Environmental Analysis (REA) Notice November 2019
Deadline for Filing Comments, Recommendations and Agency Terms and Conditions/Prescriptions January 2020
Licensee's Reply to REA Comments February 2020
Commission Issues Draft EA July 2020
Comments on Draft EA August 2020
Commission Final EA November 2020

Dated: July 24, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–16148 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–103–000.

Applicants: Newmount Nevada Energy Investment LLC.

Description: Supplement (Amended Exhibit I) to July 13, 2019 Supplement to Application for Authorization Under Section 203 of the Federal Power Act, et al. of Newmount Nevada Energy Investment LLC.

Filed Date: 7/23/19.

Accession Number: 20190723–5107.

Comments Due: 5 p.m. ET 8/2/19.

Docket Numbers: EC19–115–000.

Applicants: Public Service Company of Colorado, SWG Colorado, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Public Service Company of Colorado, et al.

Filed Date: 7/23/19.

Accession Number: 20190723–5174.

Comments Due: 5 p.m. ET 8/13/19.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: ER18–2370–002.

Applicants: Lackawanna Energy Center LLC.

Description: Compliance filing: Compliance Filing of Reactive Power Rate Schedule in ER18–2370 and EL19–7 to be effective 10/1/2018.

Filed Date: 7/24/19.

Accession Number: 20190724–5111.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–266–002.

Applicants: Invenergy Nelson LLC.

Description: Compliance filing: Compliance Filing of Reactive Power Rate Schedule to be effective 12/1/2018.

Filed Date: 7/24/19.

Accession Number: 20190724–5112.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–1507–004.

Applicants: Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, Duke Energy Florida, LLC.

Description: Compliance filing: Joint OATT Compliance Filing for Order No. 845 to be effective 5/22/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5084.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2446–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–07–24_SA 3332 Southern Indiana Gas & Electric-OSER (J783) to be effective 7/10/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5013.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2447–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA/SA No. 4252, Queue No. W2–094 to be effective 5/6/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5049.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2448–000.

Applicants: Midcontinent Independent System Operator, Inc., MidAmerican Energy Company.

Description: § 205(d) Rate Filing: 2019–07–24_SA 3334 MidAmerican-RPGI WDS (La Porte) to be effective 9/1/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5054.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2449–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: First Rev. ISA & ICSA, SA Nos. 4904 & 4952; Queue No. AA2–119/AC1–055/AD2–192 to be effective 6/25/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5087.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2450–000.

Applicants: Crystal Lake Wind, LLC.

Description: Tariff Cancellation: Notice of Cancellation of Crystal Lake Wind, LLC to be effective 7/25/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5113.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2451–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Cranell Wind Farm GIA 1st Amend and Restated to be effective 7/12/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5114.

Comments Due: 5 p.m. ET 8/14/19.

Docket Numbers: ER19–2452–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Americus Solar LGIA Filing to be effective 7/10/2019.

Filed Date: 7/24/19.

Accession Number: 20190724–5118.

Comments Due: 5 p.m. ET 8/14/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–38–000; ES19–39–000; ES19–40–000; ES19–41–000; ES19–42–000; ES19–43–000; ES19–44–000.

Applicants: AEP Texas Inc., Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, Wheeling Power Company.

Description: Application under Section 204 of the Federal Power Act for

Authorization to Issue Securities of AEP Texas Inc., et al.

Filed Date: 7/24/19.

Accession Number: 20190724–5086.

Comments Due: 5 p.m. ET 8/14/19.

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 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16116 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2411–028]

Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process; STS Hydropower, LLC and City of Danville

a. *Type of Application:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2411–028.

c. *Date filed:* May 31, 2019.

d. *Submitted by:* STS Hydropower, LLC (STS Hydropower) and City of Danville (Danville).

e. *Name of Project:* Schoolfield Hydroelectric Project.

f. *Location:* Located on the Dan River in the Town of Danville, Pittsylvania County, Virginia. The project does not occupy any federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Michael Scarzello, Director, Eagle Creek Renewable Energy, LLC, 116 State Street, P.O. Box 167, Neshkoro, WI 54960, Phone: (973) 998–8400, Email: *michael.scarzello@eaglecreekre.com.*

i. *FERC Contact:* Laurie Bauer, Phone: (202) 502–6519, Email: *laurie.bauer@ferc.gov.*

j. STS Hydropower and Danville filed its request to use the Traditional Licensing Process on May 31, 2019. STS Hydropower provided public notice of its request on May 30, 2019. In a letter dated July 24, 2019, the Director of the Division of Hydropower Licensing approved Consolidated Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Virginia State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating STS Hydropower and Danville as the Commission's non-federal representatives for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. STS Hydropower and Danville filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2411. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2022.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 24, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–16150 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[OR19–26–000]

American Aviation Supply LLC, Delta Air Lines, Inc., JetBlue Airways Corporation, United Airlines, Inc. v. Buckeye Pipe Line Company, L.P.; Notice of Complaint

Take notice that July 22, 2019, pursuant to sections 1(5), 6, 8, 9, 13, 15 and 16 of the Interstate Commerce Act,[1] section 1803 of the Energy Policy Act of 1992 (EPAct),[2] Rule 206 of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (Commission),[3] and Rules 343.1(a) 343.2(c) of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings,[4] American Aviation Supply LLC, Delta Air Lines, Inc., JetBlue Airways Corporation, and United Airlines, Inc. (collectively, Joint Complainants) filed an amended joint complaint modifying and supplementing the original complaint filed on June 5, 2019 against Buckeye Pipe Line Company, L.P. (Buckeye or Respondent), challenging the lawfulness of the rates charged by Buckeye for transportation of jet and/or aviation turbine fuel from Linden, New Jersey to the New York City market, specifically Newark International Airport, New Jersey, J.F. Kennedy International Airport, New York and LaGuardia Airport, New York, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of

[1] 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15 and 16.

[2] Public Law 102–486, 106 Stat. 2772 (1992).

[3] 18 CFR 385.206 (2018).

[4] 18 CFR 343.1(a) and 343.2(c) (2018).

the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is 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.

Comment Date: 5:00 p.m. Eastern Time on August 21, 2019.

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16120 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD19–13–000]

Reliability Technical Conference; Notice Inviting Post-Technical Conference Comments

On Thursday, June 27, 2019, the Federal Energy Regulatory Commission convened a Commissioner-led technical conference to discuss policy issues related to the reliability of the Bulk-Power System.

All interested persons are invited to file post-technical conference comments on the topics concerning the reliability of the Bulk-Power System discussed during the technical conference, including the questions listed in the Final Notice issued on July 3, 2019. Commenters need not respond to all questions asked. Commenters should organize responses consistent with the numbering of the questions and identify to what extent their responses are generally applicable. Commission staff reserves the right to post additional follow-up questions related to those panels if deemed necessary. In addition, commenters are encouraged, when possible, to provide specific examples and data in support of their answers. Comments must be submitted on or before 30 days from the date of this notice and should not exceed 30 pages. Comments may be filed electronically via the internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

For further information about this Notice, please contact:

Lodie White, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8453, *lodie.white@ferc.gov.*

Robert Clark, Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8165, *robert.clark@ferc.gov.*

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16108 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2561–055]

Sho-Me Power Electric Cooperative; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2561–055.

c. *Date Filed:* May 30, 2019.

d. *Submitted By:* Sho-Me Electric Power Cooperative (Sho-Me).

e. *Name of Project:* Niangua Hydroelectric Project.

f. *Location:* On the Niangua River, in Camden County, Missouri. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Peter Dawson, Sho-Me Electric Power Cooperative, P.O. Box D, 301 W Jackson, Marshfield, MO 65706; (417) 859–2615; email—*pdawson@shomepower.com.*

i. *FERC Contact:* Nick Éttema at (312) 596–4447; or email at *nicholas.ettema@ferc.gov.*

j. Sho-Me filed its request to use the Traditional Licensing Process on May 30, 2019. Sho-Me provided public notice of its request on June 7, 2019. In a letter dated July 23, 2019, the Director of the Division of Hydropower Licensing approved Sho-Me's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Missouri State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Sho-Me as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Sho-Me filed a Pre-Application Document (PAD); including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at

FERCONlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2561. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2022.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16124 Filed 7–29–19; 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: RP19–1391–000.

Applicants: LLOG Bluewater Holdings, LLC, LLOG Exploration Offshore, L.L.C., Murphy Exploration & Production Company.

Description: Joint Petition for Limited Waiver, et al. of LLOG Bluewater Holdings, LLC, et al.

Filed Date: 7/22/19.

Accession Number: 20190722–5049.

Comments Due: 5 p.m. ET 7/29/19.

Docket Numbers: RP19–1392–000.

Applicants: Dauphin Island Gathering Partners.

Description: 2019 Cash Out Report of Dauphin Island Gathering Partners.

Filed Date: 7/22/19.

Accession Number: 20190722–5086.

Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: RP19–1393–000.

Applicants: Northwest Pipeline LLC.

Description: § 4(d) Rate Filing: NWP Non-Conforming Filing—Intermountain, Puget, Southwest Gas to be effective 8/30/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5046.

Comments Due: 5 p.m. ET 8/5/19.

Docket Numbers: RP19–1394–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmts (JERA 46435) to be effective 7/23/2019.

Filed Date: 7/23/19.

Accession Number: 20190723–5090.

Comments Due: 5 p.m. ET 8/5/19.

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 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16121 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–29–000]

Commission Information Collection Activities (FERC–550); Comment Request Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–550 (Oil Pipeline Rates—Tariff Filings).

DATES: Comments on the collection of information are due by September 30, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–29–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–550, Oil Pipelines Rates—Tariff Filings.

OMB Control No.: 1902–0089.

Type of Request: Three-year extension of the FERC–550 information collection requirements with no changes to the current reporting requirements.

Abstract: FERC–550 is required to implement the sections of the Interstate Commerce Act (ICA) (49 U.S.C. 1, *et seq.,* 49 App. U.S.C. 1–85). The Commission's regulatory jurisdiction over oil pipelines includes:

- Regulation of rates and practices of oil pipeline companies engaged in interstate transportation;
- establishment of equal service conditions to provide shippers with equal access to pipeline transportation;
- establishment of reasonable rates for transporting petroleum and petroleum products by pipeline.

The filing requirements for oil pipeline tariffs and rates [1] put in place by the FERC–550 data collection provide the Commission with the information it needs to analyze proposed tariffs, rates, fares, and charges of oil pipelines and other carriers in connection with the transportation of crude oil and petroleum products. The Commission uses this information to determine whether the proposed tariffs and rates are just and reasonable.

Type of Respondent: Oil Pipelines.

[1] 18 Code of Federal Regulations (CFR) Parts 341–348.

Estimate of Annual Burden: [2] The Commission estimates the annual public reporting burden and cost [3] for the FERC–550 information collection as follows:

FERC–550—OIL PIPELINES RATES—TARIFF FILINGS

Number of respondents	Annual number of responses per respondent	Total number of responses [4]	Average burden hours & cost ($) per response	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
219	3.24	710	7 hrs.; $560	4,970 hrs.; $397,600	$1,815.52

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16118 Filed 7–29–19; 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: ER18–2397–003.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2019–07–22_Order 844 Compliance filing to be effective 1/1/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5056.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2243–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 1636R23 Kansas Electric Power Cooperative, Inc. NITSA and NOA Amended Filing to be effective 9/1/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5072.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2430–000.

Applicants: Exelon Generation Company, LLC.

Description: Initial rate filing: Certificate of Concurrence (Nine Mile Point) to be effective 7/20/2019.

Filed Date: 7/19/19.

Accession Number: 20190719–5114.

Comments Due: 5 p.m. ET 8/9/19.

Docket Numbers: ER19–2431–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5246 and ICSA, SA No. 5247; Queue No. Z2–107 to be effective 6/21/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5036.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2432–000.

Applicants: West Penn Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: West Penn Power submits an ECSA, Service Agreement No. 5268 to be effective 9/20/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5058.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2433–000.

Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Cancel LGIA Palmdale LLC SA No. 210 to be effective 9/19/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5063.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2434–000.

Applicants: Citizens Imperial Solar LLC.

Description: Baseline eTariff Filing: Application and Baseline MBR Tariff to be effective 7/23/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5073.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2435–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–07–22_SA 3051 IPL–MEC 1st Rev GIA (J438) to be effective 7/8/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5101.

Comments Due: 5 p.m. ET 8/12/19.

Docket Numbers: ER19–2436–000.

Applicants: Golden West Power Partners, LLC.

Description: Baseline eTariff Filing: Golden West Power Partners, LLC Shared Facilities Agreement to be effective 9/21/2019.

Filed Date: 7/22/19.

Accession Number: 20190722–5106.

Comments Due: 5 p.m. ET 8/12/19.

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.

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[3] The Commission staff thinks that the hourly cost (for wages and benefits) for industry staff completing the FERC–550 is similar to the cost of FERC employees. FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The cost figure is the FY2019 FERC average annual salary plus benefits ($167,091/year or $80/hour).

[4] This figure is rounded.

Dated: July 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16109 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2443–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Thermo Cogeneration Partnership, LP

This is a supplemental notice in the above-referenced Thermo Cogeneration Partnership, L.P.'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 13, 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 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16123 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2442–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Tri-State Generation and Transmission Association, Inc.

This is a supplemental notice in the above-referenced Tri-State Generation and Transmission Association, Inc.'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 13, 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 24, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16122 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2425–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Mitsui & Co. Energy Marketing and Services (USA), Inc.

This is a supplemental notice in the above-referenced Mitsui & Co. Energy Marketing and Services (USA), Inc'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 12, 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 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16114 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14997–000]

New England Hydropower Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 23, 2019, New England Hydropower Company, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower on the Lehigh Canal in Lehigh County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Lehigh Canal Allentown Hydroelectric Project would consist of the following: (1) An existing 11-foot-high, 480-foot-long concrete gravity dam (*i.e.,* the Hamilton Street Dam); (2) an existing impoundment with an approximate surface area of 50 acres and a storage capacity of 371 acre-feet at a normal surface elevation of 240 feet mean sea level; (3) an existing canal approximately 0.58 mile long; (4) an existing 20-foot-wide gate structure on the canal with a spillway; (5) a new 14-foot-wide, 20-foot-long intake channel; (6) a new 16-foot by 20-foot powerhouse containing one Archimedes Screw turbine-generator unit with a total capacity of 485 kilowatts; (7) a new 480-volt, 350-foot-long transmission line connecting the powerhouse to a nearby grid interconnection point; and (8) appurtenant facilities. The proposed project would have an average annual generation of 3,560 megawatt-hours.

Applicant Contact: Michael C. Kerr, New England Hydropower Company, LLC, 100 Cummings Center, Suite 451C, Beverly, MA 01915; phone: (978) 360–2547.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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–14997–000.

More information about this project, including a copy of the application, can be viewed or printed on the eLibrary link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14997) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 22, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16115 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–471–000]

Notice of Environmental Onsite Review: Bluewater Gas Storage, LLC

On August 7, 2019, the Office of Energy Projects staff will conduct a site visit of the proposed Bluewater Gas Storage, LLC's (Bluewater) Omo Road Compressor Station site and potential alternative sites. The purpose of the site visit is to evaluate the proposed location and any feasible alternatives.

All interested parties planning to attend must provide their own transportation. Those attending should meet at the following time and location:

- *11:00 a.m. (EDT) at the Ray Township Hall, 64255 Wolcott Road, Ray, MI 48096.*

FERC staff will also attend a Bluewater-sponsored open house on August 7, 2019 from 4:00 p.m. to 7:00 p.m. (EDT) at the Ray Township Hall, 64255 Wolcott Road, Ray, MI 48096.

Please use the FERC's free eSubscription service to keep track of all formal issuances and submittals in these dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Information about specific onsite environmental reviews is posted on the Commission's calendar at *http://www.ferc.gov/EventCalendar/EventsList.aspx.* For additional information, contact Office of External Affairs at (866) 208–FERC.

Dated: July 23, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–16112 Filed 7–29–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0656; FRL–9997–18–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Lead-Acid Battery Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Lead-Acid Battery Manufacturing (EPA ICR Number 1072.12, OMB Control Number 2060–0081), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through September 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before August 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0656, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Lead-Acid Battery Manufacturing (40 CFR part 60, subpart KK) were proposed on January 14, 1980, promulgated on April 16, 1982, and most recently-amended on February 27, 2014. These regulations apply to existing facilities and new facilities with production capacity that is greater than or equal to 6.5 tons of lead: Grid casting facilities, paste mixing facilities, three-process operation facilities, lead-oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. This information is being collected to assure compliance with 40 CFR part 60, subpart KK.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Lead-acid battery manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart KK).

Estimated number of respondents: 52 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 4,050 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $473,000 (per year), which includes $11,700 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The increase in burden is due to an adjustment to account for the burden for all facilities to refamiliarize themselves with the regulatory requirements each year. This burden is separate from the existing recordkeeping burdens for all sources. The change results in a modest increase in burden. There was no change in the number of responses or operation and maintenance costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–16085 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0654; FRL–9996–94–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Automobile and Light Duty Truck Surface Coating Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Automobile and Light Duty Truck Surface Coating Operations (EPA ICR Number 1064.19, OMB Control Number 2060–0034), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through September 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2019 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before August 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0654, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Automobile and Light Duty Truck Surface Coating Operations were proposed on October 5, 1979, promulgated on December 24, 1980, and amended on October 17, 2000. These regulations apply to the following automobile and light duty truck assembly plant operations: Each prime coat operation, guide coat operation, and top coat operation commencing construction, modification or reconstruction after October 5, 1979. This information is being collected to assure compliance with 40 CFR part 60, subpart MM.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Facilities that perform surface coating of automobile and light duty trucks.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart MM).

Estimated number of respondents: 72 (total).

Frequency of response: Initially, quarterly, and semiannually.

Total estimated burden: 214,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $24,400,000 (per year), which includes $128,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the estimates: There is an overall adjustment increase in the change in burden in this ICR compared to the previous renewal. The increase is not due to any program changes. The burden has been adjusted to reflect an increase in the estimated number of sources, based on a continued growth rate of 2 new facilities per year. The increase in the number of respondents also results in an increase in the number of responses and in the operation and maintenance costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–16083 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0657; FRL–9997–11–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Flexible Vinyl and Urethane Coating and Printing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Flexible Vinyl and Urethane Coating and Printing (EPA ICR Number 1157.12, OMB Control Number 2060–0073), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through September 30, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before August 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0657, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets*.

Abstract: The New Source Performance Standards (NSPS) for Flexible Vinyl and Urethane Coating and Printing were proposed on January

18, 1983, promulgated on June 29, 1984, and amended on October 17, 2000. These regulations apply to facilities with rotogravure printing lines used to print or coat flexible vinyl or urethane products for which construction, modification or reconstruction commenced after January 18, 1983. This information is being collected to assure compliance with 40 CFR part 60, subpart FFF.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Flexible vinyl and urethane coating and printing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart FFF).

Estimated number of respondents: 41 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 1,310 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $525,000 (per year), which includes $376,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the change in burden in this ICR compared to the previous renewal. This is due to two considerations: (1) There has been an increase in the estimated number of respondents from the prior ICR, based on a review of sources reported in the Agency's Integrated Compliance Information System (ICIS); and (2) the increase in the number of respondents also results in an increase in the operation and maintenance costs. Growth in the industry is anticipated to remain consistent at one respondent over the three-year period of this ICR, therefore there are no changes to the capital or startup costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–16084 Filed 7–29–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Charter Renewal

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of renewal of the FDIC Advisory Committee on Community Banking.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), and after consultation with the General Services Administration, the Chairman of the Federal Deposit Insurance Corporation has determined that renewal of the FDIC Advisory Committee on Community Banking (the Committee) is in the public interest in connection with the performance of duties imposed upon the FDIC by law.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Committee Management Officer of the FDIC, (202) 898–7043, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas. The Committee will continue to review various issues that may include, but not be limited to, examination policies and procedures, credit and lending practices, deposit insurance assessments, insurance coverage, and regulatory compliance matters to promote the continued growth and ability of community banks to extend financial services in their respective local markets. The structure and responsibilities of the Committee are essentially unchanged from when it was originally established in July 2009. The Committee will continue to operate in accordance with the provisions of the FACA.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043, *regs@fdic.gov.*

Dated at Washington, DC, on July 25, 2019.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2019–16136 Filed 7–29–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Privacy Act of 1974; System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to modify an existing system of records entitled, BGFRS–12 ''FRB—Bank Officers Personnel System.'' BGFRS–12 is a system of records that contains personal information about Federal Reserve Bank officers. It is used by the Human Resources Section within the Board's Division of Reserve Bank Operations and Payment Systems (RBOPS) to assist the Board in its oversight of the Federal Reserve Banks including reviewing Reserve Bank compliance with the Federal Reserve Administration Manual through on-site reviews and off-site monitoring.

DATES: Comments must be received on or before August 29, 2019. This modified system of records will become effective August 29, 2019, without further notice, unless comments dictate otherwise.

The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 30-day period prior to publication in the **Federal Register** in which to review the system and to provide any comments to the agency. The public is then given a 30-day period in which to comment, in accordance with 5 U.S.C. 552a(e)(4) and (11).

ADDRESSES: You may submit comments, identified by *BGFRS–12: FRB-Bank Officers Personnel System,* by any of the following methods:

- *Agency Website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include SORN name and 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 *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted,

unless modified for technical reasons, or to remove sensitive PII. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: David B. Husband, Senior Attorney, (202) 530–6270, or *david.b.husband@frb.gov;* Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Board is modifying this system in order to reflect minor changes to the use of the system. Specifically, the Board is making changes to the types of information collected, adding more detail to the purpose of the system, changing the title for the System Manager, changing the system location, amending the specifics of the access controls, and making changes to the record retention policies and practices. The Board has also determined that the system-specific routine use providing that ''the records may be used to provide reports, such as the Board's Annual Report to Congress, agencies and the public on characteristics regarding the Federal Reserve Bank officer work force'' is no longer needed. The Board's practice is to release only aggregate, non-identifiable information through such reports. Accordingly, as the release of aggregate information is not a release of Privacy Act information because the information does not identify any individual, the Board proposes to delete the system-specific routine use.

The Board is also making technical changes to BGFRS–38 consistent with the template laid out in OMB Circular No. A–108. Accordingly, the Board has made technical corrections and non-substantive language revisions to the following categories: ''Policies and Practices for Storage of Records,'' ''Policies and Practices for Retrieval of Records,'' ''Policies and Practices for Retention and Disposal of Records,'' ''Administrative, Technical and Physical Safeguards,'' ''Record Access Procedures,'' ''Contesting Record Procedures,'' and ''Notification Procedures.'' The Board has also created the following new fields: ''Security Classification'' and ''History.''

SYSTEM NAME AND NUMBER:

BGFRS–12 ''FRB—Bank Officers Personnel System''

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Reserve Bank of Kansas City, 1 Memorial Drive, Kansas City, Missouri 64198.

SYSTEM MANAGER(S):

Lauren Guerin, Manager, Human Resources Section, Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551, 202–452–2540, or *lauren.o.guerin@frb.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4, 10, 11, and 21 of the Federal Reserve Act (12 U.S.C. 247, 248, 307, and 485).

PURPOSE(S) OF THE SYSTEM:

These records are collected and maintained to assist the Board in its oversight of the Federal Reserve Banks. The Board's use includes ensuring compliance with the Federal Reserve Administration Manual through on-site reviews and off-site monitoring.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present Federal Reserve Bank Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel information such as demographic and employment information on past and present Reserve Bank officers (including the employees working at National IT and the Office of Employee Benefits), and any personnel actions regarding the officer that have occurred during the officer's employment.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, Federal Reserve Bank staff, and System personnel systems all provide the information contained within this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

General routine uses, A, B, C, D, F, G, H, I, and J apply to this system. These general routine uses are located at *https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf* and are published in the **Federal Register** at 83 FR 43872 (August 28, 2018) at 43873–74.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper records in this system are stored in locked file cabinets with access limited to staff with a need to know. Electronic records are stored on a secure server with access limited to staff with a need to know.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Staff can retrieve records by name or employee identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained for at least three years in accordance with applicable record retention schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to records is limited to those whose official duties require it.

RECORD ACCESS PROCEDURES:

The Privacy Act allows individuals the right to access records maintained about them in a Board system of records. Your request for access must: (1) Contain a statement that the request is made pursuant to the Privacy Act of 1974; (2) provide either the name of the Board system of records expected to contain the record requested or a concise description of the system of records; (3) provide the information necessary to verify your identity; and (4) provide any other information that may assist in the rapid identification of the record you seek.

Current or former Board employees may make a request for access by contacting the Board office that maintains the record. The Board handles all Privacy Act requests as both a Privacy Act request and as a Freedom of Information Act request. The Board does not charge fees to a requestor seeking to access or amend his/her Privacy Act records.

You may submit your Privacy Act request to the—Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

You may also submit your Privacy Act request electronically through the Board's FOIA ''Electronic Request Form'' located here: *https://www.federalreserve.gov/secure/forms/efoiaform.aspx.*

CONTESTING RECORD PROCEDURES:

The Privacy Act allows individuals to seek amendment of information that is erroneous, irrelevant, untimely, or incomplete and is maintained in a system of records that pertains to them. To request an amendment to your record, you should clearly mark the request as a ''Privacy Act Amendment Request.'' You have the burden of proof for demonstrating the appropriateness of the requested amendment and you must

provide relevant and convincing evidence in support of your request.

Your request for amendment must: (1) Provide the name of the specific Board system of records containing the record you seek to amend; (2) identify the specific portion of the record you seek to amend; (3) describe the nature of and reasons for each requested amendment; (4) explain why you believe the record is not accurate, relevant, timely, or complete; and (5) unless you have already done so in a related Privacy Act request for access or amendment, provide the necessary information to verify your identity.

NOTIFICATION PROCEDURES:

Same as ''Access procedures'' above. You may also follow this procedure in order to request an accounting of previous disclosures of records pertaining to you as provided for by 5 U.S.C. 552a(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

No exemptions are claimed for this system.

HISTORY:

This system was previously published in the **Federal Register** at 73 FR 24984, at 24996 (May 6, 2008). The SORN was also amended to incorporate two new routine uses required by OMB at 83 FR 43872 (August 28, 2018).

Board of Governors of the Federal Reserve System, July 25, 2019.

Ann Misback,

Secretary of the Board.

[FR Doc. 2019–16153 Filed 7–29–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 171 0125]

Quaker Chemical Corporation and Global Houghton Ltd.; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement; Request for Comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Orders to Aid Public Comment describes both the allegations in the complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 29, 2019.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: ''Quaker Chemical Corporation and Global Houghton Ltd.; File No. 171 0125'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Terry Thomas (202–326–3218), Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 23, 2019), on the World Wide Web, at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 29, 2019. Write ''Quaker Chemical Corporation and Global Houghton Ltd.; File No. 171 0125'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Quaker Chemical Corporation and Global Houghton Ltd.; File No. 171 0125'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or

remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 29, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Agreement Containing Consent Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Quaker Chemical Corporation (''Quaker''), Global Houghton LTD. (''Houghton''), Gulf Houghton Lubricants LTD., and AMAS Holding SPF (collectively, the ''Respondents''). The Consent Agreement would remedy the anticompetitive effects that likely would result from Quaker's proposed acquisition of Houghton (''Transaction'').

Absent a remedy, the Transaction would threaten to harm competition in the manufacture and sale of: (1) Aluminum hot rolling oils (''AHRO'') and associated technical support in North America; and (2) steel cold rolling oils (''SCRO'') and associated technical support in North America. In particular, the Commission's Complaint alleges that the Transaction, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and that the asset purchase agreement constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in the manufacture and sale of AHRO and SCRO in an area no greater than North America.

The Consent Agreement addresses the Commission's concerns by, among other things, requiring Quaker to divest Houghton's North American AHRO and SCRO product lines to Total S.A. (''Total''), a multination oil and gas company headquartered in France. Quaker must also divest the intellectual property associated with Houghton's AHRO and SCRO, and adjacent products including steel cleaners and AHRO compatible hydraulic fluids.

The Commission has placed the proposed Consent Agreement on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and any comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make it final.

II. The Respondents

Respondent Quaker, a publicly traded company, is a global supplier of specialty process chemicals, lubricants, greases, and other metal processing products. Headquartered in Conshohocken, Pennsylvania, Quaker's 2018 revenues were $868 million.

Respondent Houghton is a global supplier of advanced metalworking fluids and services. It serves the automotive, aerospace, metals, mining, machinery, and beverage industries. Houghton is headquartered in Valley Forge, Pennsylvania.

III. The Proposed Acquisition

The Commission's Complaint alleges that a relevant product market in which to analyze the Transaction is the manufacture and sale of AHRO and associated technical support services. AHRO is a mixture of water, oil, and additives, custom-formulated to lubricate each individual rolling mill. AHRO is necessary to allow manufacturers to operate hot rolling mills for aluminum sheet production. There is no substitute product for AHRO; lubricants for rolling other metals or for other rolling processes will not work for aluminum hot rolling.

The associated technical support services are appropriately included in this product market, as AHRO suppliers provide these services as an integral component of the physical product. There is no separate charge for these services. Technical support services begin with the formulation of the oil and continue throughout the life of the supply relationship, including necessary modifications to the formulation and contamination monitoring in both the trial phase and during active production. Technical support services from the AHRO supplier are essential to the ongoing performance of the mill, and there is no substitute for these services as provided in conjunction with AHRO.

The Commission's Complaint also alleges that an area no greater than North America is a relevant geographic market in which to analyze the effects of the Transaction. U.S. AHRO customers do not obtain supply from outside North America. Rolling oil suppliers typically supply their customers by truck and station technical support personnel at or near their customers' mills to ensure timely supply and rapid service. At the mill, customers blend the oil with the mill's own water supply to create the final emulsion. Given the large volumes of rolling oil required to run a mill, and the need for timely re-supply, shipping AHRO from outside North America would be cost- and supply-prohibitive.

The relevant market for AHRO and associated technical support services in North America is highly concentrated. Quaker and Houghton are the only two companies that commercially supply AHRO in North America. Thus, post-transaction, Quaker will be the monopoly AHRO supply option for third parties in North America.

Timely, sufficient entry is unlikely to alleviate any potential competitive harm in the market for AHRO and associated technical support services. Consistent with the Commission's allegations in the 2010 AEA Investors/Houghton (''Houghton/D.A. Stuart'') complaint (Docket No. C–4297), entry is difficult in this market. Formulating AHRO and providing technical support services require specialized knowledge that is not widely available. Even the few AHRO customers with in-house supply capabilities are unable to supply fully their own mills given the shortage of qualified scientists to develop and real-time modify rolling oil formulations and support their use in mill operations. Large, well-established customers of AHRO are unaware of potential entrants that could enter the market and supply AHRO.

Customer acceptance is also a significant entry barrier. Customers are reluctant to switch AHRO suppliers because AHRO is so critical to aluminum sheet rolling. Aluminum manufacturers place great weight on the AHRO suppliers' experience and reputation. They likely would be unwilling to chance a supplier that lacks the parties' established reputations and decades of experience given the risk of catastrophic effects should the supplier's product or support capabilities fall short. There are significant time commitments and costs associated with switching to a new AHRO supplier. Given that AHRO is a relatively small cost component in the production of aluminum coil, it is unlikely that a small significant sustained price increase would justify a

lengthy trial process for a new entrant without a proven track record.

The Commission's Complaint also alleges that a relevant product market in which to analyze the Transaction is the manufacture and sale of SCRO and associated technical support. SCRO includes sheet cold rolling oils, pickle oils, and tin plate rolling oils (''TPRO''). Steel manufacturers use SCRO to reduce friction and prevent metal-to-metal contact between surfaces of the mill's rollers and the steel during the cold rolling process for steel sheet of any width or gauge, for any further processing (*e.g.,* tinplating or coating with another substance, *e.g.,* zinc, aluminum, or paint), and for any end-use (*e.g.,* can bodies, can ends, and other closures for food and beverages, household appliances, such as washers and dryers, automobile or truck parts, or building and construction products). Like other rolling oils, SCRO is a mixture of water, oil, and additives for lubrication and corrosion protection. SCRO producers customize the product for each individual rolling mill, and there are no substitutes for SCRO. Lubricants designed for other mills, metals, or rolling processes could damage mill equipment and render the processed steel unusable.

As with AHRO, SCRO suppliers provide essential technical support services as part of the supply of the lubricant (*i.e.,* without a separate charge). The provision of these technical services is an essential component of the SCRO supply relationship.

As with AHRO, North America is the relevant geographic market for SCRO. Staff's investigation did not reveal evidence that any mill in the United States received SCRO products and services from suppliers outside North America.

Steel manufacturers in the United States primarily use SCRO made with animal fat in their mills. Because animal fat will congeal under typical tanker truck conditions, SCRO suppliers must deliver it via heated tanker trucks. This heating requirement adds to transportation costs, making imports of animal fat-based SCRO cost-prohibitive.

The animal fat-based composition of SCRO used in the United States also limits customers' choices for supply. Steel mills in the United States typically are older and have relatively smaller tanks that require frequent drainage. As a result, it is not economical for U.S. steel mills to use vegetable oil based (commonly referred to as synthetic oil) that is more advanced but higher cost. European steel mills, which are generally newer and have larger tanks, use this synthetic SCRO. Given the greater cost of synthetic SCRO and the costs of shipping, U.S. steel manufacturers are unlikely to turn to overseas SCRO suppliers in response to a small significant sustained price increase.

As in the market for AHRO, Quaker and Houghton are the two dominant suppliers of SCRO and associated technical support services in North America. Although fringe competitors participate in this market, to the extent that customers need both SCRO and related support and technical services combined, the merger may present as an effective merger-to-monopoly.

IV. Effects of the Transaction

The proposed transaction would be a merger to monopoly in the market for AHRO and associated technical support services. Staff's investigation has revealed no evidence to suggest that the likely competitive effects of this combination are meaningfully different from those of the Houghton/D.A. Stuart transaction remedied by the Commission in 2010. In addition, customers worry that the proposed transaction would consolidate all AHRO technical expertise within one company. Today, Quaker and Houghton compete on their technical support service capabilities, including their availability, responsiveness, and expertise in anticipating, preventing, diagnosing, and addressing problems related to their lubricants in order to ensure smooth operations and high quality aluminum sheet. The parties' support service technicians must thoroughly understand the design of each mill, the products made there, and the interaction between the rolling oil, substrate, and rollers. When problems arise today, they create an opportunity for a competitor to challenge the incumbent supplier as the customer seeks a solution and/or a superior product as quickly as possible to get operations back on track. Post-merger, customers will have only one support team—Quaker's—to turn to in the event of operational issues, and will lose the advantage of a possible switch to encourage investment in troubleshooting.

The Transaction presents similar concerns for customers of SCRO and associated technical support services. Notwithstanding the presence of a few fringe suppliers, SCRO customers fear that the deal may result in higher prices, lower service levels, reduced innovation, and supply availability challenges. Like AHRO customers, SCRO customers face meaningful barriers to switching suppliers, including lengthy trial periods, downtime, and long waits for customer approval.

Quaker and Houghton also compete on the quality of their technical support services and expertise. Customers rely on their SCRO suppliers to troubleshoot and address operational issues as they arise. When the incumbent supplier cannot resolve problems to the customer's satisfaction, the customer may turn to a competing supplier to propose an alternative solution. Post-merger, Quaker will no longer face Houghton as a competitive threat to keep its service levels sharp; competition from fringe SCRO suppliers may not be sufficient to protect customers.

Customers have also raised concerns that the proposed merger would eliminate their only SCRO alternative in the event of supply challenges or emergencies. If a supply disruption occurs, SCRO customers must either turn to an alternative supplier or idle their mills at great expense. Steel manufacturers take comfort in the availability of multiple potential SCRO suppliers to ensure that they can access this essential input in times of shortages. The proposed transaction would eliminate the most promising alternative supply option for SCRO customers, and may deprive them of any viable alternative at all.

A prospective entrant into the SCRO market faces similar barriers to those that render entry unlikely for AHRO, including technical expertise and reputational hurdles. Entry is difficult even for a supplier that operates in other fluid-based markets.

V. The Proposed Consent Agreement

The proposed order requires a divestiture to Total. Total's business includes oil and gas exploration, refining, and marketing as well as chemical manufacturing. Total had annual revenues in 2018 of approximately $210 billion. The divestiture to Total would replicate Houghton's competitive presence in the AHRO and SCRO markets in North America by creating a viable, effective, and independent competitor. The order requires Quaker to divest certain products, transfer key employees, and provide transition services and toll manufacturing. The term of the proposed order is ten years. The order also requires Quaker to supply the divested products to Total for a transitional period while transferring the manufacturing technology to Total.

To remedy harm in the market for AHRO, Quaker will divest to Total: (1) Houghton's formulations, intellectual property, including patent for non-oleic

acid formula, trade secrets, including know-how for its AHRO; (2) customer contracts for North America; (3) key Houghton employees that are responsible for the commercial and technical aspects of the AHRO business; and (4) adjacent products including fire resistant hydraulic fluids.

To remedy harm in the market for SCRO, which includes sheet cold rolling oil, TPRO, and pickle oil, Quaker will divest to Total: (1) Houghton's formulations, trade secrets and intellectual property, including know-how for sheet cold rolling oils, TPRO, and pickle oil; (2) customer contracts for North America; (3) key Houghton employees that are responsible for the commercial and technical aspects of the SCRO business; and (4) SCRO and TPRO cleaners.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–16152 Filed 7–29–19; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2019–08; Docket No. 2019–0002; Sequence No. 20]

Notice of Intent To Prepare an Environmental Assessment for the Appraisers Building and U.S. Customs House, San Francisco, CA

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations, and the GSA PBS NEPA Desk Guide, GSA is issuing this notice to advise the public that an Environmental Assessment (EA) will be prepared for the Appraisers Building and U.S. Customs House Modernization Project, San Francisco, CA (Project).

DATES: Agencies and the public are encouraged to provide written comments regarding the scope of the EA. Comments must be received by August 26, 2019.

ADDRESSES: Please submit written comments by either of the following methods:

- *Email: osmahn.kadri@gsa.gov.*
- *Postal Mail/Commercial Delivery:* ATTN: Mr. Osmahn Kadri, 50 United Nations Plaza, Room 3345, Mailbox 9, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Mr. Osmahn A. Kadri, Regional Environmental Quality Advisor/NEPA Project Manager, General Services Administration, Pacific Rim Region, at 415–522–3617 or email *osmahn.kadri@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

GSA intends to prepare an EA to analyze the potential impacts resulting from proposed renovations associated with the Appraisers Building and U.S. Customs House Renovations Project.

The Project is located at 630 Sansome Street (Appraisers Building) and 555 Battery Street (U.S. Customs House), San Francisco, California. The Project is proposed in order to bring these buildings up to current building code, safety standards and serviceable condition and to prolong their useful life.

The Appraisers Building is a Class-B office building on a .86-acre site in the central business district of San Francisco. The original structure was constructed in 1944, and is nineteen stories above-ground, which includes the penthouse, loft, two levels of mechanical space, and three tiered-roof levels. This building is adjacent to the U.S. Customs House.

The U.S. Customs House is on a .86-acre site located on the northern edge of the city's financial district, occupying one-half of the block bounded by Sansome, Jackson, Battery and Washington Streets. The Class B structure was constructed in 1911 and is composed of two interconnected structures.

Alternatives Under Consideration

The EA will consider one Action Alternative (the Proposed Action) and the No Action Alternative. The Action Alternative would consist of modernization work to repair, modify or replace certain building improvements and systems. The buildings would not be expanded in size and there would be no change in personnel staffing levels at each building. Construction is likely to impact parking access and traffic flow during construction.

Under the No Action Alternative, modernization enhancements to the existing buildings would not occur.

Scoping Process

Scoping will be accomplished through public notifications in the *San Francisco Chronicle,* social media announcements, and direct mail correspondence to appropriate federal, state, and local agencies; surrounding property owners; and private organizations and citizens who have previously expressed or are known to have an interest in the Project.

The primary purpose of the scoping process is for the public to assist GSA in determining the scope and content of the environmental analysis.

Dated: July 24, 2019.

Jared Bradley,

Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.

[FR Doc. 2019–16133 Filed 7–29–19; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0083; Docket No. 2019–0003; Sequence No. 3]

Submission for OMB Review; Qualification Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a revision and renewal of a previously approved information collection requirement concerning qualification requirements.

DATES: Submit comments on or before August 29, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0083, Qualification Requirements.

Instructions: All items submitted must cite Information Collection 9000–

0083, Qualification Requirements. 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. Camara Francis, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, 202–550–0935, or *camara.francis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Number, Title, and Any Associated Form(s)

9000–0083, Qualification Requirements.

B. Needs and Uses

FAR subpart 9.2 and the associated clause at FAR 52.209–1, implement the statutory requirements of 10 U.S.C. 2319 and 41 U.S.C. 3311, which allow an agency to establish a qualification requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract. Under the qualification requirements, an end item, or a component thereof, may be required to be prequalified.

The clause at FAR 52.209–1, Qualification Requirements, requires offerors who have met the qualification requirements to identify the offeror's name, the manufacturer's name, source's name, the item name, service identification, and test number (to the extent known). This eliminates the need for an offeror to provide new information when the offeror, manufacturer, source, product or service covered by qualification requirement has already met the standards specified by an agency in a solicitation.

The contracting officer uses the information to determine eligibility for award when the clause at 52.209–1 is included in the solicitation. Alternatively, items not yet listed may be considered for award upon the submission of evidence of qualification with the offer.

C. Annual Reporting Burden

Respondents: 13,470.
Total Annual Responses: 13,470.
Total Burden Hours: 13,470.

D. Public Comment

A 60 day notice was published in the **Federal Register** at 84 FR 14944, on April 12, 2019. No comments were received.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0083, Qualification Requirements, in all correspondances.

Dated: July 24, 2019.

William F. Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–16196 Filed 7–29–19; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

Notice of Availability and Announcement of Public Meeting for the Final Environmental Assessment for the Edward J. Schwartz Federal Building Structural Enhancements Project in San Diego, California

AGENCY: Public Building Service (PBS), General Services Administration (GSA).

ACTION: Notice of availability; announcement of public meeting.

SUMMARY: This notice announces the availability of the Final Environmental Assessment (EA) for the proposed structural enhancement improvements to the existing Edward J. Schwartz Federal Building and United States Courthouse located at 880 Front Street in San Diego, California (Project). The Final EA describes the reason the Project is being proposed; the alternatives that were evaluated; the potential impacts of each of the alternatives on the existing environment; and the proposed avoidance, minimization, and/or mitigation measures related to those alternatives. Based on its finding of no significant impacts, GSA has determined that an Environmental Impact Statement need not be prepared.

DATES: A public meeting to solicit comments and provide information about the Final EA will be held on Tuesday, August 20, 2019 from 4:00 p.m. to 7:00 p.m., Pacific Standard Time. Interested parties are encouraged to attend. The availability period for the Final EA ends on August 28th, 2019.

ADDRESSES: The public meeting will be held at Union Cowork East Village, 704 J Street, San Diego, CA 92101. Further information, including an electronic copy of the Final EA, may be found online on the following website: *https://www.gsa.gov/about-us/regions/welcome-to-the-pacific-rim-region-9/buildings-and-facilities/california/edward-j-schwartz-federal-office-building#CurrentProjects.*

Questions or comments concerning the Final EA should be directed to: Osmahn Kadri, Regional Environmental Quality Advisor/NEPA Project Manager, 50 United Nations Plaza, 3345, Mailbox #9, San Francisco, CA, 94102, or via email to *osmahn.kadri@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Osmahn Kadri, Regional Environmental Quality Advisor/NEPA Project Manager, GSA, at 415–522–3617. Please also call this number if special assistance is needed to attend and participate in the public meeting.

SUPPLEMENTARY INFORMATION:

Background

The Project is proposed in order to improve structural safety for the public traveling underneath the building and for the tenants occupying the building above the Front Street underpass, located at 880 Front Street in San Diego, California. The portion of Front Street that extends below the building is referred to as the Front Street underpass. The existing building has five stories of federal office building space spanning above the roadway and two levels of parking structure beneath the roadway.

The Final EA addresses the Proposed Action Alternative and the No Action Alternative. The Action Alternative consists of structural enhancement improvements to the portion of the existing Edward J. Schwartz Federal Building over Front Street between E and F streets. Existing columns and beams supporting the building at the Front Street underpass would be reinforced with new steel beams and column support structures and pre-cast concrete paneling. Construction would require full and partial closure of Front Street between Broadway and F Street. Street closure options during construction of the Action Alternative are being considered and a comprehensive Traffic Control Plan will be prepared in coordination with the City of San Diego to address the street closure.

The No Action Alternative assumes that structural enhancements to the existing building would not occur. The Draft EA was made publicly available on November 16, 2018 for a 30-day period. The public review period closed on December 17, 2018. The Notice of Availability for the Draft EA was published in the **Federal Register** at 83

FR 58252 on November 19, 2018. A public meeting took place on November 28, 2018 in the Downtown San Diego community. In preparing this Final EA, GSA considered public comments received regarding the Draft EA during the public review period.

After careful consideration of the environmental analysis and associated environmental effects of the Proposed Action Alternative and No Action Alternative, the purpose and need for the Project, and comments received on the Draft EA, GSA will be implementing the Proposed Action Alternative.

Finding

Pursuant to the provision of GSA Order ADM 1095.1F, the PBS NEPA Desk Guide, and the regulations issued by the Council on Environmental Quality (CEQ; 40 CFR parts 1500 to 1508), this notice advises the public of our finding that the Proposed Action will not significantly affect the quality of the human environment.

Basis for Finding

The environmental impacts of constructing the proposed structural enhancements were considered in the Final EA pursuant to the National Environmental Policy Act (NEPA) and the CEQ regulations implementing NEPA. No significant impacts on the environment would occur with implementation of best management practices and avoidance, minimization, and mitigation measures identified in the Final EA.

The Final EA is available for review at the San Diego Central Library, 330 Park Boulevard, San Diego, CA 92101. The Final EA and FONSI can also be viewed on the GSA website at *https://www.gsa.gov/real-estate/environmental-programs/gsa-nepa-implementation/nepa-library.*

The Finding of No Significant Impact will be signed thirty (30) days after the publication of this notice, provided that no information leading to a contrary finding is received or comes to light during this period.

Dated: July 24, 2019.

Jared Bradley,

Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.

[FR Doc. 2019–16134 Filed 7–29–19; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: 2020 Residential Energy Consumption Survey (RECS), Low Income Home Energy Assistance Program (LIHEAP) Administrative Data Matching (OMB #0970–0486)

AGENCY: Office of Community Services; Administration for Children and Families; HHS.

ACTION: Request for Public Comment.

SUMMARY: The Office of Community Services (OCS) is requesting an extension for the collection and reporting of 2020 administrative household data for state LIHEAP grantees' LIHEAP recipients. OMB approved the original collection under #0970–0486.

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 purpose of this information collection is to provide data that will allow OCS to identify LIHEAP recipients that respond to the upcoming Residential Energy Consumption Survey (RECS), which The U.S. Energy Information Administration (EIA) is planning to conduct in 2020. The EIA conducts the RECS survey to provide periodic national and regional data on residential energy use in the United States. OCS uses RECS data to furnish Congress and the Administration for Children and Families (ACF) with important national and regional descriptive data on the energy needs of low-income households.

In 2015, state LIHEAP grantees provided household-level recipient data to identify LIHEAP recipients that participated in the 2015 RECS. ACF is requesting no changes in the type of data or the form of data collection for the 2020 extension of the project. The administrative household data already is collected by State grantees and used to complete the annual LIHEAP Household Report (OMB Control No. 0970–0060) and the annual LIHEAP Performance Data Form (OMB Control No. 0970–0449).

The LIHEAP data collected for this effort will be used by OCS to study the impact of LIHEAP on income eligible and recipient households in accordance with 42 U.S.C. 8629(b)(2). The information is being collected for use in development of the Department's annual LIHEAP Report to Congress and the annual LIHEAP Home Energy Notebook. The collection of this data is authorized by the LIHEAP statute, which requires the Secretary, following consultation with the Secretary of Energy, to provide for the collection of specific information on the characteristics of LIHEAP recipient and LIHEAP eligible households within each State. This includes collecting information that is reasonably necessary to carry out the provisions of the LIHEAP statute if that information is not collected by any other agency of the Federal Government.

State LIHEAP grantees will be asked to furnish data for LIHEAP recipient households that reside in areas included in the RECS sample.

The following are the specific data items grantees will report for each household:

- Name
- Address (including ZIP code)
- Gross Income
- Household or Client ID
- Household Size
- Heating assistance awarded
- Amount of heating assistance
- Date of heating assistance
- Cooling assistance awarded
- Amount of cooling assistance
- Date of cooling assistance
- Crisis Assistance awarded
- Amount of crisis assistance
- Date of crisis assistance
- Other Assistance awarded
- Amount of other assistance
- Date of other assistance
- Presence of children 5 or younger
- Presence of adult 60 or older
- Presence of disabled

The following are optional data items that grantees can provide if the data are available in your database:

- Tenancy (*i.e.,* own or rent)
- Type(s) of fuel used
- Heat included in rent

State LIHEAP grantees can provide the data elements in the selected format of their choosing.

The confidentiality of client data will be strictly protected as part of the project. LIHEAP application client waivers allow grantees to share information with OCS and its contractors.

Respondents: 51 (State Governments and the District of Columbia)

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
Action Transmittal LIHEAP–AT–2020–04 Extension of the FY 2015 RECS LIHEAP Administrative Data Matching to FY 2020	51	1	24	1,224	408

Estimated Total Annual Burden Hours: 408.

As LIHEAP is a block grant, there is varying capacity to collect and report data among grantees. The estimated burden hours displayed above are for the average LIHEAP grantee. All LIHEAP grantees have existing data systems to collect, maintain, and analyze this data to complete annual reporting requirements.

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: 42 U.S.C. 8629(a).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–16162 Filed 7–29–19; 8:45 am]

BILLING CODE 4184–80–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1461]

Rare Pediatric Disease Pediatric Priority Review Vouchers; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Rare Pediatric Disease Priority Review Vouchers.'' This draft guidance is a revision of the guidance of the same title that published in 2014. This draft guidance provides information on the rare pediatric disease priority review voucher program under the Federal Food, Drug, and Cosmetic Act (FD&C Act), under which FDA will award priority review vouchers to sponsors of certain rare pediatric disease product applications that meet the relevant statutory criteria. These priority review vouchers can be used when submitting future human drug marketing applications that would not otherwise qualify for priority review. Because there exists a need for products for rare pediatric diseases, this program is intended to encourage development of new drug and biological products for prevention and treatment of certain rare pediatric diseases.

DATES: Submit either electronic or written comments on the draft guidance by September 30, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Submit electronic or written comments on the information collection burden by September 30, 2019.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–D–1461 for ''Rare Pediatric Disease Priority Review Vouchers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the

information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Orphan Products Development, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5295, Silver Spring, MD 20993–0002; Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or Office of Pediatric Therapeutics, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5126, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Aaron Friedman, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5209, Silver Spring, MD 20993, 301–796–2989; Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911; Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6484, Silver Spring, MD 20993–0002, 301–796–4061; or Terrie Crescenzi, Office of Pediatric Therapeutics, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5126, Silver Spring, MD 20993, 301–796–8646.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Rare Pediatric Disease Priority Review Vouchers.'' This draft guidance provides information on implementation of section 529 of the FD&C Act (21 U.S.C. 360ff) regarding the awarding of priority review vouchers to sponsors of certain rare pediatric disease product applications. Under section 529 of the FD&C Act, a sponsor who receives an approval for a drug or biological product to treat or prevent a rare pediatric disease (as defined by statute) may, if the statutory criteria are met, qualify for a voucher that can be used to receive a priority review for a subsequent marketing application for a different product.

This draft guidance is a revision of the draft guidance of the same title that published November 17, 2014 (79 FR 68451). The revisions address updates to the statutory provision on rare pediatric disease priority review vouchers made by the Advancing Hope Act of 2016 (Pub. L. 114–229) and the 21st Century Cures Act (Pub. L. 114–255), including changes made to the definition of rare pediatric disease. When final, this draft guidance will provide FDA's thinking regarding the new definition of rare pediatric disease and explain the new statutory requirement to request a rare pediatric disease priority review voucher. This draft guidance also includes revisions based on FDA's experience with implementing the rare pediatric disease priority review voucher program, including voucher request procedures.

The draft guidance is intended to assist developers of rare pediatric disease products in assessing whether their product may be eligible for rare pediatric disease designation and a rare pediatric disease priority review voucher. It also clarifies the process for requesting such designations and vouchers, describes the information to include in the designation request and the voucher request, and describes sponsor responsibilities upon approval of a rare pediatric disease product application. Additionally, it describes how FDA will respond to requests for rare pediatric disease designation and vouchers.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Rare Pediatric Disease Priority Review Vouchers.'' 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.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Rare Pediatric Disease Priority Review Vouchers, Draft Guidance for Industry.

Description of Respondents: Respondents to this collection of information are sponsors that develop drugs and biological products.

Burden Estimate: This draft guidance on Rare Pediatric Disease Priority Review Vouchers is intended to assist developers of rare pediatric disease products in assessing whether their product may be eligible for rare pediatric disease designation and a rare pediatric disease priority review voucher.

The draft guidance clarifies the process for requesting such designations and vouchers, sponsor responsibilities upon approval of a rare pediatric disease product application, and the parameters for using and transferring a rare pediatric disease priority review voucher.

This draft guidance also refers to previously approved collections of information found in FDA regulations and guidance. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001, the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338, the collections of information in 21 CFR part 316 have been approved under OMB control number 0910–0167, and the collections of information in the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' have been approved under OMB control number 0910–0765.

The draft guidance describes five collections of information that are not currently approved by OMB under the PRA: (1) The request for a rare pediatric disease designation, (2) the request for a rare pediatric disease priority review voucher, (3) the notification of intent to use a voucher, (4) the notification to transfer a voucher, and (5) the post-approval report. These collections of information will be used by the Agency to issue rare pediatric disease designations and vouchers, prepare for an incoming priority review, and maintain awareness about which sponsors currently hold vouchers.

A. Request for Rare Pediatric Disease Designation

Under the draft guidance, a stakeholder interested in obtaining a rare pediatric disease designation should include information about the drug and its proposed mechanism of action, a description of the rare pediatric disease for which the drug is being or will be investigated, whether or not the sponsor is requesting orphan-drug designation or fast track designation at the same time, and documentation that the disease or condition for which the drug is proposed is a ''rare pediatric disease'' as defined in section 529(a)(3) of the FD&C Act (including evidence supporting whether the serious or life-threatening manifestations of the disease or condition primarily affect children or adults).

FDA estimates that annually a total of approximately 51 respondents will complete one rare pediatric disease designation request as described in question 9 of the draft guidance. FDA estimates that preparing these designation requests will take approximately 75 hours for each designation request. This includes the time that may be needed to respond to FDA actions and requests.

B. Request for Rare Pediatric Disease Priority Review Voucher

As described more fully in the draft guidance, the information to be provided in a request for a priority review voucher will depend on whether the sponsor has previously requested rare pediatric disease designation. Sponsors who have requested rare pediatric disease designation should include the latest designation correspondence from FDA (*e.g.,* designation letter, deficiency letter, etc.) with the voucher request. Sponsors who have not requested rare pediatric disease designation should include in a voucher request prevalence estimates as of the time of new drug application/biologics license application submission, with supporting documentation. All sponsors requesting a voucher should explain how the application meets each of the eligibility criteria described in question 2 of the draft guidance.

We estimate that annually a total of approximately 20 respondents will complete one rare pediatric disease priority review voucher request as described in response to question 15 of the draft guidance. We estimate that preparing these designation requests will take approximately 40 hours for each rare pediatric disease priority review voucher request. This includes the time that may be needed to respond to FDA actions and requests.

C. Notification of Intent To Use Voucher

The sponsor redeeming a rare pediatric disease voucher must notify FDA of its intent to submit an application with a priority review voucher at least 90 days before submission of the application and must include the date the sponsor intends to submit the application (section 529(b)(4)(B)(i) of the FD&C Act).

FDA estimates that annually a total of approximately three respondents will complete one Notification of Intent to Use a Voucher as described in response to question 19 of the draft guidance. We estimate that preparing each of these Notifications of Intent to Use a Voucher will take approximately 8 hours.

D. Transfer Notification

Each person to whom a voucher is transferred must notify FDA of the change of voucher ownership within 30 days after the transfer. This notification should include a letter from the previous owner to the current owner and a letter from the current owner to the previous owner, each acknowledging the transfer. Any sponsor redeeming a voucher should include these transfer letters in the application submitted to FDA. A complete record of transfer must be made available to FDA to redeem a transferred voucher.

FDA estimates that annually a total of approximately two respondents will complete Transfer Notifications as described in response to question 21 of the draft guidance. We estimate that preparing each of these Transfer Notifications will take approximately 8 hours.

E. Post-Approval Report

The sponsor of an approved rare pediatric disease product application must submit a report to FDA no later than 5 years after approval that addresses the following, for each of the first 4 post-approval years: (1) The estimated population in the United States with the rare pediatric disease for which the product was approved (both the entire population and the population aged 0 through 18 years), (2) the estimated demand in the United States for the product, and (3) the actual amount of product distributed in the United States (section 529(e)(2) of the FD&C Act).

FDA estimates that annually a total of approximately two respondents will complete post-approval reports, as described in response to question 7 of the draft guidance. We estimate that each of these post-approval reports will take about 20 hours to complete.

FDA estimates the annual reporting burden for the draft guidance as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Rare pediatric disease designation request	51	1	51	75	3,825
Rare pediatric disease priority review voucher request	20	1	20	40	800
Notification of intent to use a voucher	3	1	3	8	24
Transfer notification	2	1	2	8	16
Post-approval report	2	1	2	20	40
Total					4,705

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: July 24, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–16262 Filed 7–29–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Request for Information: Ensuring Patient Access and Effective Drug Enforcement

AGENCY: Office of the Assistant Secretary for Planning and Evaluation (ASPE), HHS.

ACTION: Request for Information.

SUMMARY: This Request for Information (RFI) seeks comment on ensuring legitimate access to controlled substances, including opioids, while also preventing diversion and abuse, as well as how federal, state, local, and tribal entities can collaborate to address these issues.

DATES: Comments must be received at one of the addresses provided below, no later than 5 p.m. on August 29, 2019.

ADDRESSES: Written comments can be provided by email, fax or U.S. mail.

Email: EPAEDEAreport@hhs.gov.

Fax: (202) 690–5882.

Mail: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Office of Science and Data Policy, Attn: EPAEDEA Report Feedback, 200 Independence Avenue SW, Room 434E, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Office of the Assistant Secretary for Planning and Evaluation, 202–690–7100.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3 of the Ensuring Patient Access and Effective Drug Enforcement Act of 2016 (EPAEDEA), Public Law 114–145, called for the Department of Health and Human Services, acting through the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Agency for Healthcare Research and Quality, and the Director of the Centers for Disease Control and Prevention, and in coordination with the Administrator of the Drug Enforcement Administration and in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, to submit a report to Congress that identifies:

- Obstacles to legitimate patient access to controlled substances;
- issues with diversion of controlled substances;
- how collaboration between Federal, State, local, and tribal law enforcement agencies and the pharmaceutical industry can benefit patients and prevent diversion and abuse of controlled substances;
- the availability of medical education, training opportunities, and comprehensive clinical guidance for pain management and opioid prescribing, and any gaps that should be addressed;
- beneficial enhancements to State prescription drug monitoring programs, including enhancements to require comprehensive prescriber input and to expand access to the programs for appropriate authorized users;
- steps to improve reporting requirements so that the public and Congress have more information regarding prescription opioids, such as the volume and formulation of prescription opioids prescribed annually, the dispensing of such prescription opioids, and outliers and trends within large data sets.

II. Solicitation of Comments

EPAEDEA requires that the report incorporate feedback and recommendations from the following: (1) Patient groups; (2) pharmacies; (3) drug manufacturers; (4) common or contract carriers and warehousemen; (5) hospitals, physicians, and other health care providers; (6) State attorneys general; (7) Federal, State, local, and tribal law enforcement agencies; (8) health insurance providers and entities that provide pharmacy benefit management services on behalf of a health insurance provider; (9) wholesale drug distributors; (10) veterinarians; (11) professional medical societies and boards; (12) State and local public health authorities; and (13) health services research organizations.

This RFI is seeking comment from these stakeholders on the aforementioned issue areas to be covered by the report.

III. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble.

Dated: July 16, 2019.

Brenda Destro,

Deputy Assistant Secretary for Planning and Evaluation (HSP).

[FR Doc. 2019–16145 Filed 7–29–19; 8:45 am]

BILLING CODE 4150–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee; Environmental Health Sciences: P30 Core Centers.

Date: August 14–15, 2019.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel Raleigh-Durham Airport at Research Triangle Park, 4700 Emperor Blvd., Durham, NC 27703.

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 984–287–3236, *bass@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Environmental Health Sciences P30 Core Centers.

Date: August 15, 2019.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel Raleigh-Durham Airport at Research Triangle Park, 4700 Emperor Blvd., Durham, NC 27703.

Contact Person: Varsha Shukla, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, Keystone Building, Room 3094, Research Triangle Park, NC 27709, 984–287–3288, *Varsha.shukla@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 24, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–16066 Filed 7–29–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA–2019–0010]

Notice of the President's National Infrastructure Advisory Council Meeting

AGENCY: Cybersecurity and Infrastructure Security Agency, DHS.

ACTION: Announcement of meeting; request for comments.

SUMMARY: The Cybersecurity and Infrastructure Security Agency (CISA) announces a public meeting of the President's National Infrastructure Advisory Council (NIAC). To facilitate public participation, CISA invites public comments on the agenda items and any associated briefing materials to be considered by the council at the meeting.

DATES:

Meeting Registration: Individual registration to attend the meeting in person is required and must be received no later than 5:00 p.m. EST on August 7, 2019.

Speaker Registration: Individuals may register to speak during the meeting's public comment period must be received no later than 5:00 p.m. EST on August 7, 2019.

Written Comments: Written comments must be received no later than 12:00 p.m. EST on August 14, 2019.

NIAC Meeting: The meeting will be held on Thursday, August 15, 2019 from 2:00 p.m.–4:00 p.m. EST.

ADDRESSES: The NIAC meeting will be held at The United States Naval Academy, Laboon Center, 566 Brownson Rd., Annapolis, MD 21402.

Comments: Written comments may be submitted on the issues to be considered by the NIAC as described in the **SUPPLEMENTARY INFORMATION** section below and any briefing materials for the meeting. Any briefing materials that will be presented at the meeting will be made publicly available on Friday, August 2, 2019 at the following website: *https://www.dhs.gov/national-infrastructure-advisory-council.*

Comments identified by docket number ''*CISA–2019–0010*'' may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NIAC@hq.dhs.gov.* Include docket number *CISA–2019–0010* in the subject line of the message.

Instructions: All submissions received must include the agency name and docket number for this notice. All written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on participating in the upcoming NIAC/NSTAC meeting, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket and comments received by the NIAC, go to *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ginger K. Norris, 202–441–5885, *ginger.norris@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: The NIAC is established under Section 10 of E.O. 13231 issued on October 16, 2001. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (Pub. L. 92–463). The NIAC shall provide the President, through the Secretary of Homeland Security, with advice on the security and resilience of the Nation's critical infrastructure sectors.

The NIAC will meet in an open meeting on August 15, 2019 to discuss the following agenda items with DHS leadership.

Agenda

I. Call to Order and Opening Remarks
II. Panel Discussion With Critical Infrastructure Experts on Cross Sector Interdependencies
III. New Business
IV. Public Comment
V. Closing Remarks
VI. Adjournment
Public Participation
Meeting Registration Information

Due to additional access requirements and limited seating, requests to attend in person will be accepted and processed in the order in which they are received. Individuals may register to

attend the NIAC meeting by sending an email to *NIAC@hq.dhs.gov.*

Public Comment

While this meeting is open to the public, participation in FACA deliberations are limited to council members. A public comment period will be held during the meeting from approximately 3:15 p.m.–3:45 p.m. EST. Speakers who wish to comment must register in advance and can do so by emailing *NIAC@hq.dhs.gov* no later than Wednesday, August 7, 2019, at 5:00 p.m. EST. Speakers are requested to limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact *NIAC@hq.dhs.gov* as soon as possible.

Dated: July 19, 2019.

Ginger K. Norris,

Designated Federal Official National Infrastructure Advisory Council, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2019–16064 Filed 7–29–19; 8:45 am]

BILLING CODE 9910–9P–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0111]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 29, 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 Mrs. Evangeline M. Campbell, 1849 C Street NW, Mail Stop 4513, Washington, DC 20240; fax: (202) 513–208–5113; email: *Evangeline.Campbell@bia.gov.* Please reference OMB Control Number 1076–0111 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mrs. Evangeline M. Campbell, (202) 513–7621. 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 May 10, 2019 (84 FR 20655). There were no comments received in response to this **Federal Register** notice.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under 25 CFR 23.13, implementing the Indian Child Welfare Act (25 U.S.C. 1901 *et seq.*). The information collection allows BIA to receive written requests by State courts that appoint counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding when appointment of counsel is not authorized by State law. The applicable BIA Regional Director uses this information to decide whether to certify that the client in the notice is eligible to have his counsel compensated by the BIA in accordance with the Indian Child Welfare Act.

Title of Collection: Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts.

OMB Control Number: 1076–0111.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State courts.

Total Estimated Number of Annual Respondents: Two per year.

Total Estimated Number of Annual Responses: Two per year.

Estimated Completion Time per Response: Two hours for reporting and one hour for recordkeeping.

Total Estimated Number of Annual Burden Hours: Six hours.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2019–16087 Filed 7–29–19; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–28444; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before July 13, 2019, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by August 14, 2019.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before July 13, 2019. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Harrenstein, Dr. Howard Paul, House, 6450 North Calle De Estevan, Tucson, SG100004292

DISTRICT OF COLUMBIA

District of Columbia

American Theater, 104–108 Rhode Island Ave. NW, Washington, SG100004296
Brookland Bowling Alleys, 3726 10th St. NE, Washington, SG100004306

GEORGIA

Hall County

Friendship Baptist Church Cemetery, 3759 Friendship Rd., Buford, SG100004298

Laurens County

First African Baptist Church, 405 Telfair St., Dublin, SG100004299

Polk County

St. James' Episcopal Church, 302 and 308 West Ave., Cedartown, SG100004293

HAWAII

Hawaii County

Fujino, Matsujiro, Property, 45–3390 Mamane St., Honoka'a, SG100004285
Honoka'a Garage, 43–3586 Mamane St., Honoka'a, SG100004286

Honolulu County

Dearborn Chemical Company Warehouse, 941 Waimanu St., Honolulu, SG100004287
Kaiser, Henry J. and Alyce, Estate, 525 Portlock Rd., Honolulu, SG100004289
Ala Wai Villas, 2455 Ala Wai Blvd., Honolulu, SG100004290

Kauai County

Sueoka Market, 5392 Koloa Rd., Koloa, SG100004288

MONTANA

Stillwater County

Stillwater County Courthouse, 400 East 3rd Ave. North, Columbus, SG100004277

OREGON

Marion County

Oregon State Hospital Historic District, Roughly bounded by D St., Park Ave., 24th St. & Bates Dr., Salem, BC100004300

VIRGINIA

Bath County

Warm Springs Bathhouses, NE of Warm Springs off Rt. 220, Warm Springs vicinity, BC100004302

Nelson County

Norwood-Wingina Rural Historic District, Arrowhead Ln., Capel Ln., Findlay Gap Rd., James River Rd., Norwood Rd., Pine Hill Ln., Round Top Ln., Taylors Store Loop, Union Hill Rd., Variety Mills Rd., Wingina, SG100004305

WASHINGTON

King County

Beacon Hill School, 2524 16th Ave. S, Seattle, SG100004297

WEST VIRGINIA

Fayette County

Oak Hill High School, 140 School St., Oak Hill, SG100004283

Roane County

Laurel Hill District School, U.S. Route 33 West and County Route 5/9, Spencer, SG100004284

A request for removal has been made for the following resources:

ARIZONA

Yuma County

Southern Pacific Railroad Depot, Gila St., Yuma, OT76000384

MICHIGAN

Kalamazoo County

Fountain of the Pioneers, (Kalamazoo MRA), Bronson Park, bounded by Academy, Rose, South & Park Sts., Kalamazoo, OT16000417

Additional documentation has been received for the following resources:

VIRGINIA

Richmond Independent City

Monument Avenue Historic District, Bounded by Grace and Birch Sts., Park Ave., and Roseneath Rd., Richmond (Independent City), AD70000883

WEST VIRGINIA

Fayette County

Soldiers and Sailors Memorial Building, 100 N. Court St., Fayetteville, AD16000312

Authority: Section 60.13 of 36 CFR part 60.

Dated: July 15, 2019.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Programs.

[FR Doc. 2019–16091 Filed 7–29–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1098]

Certain Subsea Telecommunication Systems and Components Thereof; Notice of a Commission Determination To Review In Part a Final Initial Determination Finding No Violation of Section 337 and To Extend the Target Date; Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the Administrative Law Judge's (''ALJ'') final initial determination (''ID''), issued on April 26, 2019, finding no violation of section 337 in the above-referenced investigation and to extend the target date for completion of the above-referenced investigation to September 30, 2019. The Commission requests briefing from the parties on certain issues under review, as indicated in this notice.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential

documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 26, 2018, based on a complaint, as supplemented, filed on behalf of Neptune Subsea Acquisitions Ltd. of the United Kingdom; Neptune Subsea IP Ltd. of the United Kingdom; and Xtera, Inc. of Allen, Texas (collectively, ''Xtera''). 83 FR 3770 (Jan. 26, 2018). The complaint, as supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain subsea telecommunication systems and components thereof by reason of infringement of one or more claims of U.S. Patent Nos. 8,380,068; 7,860,403 (''the '403 patent''); 8,971,171; 8,351,798 (''the '798 patent''); and 8,406,637. The complaint further alleges that an industry in the United States exists as required by section 337. The notice of investigation, as originally issued, named as respondents Nokia Corporation of Espoo, Finland; Nokia Solutions and Networks B.V. of Hoofddorp, The Netherlands; Nokia Solutions and Networks Oy of Espoo, Finland; Alcatel-Lucent Submarine Networks SAS of Boulogne-Billancourt, France; Nokia Solutions and Networks US LLC of Phoenix, Arizona; NEC Corporation of Tokyo, Japan; NEC Networks & System Integration Corporation of Tokyo, Japan; and NEC Corporation of America of Irving, Texas. The Office of Unfair Import Investigations was named as a party in this investigation.

The corporate name of Neptune Subsea Acquisitions Ltd. was changed to Xtera Topco Ltd. ID at 3. Respondents Nokia Solutions and Networks B.V.; Nokia Solutions and Networks Oy; and Nokia Solutions and Networks US LLC were terminated from the investigation based on withdrawal of the complaint. *Id.* The corporate name of Alcatel-Lucent Submarine Networks SAS was corrected to Alcatel Submarine Networks. *Id.* Respondent Nokia of America Corporation of New Providence, New Jersey was later added to the investigation. *Id.*

Of the patents that formed the basis for institution of this investigation, only the '798 patent and the '403 patent remain in dispute. ID at 3–4, 6.

On April 26, 2019, the ALJ issued his final ID and his recommended determination. The ID found no violation of section 337 with respect to asserted claims 13, 15, and 19 of the '798 patent and claims 8, 9, and 12 of the '403 patent by Respondents Nokia Corporation; Alcatel Submarine Networks; and Nokia of America Corporation (collectively ''Nokia''); and NEC Corporation; NEC Networks & System Integration Corporation; and NEC Corporation of America (collectively ''NEC''). Specifically, with respect to the '798 patent, the ID found that Xtera produced no evidence at the evidentiary hearing to show a violation of section 337 based on infringement of claims 13, 15, and 19. Accordingly, the ID found that Xtera has not established a violation of section 337 based on infringement of the '798 patent. With respect to the '403 patent, the ID found that Respondents do not infringe and Xtera's domestic industry products do not practice claims 8, 9, and 12 of the '403 patent. The ID also found that claims 8, 9, and 12 of the '403 patent are invalid as anticipated by U.S. Patent No. 6,430,336. The ID further found that complainants had not established that complainants' investments and activities satisfied the domestic industry requirement with respect to articles protected by the '403 patent.

On May 13, 2019, Xtera filed a petition for review of the final ID. On the same day, Respondents filed a contingent petition for review of the final ID. Thereafter, the parties filed responses to the petitions for review and public interest comments pursuant to Commission Rule 210.50(a)(4).

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID's findings with respect to the '403 patent in their entirety, including domestic industry. The Commission does not review the remainder of the ID.

The Commission has determined to extend the target date in this investigation to September 30, 2019.

Xtera originally asserted infringement of claims 8, 9, 12, and 13 of the '403 patent. *See* ID at 6. Xtera, however, presented no evidence or argument regarding claim 13 at the hearing or in post-hearing briefing. The ID makes no findings with respect to claim 13 and Xtera's petition for review does not address that claim. Further, Xtera's petition for review does not address the '798 patent. The Commission hereby determines that Xtera has thus effectively withdrawn its allegations with respect to claim 13 of the '403 patent and the '798 patent.

The parties are requested to brief their positions on only the following issues under review with reference to the applicable law and the evidentiary record.

1. The ID adopts the parties' agreed-upon function for Element 8A to be ''producing a periodic series of optical pulses defining a series of time slots, wherein one pulse appears in each time slot.'' Does the ID's interpretation of the claimed function for Element 8A require the production of a periodic series of ''narrow'' optical pulses? Did the parties provide argument before the ALJ as to whether or not the claimed function requires the production of a periodic series of ''narrow'' optical pulses?

2. In view of your response to the first question, please discuss whether the specification or prosecution history clearly links or associates the combination of the light source and the first modulator in the prior art transmitter shown in Figure 1 of the '403 patent to the claimed function for Element 8A.

3. If your positions on the above issues are adopted by the Commission, please explain the effect, if any, on the ID's infringement, invalidity, and technical prong findings. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings. At this time, the Commission does not request written submissions on remedy, public interest, or bonding.

Written Submissions: Each party's written submission responding to the above questions and any response to the initial submissions should be no more than 50 pages. The written submissions must be filed no later than close of business on Wednesday, August 7, 2019. Reply submissions of no more than 35 pages must be filed no later than the close of business on Wednesday, August 14, 2019. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines

stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission Rule 210.4(f), 19 CFR 210.4(f). Submissions should refer to the investigation number (''Inv. No. 1098'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 24, 2019.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2019–16151 Filed 7–29–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Chemtos, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 30, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 15, 2019, Chemtos, LLC, 16713 Picadilly Court, Round Rock, Texas 78664–8544 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone	7024	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB; 5F–MDMB–PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I

Controlled substance	Drug code	Schedule
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7)	7348	I
Marihuana Extract	7350	I
Marihuana	7360	I
Parahexyl	7374	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C–T–2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C–E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H)	7517	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C–I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C–C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C–N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C–P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C–T–4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B–NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C–NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Difenoxin	9168	I

Controlled substance	Drug code	Schedule
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I

Controlled substance	Drug code	Schedule
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to manufacture small quantities of the listed controlled substances in bulk for distribution to its customers.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16176 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Alcami Carolinas Corporation

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 8, 2019, Alcami Carolinas Corporation, 1726 North 23rd Street, Wilmington, North Carolina 28405 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Psilocyn	7438	I
Thebaine	9333	II
Pentobarbital	2270	II

The company plans to import the listed controlled substances in bulk for the manufacturing of capsules/tablets for Phase II clinical trials. Approval of permit applications will occur only when the registrant's activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16164 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: The registrant listed below has applied for and been granted registration by the Drug Enforcement Administration (DEA) as an importer of schedule I or schedule II controlled substances.

SUPPLEMENTARY INFORMATION:

The company listed below applied to be registered as an importer of various basic classes of controlled substances. Information on the previously published notice is listed in the table below. No comments or objections were submitted and no requests for a hearing were submitted for this notice.

Company	FR docket	Published
AndersonBrecon, Inc	84 FR 21813	May 15, 2019.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrant to import the applicable basic classes of schedule I or II controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I controlled substances to the above listed company.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16169 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Research Triangle Institute

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.34(a), this is notice that on May 03, 2019, Research Triangle Institute, 3040 East Cornwallis Road, Hermann

Building, Room 106, Research Triangle Park, North Carolina 27709–2194 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3–FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4–FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4–MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
5-Fluoro-UR–144 and XLR11 [1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
FUB–144 (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7014	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole3-carboxamide)	7023	I
THJ–2201 [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone	7024	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)1H-indazole-3-carboxamide	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
5F–EDMB–PINACA (ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7036	I
5F–MDMB–PICA (methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7041	I
FUB–AKB48, FUB–APINACA, AKB48 N-(4–FLUOROBENZYL) (*N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboximide).	7047	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F–CUMYL–PINACA, SGT–25 (1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide)	7083	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7)	7348	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C–T–2)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Peyote	7415	I
5-Methoxy-N–N-dimethyltryptamine	7431	I

Controlled substance	Drug code	Schedule
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D)	7508	I
2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine (2C–E)	7509	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H)	7517	I
2-(4-iodo-2,5-dimethoxyphenyl) ethanamine (2C–I)	7518	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C–C)	7519	I
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C–N)	7521	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C–P)	7524	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C–T–4)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B–NBOMe)	7536	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C–NBOMe)	7537	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
alpha-pyrrolidinopentiophenone (α-PVP)	7545	I
alpha-pyrrolidinobutiophenone (α-PBP)	7546	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I

Controlled substance	Drug code	Schedule
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Thiofentanyl	9835	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Coca Leaves	9040	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II

Controlled substance	Drug code	Schedule
Metazocine	9240	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Opium, raw	9600	II
Opium extracts	9610	II
Opium fluid extract	9620	II
Opium tincture	9630	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Levo-alphacetylmethadol	9648	II
Opium poppy	9650	II
Oxymorphone	9652	II
Poppy Straw Concentrate	9670	II
Phenazocine	9715	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import small quantities of the listed controlled substances for the National Institute on Drug Abuse (NIDA) for research activities. The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16167 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cambrex Charles City

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 15, 2019, Cambrex Charles City, 1205 11th Street, Charles City, Iowa 50616 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
4-Anilino-N-phenethyl-4-piperidine (ANPP).	8333	II
Phenylacetone	8501	II
Coca Leaves	9040	II
Opium, raw	9600	II
Poppy Straw Concentrate	9670	II

The company plans to import the listed controlled substances for internal use, and to manufacture bulk intermediates for sale to its customers.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16174 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Catalent Pharma Solutions, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement

Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 31, 2019, Catalent Pharma Solutions, LLC, 3031 Red Lion Road, Philadelphia, Pennsylvania 19114 applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I

The company plans to import finished dosage unit products containing gamma-hydroxybutyric acid for clinical trials, research, and analytical activities.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16166 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Xcelience

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.34(a), this is notice that on May 2, 2019, Xcelience, 4901 West Grace Street, Tampa, Florida 33607, applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Amphetamine	1100	II

The company plans to import the listed controlled substance in finished dosage form for clinical trials, research and analytical purposes.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16168 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Nostrum Laboratories, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019. Such persons may also file a written request for a hearing on the application on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.34(a), this is notice that on March 13, 2019, Nostrum Laboratories, Inc., 705 East Mulberry Street, Bryan, Ohio 43506 applied to be registered as an importer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I

The company plans to import the listed controlled substances for research and new drug development. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16173 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Research Triangle Institute

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 30, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.33(a), this is notice that on May 23, 2019, Research Triangle Institute, 3040 East Cornwallis Road, Hermann Building, Room 106, Research Triangle Park, North Carolina 27709, applied to be registered as a bulk manufacturer of the following basic class of controlled substance:

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The company will manufacture via synthesis, Tetrahydrocannabinols (7370) for use by customers as analytical reference standards.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16175 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 30, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.33(a), this is notice that on March 18, 2019, AMPAC Fine Chemicals LLC, Highway 50 and Hazel Avenue, Building 05001, Rancho Cordova, California 95670 applied to be registered as bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Levomethorphan	9210	II
Levorphanol	9220	II
Thebaine	9333	II
Tapentadol	9780	II
Remifentanil	9739	II

The company plans to manufacture the listed controlled substances for distribution to its customers.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16177 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Southern Ohio Correctional Facility

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration or the proposed authorization to import on or before August 29, 2019. Such persons may also file a written request for a hearing on the application for registration and for authorization to import on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing a should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

Pursuant to 21 U.S.C. 958(i), prior to issuing a regulation under 21 U.S.C. 952(a)(2)(B) authorizing the importation of a controlled substance in schedule I or II, DEA is required to provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing. Additionally, pursuant to 21 CFR 1301.34(a), DEA shall, upon the filing of an application for registration to import a controlled substance in schedule I or II under 21 U.S.C. 952(a)(2)(B), provide notice and the opportunity to request a hearing to manufacturers holding registrations for the bulk manufacture of the substance and to applicants for such registrations.

Therefore, in accordance with 21 U.S.C. 958(i) and 21 CFR 1301.34(a), this is notice that on January 31, 2017, Southern Ohio Correctional Facility, 1724 State Route 728, Lucasville, Ohio 45699, applied to be registered as an importer of Pentobarbital (2270), a basic class of controlled substance listed in schedule II.

The facility intends to import the above-listed controlled substance for legitimate use. This particular controlled substance is not available for the intended legitimate use within the current domestic supply of the United States.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture this basic class of controlled substance may file comments or objections to the issuance of the proposed registration or to the authorization of this importation, and may, at the same time, file a written request for a hearing. Any such comments, objections, or hearing requests should be addressed as described above.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16165 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Chattem Chemicals

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 29, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

In accordance with 21 CFR 1301.34(a), this is notice that on May 17, 2019, Chattem Chemicals Inc., 3801 Saint Elmo Avenue, Chattanooga, Tennessee 37409–1237 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Methamphetamine	1105	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Phenylacetone	8501	II
Opium, raw	9600	II
Poppy Straw Concentrate	9670	II
Tapentadol	9780	II

The company plans to import the listed controlled substances to manufacture bulk controlled substances for sale to its customers. The company plans to import an intermediate of Tapentadol (9780), to bulk manufacture Tapentadol for distribution to its customers.

Dated: July 16, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–16172 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Methodological Research To Support the National Crime Victimization Survey Redesign Program: National Survey of Crime and Safety—Field Test

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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.

DATES: Comments are encouraged and will be accepted for 30 days until August 29, 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 Jennifer Truman, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *jennifer.truman@usdoj.gov;* telephone: 202–514–5083).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection under activities related

to the National Crime Victimization Survey Redesign Program: National Survey of Crime and Safety—Field Test.

(2) *The Title of the Form/Collection:* National Survey of Crime and Safety (NSCS).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There are no agency form numbers for this collection. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be all persons 12 years or older living in households located throughout the 48 contiguous states and the District of Columbia sampled for the National Survey of Crime and Safety. Persons living in Alaska and Hawaii and those living in group quarters are excluded for operational efficiency. In early 2014, BJS initiated the NCVS Instrument Redesign and Testing Project to develop a new design for the NCVS. The overarching objective for this project is to redesign and test the NCVS roster control card, crime screener, and crime incident report. The purpose of the National Survey of Crime and Safety field test will be to test the redesigned versions of the roster control card, crime screener, and crime incident report. The NSCS field test will include (1) an interviewer-administered version of the current NCVS instrument, (2) an interviewer-administered, revised questionnaire, and (3) a self-administered, web-based version of the revised questionnaire. The goal of the NSCS field test is to inform final decisions and recommendations for the redesign of the NCVS survey instrument to modernize it and to capture indicators of safety, security and perceptions of police that provide important information on public perceptions and potential correlates of victimization.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 12,293 persons age 12 or older. The sample is divided into three groups by instrument version: (1) An interviewer-administered version of the current NCVS instrument, (2) an interviewer-administered, revised questionnaire, and (3) a self-administered, web-based version of the revised questionnaire.

- The first group of 3,064 persons age 12 or older will receive the current interviewer-administered NCVS instrument. About 2,080 respondents will be the household respondent and receive the roster control card, which is estimated to take 9 minutes per respondent for a total of 312 burden hours. All 3,064 persons age 12 or older will receive the victimization screener, which is estimated to take 9 minutes per respondent for a total of 460 burden hours. It is anticipated that 576 persons in this group will report a victimization and receive the crime incident report, which is estimated to take 15 minutes per respondent for a total of 187 burden hours. There are an estimated 959 total burden hours for this group.
- The second group of 5,107 persons age 12 or older will receive the interviewer-administered, revised questionnaire. About 3,467 respondents will be the household respondent and receive the roster control card, which is estimated to take 9 minutes per respondent for a total of 520 burden hours. All 5,107 persons age 12 or older will receive the non-crime questions (perceptions of community safety or their local police) and victimization screener, which is estimated to take 16.2 minutes per respondent for a total of 1,378 burden hours. It is anticipated that 960 persons in this group will report a victimization and receive the crime incident report, which is estimated to take 18 minutes per respondent for a total of 374 burden hours. There are an estimated 2,273 total burden hours for this group.
- The third group of 4,122 persons age 12 or older will receive the self-administered, web-based version of the revised questionnaire. About 3,752 respondents will be the household respondent and receive the roster control card, which is estimated to take 9 minutes per respondent for a total of 563 burden hours. All 4,122 persons age 12 or older will receive the non-crime questions (perceptions of community safety or their local police) and victimization screener, which is estimated to take 13.2 minutes per respondent for a total of 907 burden hours. It is anticipated that 738 persons in this group will report a victimization and receive the crime incident report, which is estimated to take 15 minutes per respondent for a total of 240 burden hours. There are an estimated 1,709 total burden hours for this group.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,941 annual burden hours associated with this collection.

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 25, 2019.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019–16141 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act

On July 19, 2019, the Department of Justice lodged two proposed Consent Decrees with the United States District Court for the Southern District of New York in a lawsuit entitled *United States* v. *Hopewell Precision, Inc.,* Civil Action No. 19 Civ. 6749.

In this action, the United States seeks, as provided under the Comprehensive Environmental Response, Compensation and Liability Act, recovery of response costs from two parties in connection with the Hopewell Precision Superfund Site (''Site'') in the Town of East Fishkill, New York. The proposed Consent Decrees resolve the United States' claims and require Hopewell Precision, Inc. and John B. Budd to pay, in aggregate, $1,247,700 in reimbursement of the United States' past and ongoing response costs regarding the Site.

The publication of this notice opens the public comment period on the proposed Consent Decrees. Comments should be addressed to Jeffrey Bossert Clark, Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Hopewell Precision, Inc.,* Civil Action No. 19 Civ. 6749, D.J. Ref. 90–11–3–11193. All comments must be submitted no later than 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	Jeffrey Bossert Clark, Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice

Department website: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide paper copies of the Consent Decrees upon written request and payment of reproduction costs. Please email 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 $4.75 (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. 2019–16183 Filed 7–29–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grants of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following: 2019–03, The Les Schwab Tire Centers, D–11924; 2019–04, Principal Life Insurance Company and its Affiliates, D–11947; 2019–05, Seventy Seven Energy Inc. Retirement & Savings Plan, D–11918; 2019–06, Tidewater Savings and Retirement Plan, D–11940.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. Each notice set forth a summary of the facts and representations made by the applicant for the exemption, and referred interested persons to the application for a complete statement of the facts and representations. Each application is available for public inspection at the Department in Washington, DC. Each notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, each notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). Each applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

Each notice of proposed exemption was issued, and each exemption is being granted, solely by the Department, because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011) and based upon the entire record, the Department makes the following findings:

(a) Each exemption is administratively feasible;

(b) Each exemption is in the interests of the plan and its participants and beneficiaries; and

(c) Each exemption is protective of the rights of the participants and beneficiaries of the plan.

The Les Schwab Tire Centers of Washington, Inc. (Les Schwab Washington), the Les Schwab Tire Centers of Boise, Inc. (Les Schwab Boise), and the Les Schwab Tire Centers of Portland, Inc. (Les Schwab Portland), (Collectively, With Their Affiliates, Les Schwab or the Applicant) Located in Aloha, Oregon; Boise, Idaho; Centralia, Washington; and Other Locations [Prohibited Transaction Exemption 2019–03; Exemption Application No. D–11924]

Written Comments

In the Notice of Proposed Exemption (the Notice) published in the **Federal Register** on December 28, 2018 at 83 FR 67654, the Department of Labor (the Department) invited all interested persons to submit written comments and/or requests for a public hearing with respect to the Notice within forty-five (45) days of the date of publication. All comments and requests for a hearing were due by February 11, 2019.

During the comment period, the Department received numerous telephone inquiries from Plan participants that generally concerned matters outside the scope of the exemption, and one written comment from an anonymous commenter that did not raise any issue that was material to the transaction described in the exemption. The Department did not receive any requests for a public hearing from any of the commenters.

After full consideration and review of the entire record, the Department has decided to grant the exemption, as set forth above. The complete application file (D–11924) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on December 28, 2018, at 83 FR 67654.

Exemption

Section I. Transactions

The restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(A), 4975(c)(1)(D) and 4975(c)(1)(E) of the Code, shall not apply to the sales (the Sales) by the Les Schwab Profit Sharing Retirement Plan (the Plan) of the following parcels of real property (each, a ''Parcel'' and collectively, the ''Parcels'') to the Applicant:

(a) The Parcel located at 19100 SW Shaw Street, Aloha, Oregon;

(b) The Parcel located at 2045 Broadway Avenue, Boise, Idaho;

(c) The Parcel located at 6520 W State Street, Boise, Idaho;

(d) The Parcel located at 1211 Harrison Avenue, Centralia, Washington;

(e) The Parcel located at 36 N Market Boulevard, Chehalis, Washington;

(f) The Parcels located at 1206 Canyon Road, Ellensburg, Washington;

(g) The Parcel located at 1710 Monmouth Avenue, Independence, Oregon;

(h) The Parcel located at 3809 Steilacoom Boulevard SW, Lakewood, Washington;

(i) The Parcel located at 1420 Industrial Way, Longview, Washington;

(j) The Parcel located at 8405 State Avenue, Marysville, Washington;

(k) The Parcel located at 610 E North Bend Way, North Bend, Washington;

(l) The Parcel located at 1625 Beavercreek Road, Oregon City, Oregon;

(m) The Parcel located at 160 SE Bishop Boulevard, Pullman, Washington;

(n) The Parcel located at 911 N 1st Street, Silverton, Oregon;

(o) The Parcel located at 711 Avenue D, Snohomish, Washington;

(p) The Parcel located at 16819 Pacific Avenue S, Spanaway, Washington;

(q) The Parcel located at 8103 N Division Street, Spokane, Washington;

(r) The Parcel located at 2420 NE Andresen Road, Vancouver, Washington; and

(s) The Parcel located at 216 SE 118th Avenue, Vancouver, Washington;

Where the Applicant is a party in interest with respect to the Plan, provided that the conditions set forth in Section II of this exemption are met.

Section II. General Conditions

(a) The price paid by Les Schwab to the Plan for each Parcel is no less than the fair market value of each Parcel (exclusive of the buildings or other improvements paid for by Les Schwab, to which Les Schwab retains title), as determined by qualified independent appraisers (the Independent Appraisers), working for CBRE, Inc., in separate appraisal reports (the Independent Appraisals) that are updated on the date of each Sale.

(b) Each Sale is a one-time transaction for cash.

(c) The Plan does not pay any costs, including brokerage commissions, fees, appraisal costs, or any other expenses associated with each Sale.

(d) The Independent Appraisers determine the fair market value of their assigned Parcel, on the date of the Sale, using commercially accepted methods of valuation for unrelated third-party transactions, taking into account the following considerations:

(1) The fact that a lease between Les Schwab and the Plan is a ground lease and not a standard commercial lease;

(2) The assemblage value of the Parcel, where applicable;

(3) Any special or unique value the Parcel holds for Les Schwab; and

(4) Any instructions from the qualified independent fiduciary (the Independent Fiduciary) regarding the terms of the Sale, including the extent to which the Independent Appraiser should consider the effect that Les Schwab's option to purchase a Parcel would have on the fair market value of the Parcel.

(e) The Independent Fiduciary represents the interests of the Plan with respect to each Sale, and in doing so:

(1) Determines that it is prudent to go forward with each Sale;

(2) Approves the terms and conditions of each Sale;

(3) Reviews and approves the methodology used by the Independent Appraiser and ensures that such methodology is properly applied in determining the Parcel's fair market value on the date of each Sale;

(4) Reviews and approves the determination of the purchase price; and

(5) Monitors each Sale throughout its duration on behalf of the Plan for compliance with the general terms of the transaction and with the conditions of this exemption, and takes any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries.

(f) The terms and conditions of each Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

FOR FURTHER INFORMATION CONTACT: Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

Principal Life Insurance Company (PLIC) and Its Affiliates (Collectively, Principal or the Applicant) Located in Des Moines, IA [Prohibited Transaction Exemption 2019–04; Exemption Application No. D–11947]

Written Comments

In the Notice of Proposed Exemption (the Notice), published in the **Federal Register** on December 28, 2018 at 83 FR 67670, the Department of Labor (the Department) invited all interested persons to submit written comments and/or requests for a public hearing with respect to the Notice within forty-five (45) days of the date of publication. All comments and requests for a hearing were due by February 11, 2019.

During the comment period, the Department received one written comment from an anonymous commenter that did not raise any issue that was material to the transaction described in the exemption, and one written comment from Principal. Principal requested certain revisions or clarifications to the Notice, which are discussed below.

The Department did not receive any requests for a public hearing.

1. Revisions to ''Independent Plan Fiduciary'' Definition

Section IV(k) of the Notice provides, that: ''*the term* ''Independent Plan Fiduciary'' means a fiduciary of a plan, where such fiduciary is independent of and unrelated to Principal. The Independent Plan Fiduciary will not be deemed to be independent of and unrelated to Principal if: (1) Such Independent Plan Fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Principal; (2) Such Independent Plan Fiduciary, or any officer, director, partner, employee, or relative of such Independent Plan Fiduciary, is an officer, director, partner, or employee of Principal (or is a relative of such person); or (3) such Independent Plan Fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this proposed exemption . . .''

Principal is primarily concerned with the second prong's reference to a ''relative.'' Principal states that the plan fiduciary exercising discretion to invest in a Fund is often the plan sponsor. Principal's employees may have multiple relatives who are employed by plan sponsors. Principal asserts that it is unable to track individuals employed by client plan sponsors.

Principal states that the potential risk from a plan fiduciary's conflict of interest should be viewed in light of the following conditions of the Notice, which constrain Principal's discretion with respect to the purchase and management of Principal Stock: (a) Each Index Fund and Model-Driven will be based on a securities index created and maintained by an organization independent of Principal; (b) the acquisition or disposition of Principal Stock will be for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index Fund or Model-Driven Fund is based; and (c) on any matter for which shareholders of Principal Stock are required or permitted to vote, Principal will cause the Principal Stock held by an Index Fund or Model-Driven Fund to be voted as determined by a fiduciary independent of Principal. Principal states that a definition of ''Independent Plan Fiduciary'' should strike a balance between capturing relationships where a conflict of interest is likely to be present, and being workable for Principal.

Principal notes that the Department did not include the ''Independent Plan Fiduciary'' definition in similar individual exemptions that were previously granted. Although each of these exemptions requires approval from an independent plan fiduciary, Principal notes that the exemptions do not define the term ''independent.''

Finally, Principal states that the requirement for an Independent Plan Fiduciary in Section IV(k)(1) of the Notice is equivalent to the definition of ''affiliate,'' as set forth in Section IV(a)(1) of the Notice, and requests that the term ''affiliate'' be applied here. Therefore, as revised by Principal, the

first and second prongs in the definition of ''Independent Plan Fiduciary'' in Section IV(k) of the final exemption reads as follows: ''. . . The Independent Plan Fiduciary will not be deemed to be independent of and unrelated to Principal if: (1) Such Independent Plan Fiduciary is an affiliate of Principal; (2) Such Independent Plan Fiduciary has an interest in Principal that could affect its judgment as a fiduciary; . . .''

Department's Response: The Department's determination that this exemption is protective of affected plans is based, in part, on an Independent Plan Fiduciary's initial authorization of the plan's investment in an Index Fund or Model-Driven Fund (which directly or indirectly purchases and/or holds Principal Stock). This initial authorization must be performed by a person or entity that is sufficiently independent of Principal, notwithstanding that Principal may thereafter have limited discretion with respect to the purchase and management of Principal stock. In the Department's view, an officer, director, partner or employee of Principal is not sufficiently independent of Principal to perform the initial authorization required by this exemption. While the Department does not agree that a definition of ''Independent Plan Fiduciary'' should factor in its workability for Principal, the Department agrees that relatives of those individuals may be sufficiently independent of Principal to meet the Department's expectations of an Independent Plan Fiduciary regarding this exemption. Therefore, the Department is revising the definition, in part, as requested by Principal, by taking out the second prong's reference to relatives. The Department agrees with Principal that the Independent Plan Fiduciary should not otherwise have ''an interest in Principal that could affect its judgment as a fiduciary,'' and the Department has added this to the second prong of the definition.

The Department does not believe that substituting the first prong of the definition with the term ''affiliate'' enhances this exemption's protections for plans, and declines to make that change. Accordingly, the definition now reads: ''the term ''Independent Plan Fiduciary'' means a fiduciary of a plan, where such fiduciary is independent of and unrelated to Principal. The Independent Plan Fiduciary will not be deemed to be independent of and unrelated to Principal if: (1) Such Independent Plan Fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Principal; (2) Such Independent Plan Fiduciary, or any officer, director, partner, or employee of such Independent Plan Fiduciary, is an officer, director, partner or employee of Principal, or otherwise has an interest in Principal that could affect its judgment as a fiduciary; or (3) such Independent Plan Fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this proposed exemption . . .''

2. Other Clarifications to the Notice

Principal also seeks certain minor clarifications to the Notice that the Department does not view as relevant to the determination of whether to grant this exemption. These clarifications can be found in Principal's comment letter, which is included as part of the public record for Exemption Application No. D–11947.

After full consideration and review of the entire record, the Department has decided to grant the exemption, as set forth above. The complete application file (D–11947) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published on December 28, 2018, at 83 FR 67670.

Final Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(D), 406(b)(1), and section 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the direct or indirect acquisition, holding, and disposition of common stock issued by Principal Financial Group, Inc. (PFG), and/or common stock issued by an affiliate of PFG (together, the Principal Stock), by index funds (Index Funds) and model-driven funds (Model-Driven Funds) that are managed by Principal Life Insurance Company (PLIC), an indirectly wholly-owned subsidiary of PFG, or an affiliate of PLIC (collectively, Principal), in which client plans of Principal invest, provided that the conditions of Sections II and III are met.

Section II. Exemption for the Acquisition, Holding and Disposition of Principal Stock

(a) The acquisition or disposition of Principal Stock is for the sole purpose of maintaining strict quantitative conformity with the relevant Index upon which the Index Fund or Model-Driven Fund is based, and does not involve any agreement, arrangement or understanding regarding the design or operation of the Fund acquiring Principal Stock that is intended to benefit Principal or any party in which Principal may have an interest;

(b) Whenever Principal Stock is initially added to an Index on which an Index Fund or Model-Driven Fund is based, or initially added to the portfolio of an Index Fund or Model-Driven Fund (or added to the portfolio of an underlying Index Fund in which another Index Fund invests), all purchases of Principal Stock pursuant to a Buy-up (as defined in Section IV(c)) occur in the following manner:

(1) Purchases are from one or more brokers or dealers;

(2) Based on the best available information, purchases are not the opening transaction for the trading day;

(3) Purchases are not effected in the last half hour before the scheduled close of the trading day;

(4) Purchases are at a price that is not higher than the lowest current independent offer quotation, determined on the basis of reasonable inquiry from non-affiliated brokers;

(5) Aggregate daily purchases do not exceed, on any particular day, the greater of: (i) Fifteen (15) percent of the aggregate average daily trading volume for the security occurring on the applicable exchange and automated trading system for the previous five business days, or (ii) fifteen (15) percent of the trading volume for the security occurring on the applicable exchange and automated trading system on the date of the transaction, as determined by the best available information for the trades occurring on that date;

(6) All purchases and sales of Principal Stock occur either: (i) On a recognized U.S. securities exchange (as defined in Section IV(j) below), (ii) through an automated trading system (as defined in Section IV(b) below) operated by a broker-dealer independent of Principal that is registered under the Securities Exchange Act of 1934 (the 1934 Act), and thereby subject to regulation by the Securities and Exchange Commission (the SEC), which provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a

broker-dealer, or (iii) through an automated trading system that is operated by a recognized U.S. securities exchange, pursuant to the applicable securities laws, and provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; and

(7) If the necessary number of shares of Principal Stock cannot be acquired within ten (10) business days from the date of the event which causes the particular Fund to require Principal Stock, Principal appoints a fiduciary, which is independent of Principal (the Independent Fiduciary), to design acquisition procedures and monitor compliance with these procedures;

(c) For transactions subsequent to a Buy-Up, all aggregate daily purchases of Principal Stock by the Funds do not exceed on any particular day the greater of:

(1) Fifteen (15) percent of the average daily trading volume for Principal Stock occurring on the applicable exchange and automated trading system for the previous five (5) business days, or

(2) Fifteen (15) percent of the trading volume for Principal Stock occurring on the applicable exchange and automated trading system on the date of the transaction, as determined by the best available information for the trades that occurred on this date;

(d) All transactions in Principal Stock not otherwise described above in Section II(b) are either:

(1) Entered into on a principal basis in a direct, arm's length transaction with a broker-dealer, in the ordinary course of its business, where the broker-dealer is independent of Principal and is registered under the 1934 Act, and thereby subject to regulation by the SEC;

(2) Effected on an automated trading system operated by a broker-dealer independent of Principal that is subject to regulation by either the SEC or another applicable regulatory authority, or an automated trading system, as defined in Section IV(b), operated by a recognized U.S. securities exchange which, in either case, provides a mechanism for customer orders to be matched on an anonymous basis without the participation of a broker-dealer; or

(3) Effected through a recognized U.S. securities exchange, as defined in Section IV(j), so long as the broker is acting on an agency basis;

(e) No purchases or sales of Principal Stock by a Fund involve purchases from, or sales to, Principal (including officers, directors, or employees thereof), or any party in interest that is a fiduciary with discretion to invest plan assets into the Fund (unless the transaction by the Fund with the party in interest would otherwise be subject to an exemption). However, this condition would not apply to purchases or sales on an exchange or through an automated trading system (on a blind basis where the identity of the counterparty is not known);

(f) No more than five (5) percent of the total amount of Principal Stock, that is issued and outstanding at any time, is held in the aggregate by Index and Model-Driven Funds managed by Principal;

(g) Principal Stock constitutes no more than five (5) percent of any independent third-party Index on which the investments of an Index Fund or Model-Driven Fund are based;

(h) A fiduciary of a plan which is independent of Principal (the Independent Plan Fiduciary, as defined in Section IV(k)) authorizes the investment of the plan's assets in an Index Fund or Model-Driven Fund which directly or indirectly purchases and/or holds Principal Stock. With respect to any plan holding an interest in an Index Fund or Model-Driven Fund that intends to start investing in Principal Stock, before Principal Stock is purchased directly or indirectly by the Index Fund or Model-Driven Fund, Principal will provide the Independent Plan Fiduciary with a notice through email stating that if the plan fiduciary does not indicate disapproval of investments in Principal Stock within sixty (60) days, then the Independent Plan Fiduciary will be deemed to have consented to the investment in Principal Stock. In this regard: (1) Principal must obtain from such Independent Plan Fiduciary prior consent in writing to the receipt by such Independent Plan Fiduciary of such disclosure via electronic email; (2) Such Independent Plan Fiduciary must have provided to Principal a valid email address; and (3) The delivery of such electronic email to such Independent Plan Fiduciary is provided by Principal in a manner consistent with the relevant provisions of the Department's regulations at 29 CFR 2520.104b–1(c) (substituting the word ''Principal'' for the word ''administrator'' as set forth therein, and substituting the phrase ''Independent Plan Fiduciary'' for the phrase ''the participant, beneficiary or other individual'' as set forth therein). In the event that the Independent Plan Fiduciary disapproves of the investment, plan assets invested in the Index Fund or Model-Driven Fund will be withdrawn and the proceeds processed, as directed by the Independent Plan Fiduciary. For new plan investors in an Index Fund or Model-Driven Fund, Independent Plan Fiduciaries for the plans will consent to the investment in Principal Stock through execution of a subscription or similar agreement for the Index Funds or Model-Driven Fund that contains the appropriate approval language; and

(i) On any matter for which shareholders of Principal Stock are required or permitted to vote, Principal will cause the Principal Stock held by an Index Fund or Model-Driven Fund to be voted, as determined by the Independent Fiduciary.

Section III. General Conditions

(a) Principal maintains or causes to be maintained for a period of six (6) years from the date of the transactions, the records necessary to enable the persons described in paragraph (b) of this Section III to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Principal, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest, other than Principal, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) of this Section III and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the SEC;

(B) Any fiduciary of a plan participating in an Index Fund or Model-Driven Fund, who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of the fiduciary;

(C) Any contributing employer to any plan participating in an Index Fund or Model-Driven Fund or any duly authorized employee or representative of the employer; and

(D) Any participant or beneficiary of any plan participating in an Index Fund or Model-Driven Fund, or a representative of the participant or beneficiary; and

(2) None of the persons described in subparagraphs (B) through (D) of this

Section III(b)(1) shall be authorized to examine trade secrets of Principal or commercial or financial information which are considered confidential.

Section IV. Definitions

(a) An ''affiliate'' of Principal includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with the person;

(2) Any officer, director, employee or relative of the person, or partner of any the person; and

(3) Any corporation or partnership of which the person is an officer, director, partner or employee;

(b) The term ''automated trading system'' means an electronic trading system that functions in a manner intended to simulate a securities exchange by electronically matching orders on an agency basis from multiple buyers and sellers, such as an ''alternative trading system'' within the meaning of the SEC's Reg. ATS (17 CFR part 242.300), as this definition may be amended from time to time, or an ''automated quotation system'' as described in Section 3(a)(5l)(A)(ii) of the 1934 Act (15 U.S.C. 8c(a)(5 l)(A)(ii));

(c) The term ''Buy-up'' means an initial acquisition of Principal Stock by an Index Fund or Model-Driven Fund which is necessary to bring the Fund's holdings of Principal Stock either to its capitalization-weighted or other specified composition in the relevant index (the Index), as determined by the independent organization maintaining the Index, or to its correct weighting as determined by the model which has been used to transform the Index;

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

(e) The term ''Fund'' means an Index Fund (as described in Section IV(a)) or a Model-Driven Fund (as described in Section III(b))

(f) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities, but only if:

(1) The organization creating and maintaining the Index is:

(A) Engaged in the business of providing financial information, evaluation, advice, or securities brokerage services to institutional clients; or

(B) A publisher of financial news or information; or

(C) A public stock exchange or association of securities dealers; and

(2) The Index is created and maintained by an organization independent of Principal; and

(3) The Index is a generally-accepted standardized index of securities which is not specifically tailored for the use of Principal;

(g) The term ''Index Fund'' means any investment fund, trust, insurance company separate account, separately managed account, or portfolio, sponsored, maintained, trusteed, or managed by Principal, in which one or more investors invest, and:

(1) Which is designed to track the rate of return, risk profile and other characteristics of an independently-maintained securities index, as described in Section IV(c) below, by either: (i) Investing directly in the same combination of securities which compose the Index or in a sampling of the securities, based on objective criteria and data, or (ii) investing in one or more other Index Funds to indirectly invest in the same combination of securities which compose the Index, or in a sampling of the securities based on objective criteria and data;

(2) For which all assets held outside of any liquidity buffer are invested without Principal using its discretion, or data within its control, to affect the identity or amount of securities to be purchased or sold, and the liquidity buffer, if any, does not hold any Principal Stock;

(3) That contains ''plan assets'' subject to the Act;

(4) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund, which is intended to benefit Principal or any party in which Principal may have an interest.

(h) The term ''Model-Driven Fund'' means any investment fund, trust, insurance company separate account, separately managed account, or portfolio, sponsored, maintained, trusteed, or managed by Principal, in which one or more investors invest, and:

(1) For which all assets held outside of any liquidity buffer consist of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third-party data, not within the control of Principal, to transform an independently-maintained Index, as defined in Section IV(c) below, and the liquidity buffer, if any, does not hold any Principal Stock;

(2) That contains ''plan assets'' subject to the Act; and

(3) That involves no agreement, arrangement, or understanding regarding the design or operation of the Fund or the utilization of any specific objective criteria which is intended to benefit Principal or any party in which Principal may have an interest;

(i) The term ''Principal'' refers to Principal Life Insurance Company, its indirect parent and holding company, Principal Financial Group, Inc., and any current or future affiliate, as defined above in Section IV(a);

(j) The term ''recognized U.S. securities exchange'' means a U.S. securities exchange that is registered as a ''national securities exchange'' under Section 6 of the 1934 Act (15 U.S.C. 78f), as this definition may be amended from time to time, which performs with respect to securities the functions commonly performed by a stock exchange within the meaning of definitions under the applicable securities laws (*e.g.,* 17 CFR part 240.3b–16); and

(k) The term ''Independent Plan Fiduciary'' means a fiduciary of a plan, where such fiduciary is independent of and unrelated to Principal. The Independent Plan Fiduciary will not be deemed to be independent of and unrelated to Principal if:

(1) Such Independent Plan Fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Principal;

(2) Such Independent Plan Fiduciary, or any officer, director, partner, or employee of such Independent Plan Fiduciary, is an officer, director, partner or employee of Principal, or otherwise has an interest in Principal that could affect its judgment as a fiduciary; or

(3) Such Independent Plan Fiduciary, directly or indirectly, receives any compensation or other consideration for his or her personal account in connection with any transaction described in this exemption.

FOR FURTHER INFORMATION CONTACT: Scott Ness of the Department, telephone (202) 693–8561. (This is not a toll-free number.)

Seventy Seven Energy Inc. Retirement & Savings Plan (the Plan) Located in Oklahoma City, OK [Prohibited Transaction Exemption 2019–05; Exemption Application Nos. D–11918]

Written Comments

In the Notice of Proposed exemption published in the **Federal Register** on December 28, 2018 at 83 FR 67664 (the Notice), the Department invited all interested persons, including all participants in the Plan, former employees with vested account balances in the Plan, all retirees and beneficiaries

currently receiving benefits from the Plan, all employers with employees participating in the Plan, all unions with members participating in the Plan (of which there are none), and all Plan fiduciaries to submit written comments and/or requests for a hearing to the Department within 40 days of the date of the publication. During the comment period, the Department received one favorable comment from an anonymous commenter and no hearing requests.

After full consideration and review of the entire record, the Department has determined to grant the exemption. The complete application file (D–11918) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

For a more complete statement of facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published in the **Federal Register** on December 28, 2018 at 83 FR 67664.

Exemption

The restrictions of sections 406(a)(1)(E), 406(a)(2), and 407(a)(1)(A) of the shall not apply, effective August 1, 2016 through April 20, 2017, to: (1) The acquisition by the participant accounts in the Plan (the Accounts) of warrants (the Warrants), issued by Seventy Seven Energy, Inc. (SSE), the Plan sponsor, in connection with SSE's bankruptcy; and (2) the holding of the Warrants by the Plan.

This exemption is subject to the following conditions:

(a) The Plan acquired the Warrants automatically in connection with the plan of reorganization entered into on May 9, 2016, by SSE and all of its wholly-owned subsidiaries with certain lenders, under which all holders of shares of SSE common stock, including the Plan, were treated in the same manner;

(b) The Plan acquired the Warrants without any unilateral action on its part;

(c) The Plan did not pay any fees or commissions in connection with the acquisition or holding of the Warrants;

(d) Had the Warrants not expired unexercised, all decisions regarding the exercise or sale of the Warrants acquired by the Plan would have been made by the Plan participants in whose Plan Accounts the Warrants were allocated, in accordance with the terms of the Warrant agreement, dated as of August 1, 2016, and in accordance with the Plan provisions and regulations pertaining to the individually-directed investment of the Plan Accounts; and

(e) The Plan trustee did not allow Plan participants to exercise the Warrants held by their Plan Accounts because the fair market value of SSE common stock following SSE's emergence from bankruptcy on August 1, 2016 did not, at any time prior to the date that the Warrants expired, exceed the exercise price of the Warrants.

Effective Date: This exemption is effective as of August 1, 2016 through April 20, 2017.

FOR FURTHER INFORMATION CONTACT: Anna Mpras Vaughan of the Department, telephone (202) 693–8565. (This is not a toll-free number.)

Tidewater Savings and Retirement Plan (the Plan) Located in New Orleans, LA [Prohibited Transaction Exemption 2019–06; Exemption Application No. D–11940]

Written Comments

In the Notice of Proposed Exemption (the Notice), published in the **Federal Register** on December 27, 2018 at 83 FR 67667, the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing within forty-five (45) days of the date of publication. All comments and hearing requests were due by February 11, 2019.

During the comment period, the Department received one favorable comment from an anonymous commenter, and no requests for a public hearing.

After giving full consideration to the entire record, the Department has determined to grant the exemption, as noted above. The complete application file (D–11940) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice published in the **Federal Register** on December 28, 2018 at 83 FR 67667.

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(E), 406(a)(2), and 407(a)(1)(A) of the Act will not apply, effective July 31, 2017, to: (1) The acquisition in the Tidewater Savings and Retirement Plan (the Plan), by the participant-directed accounts (the Accounts) of certain participants, of Series A Warrants and Series B Warrants (collectively, the Equity Warrants) of Tidewater, Inc. (Tidewater), the Plan sponsor and a party in interest with respect to the Plan; and (2) the holding of the Equity Warrants by the Accounts, provided that the conditions set forth in Section II below are or were satisfied.

Section II. Conditions for Relief

(a) The acquisition of the Equity Warrants by the Accounts of Plan participants occurred in connection with Tidewater's bankruptcy proceeding;

(b) The Equity Warrants were acquired pursuant to, and in accordance with, provisions under the Plan for individually-directed investments of the Accounts by the individual participants in the Plan, a portion of whose Accounts in the Plan held shares of old Tidewater common stock (the Old Common Stock);

(c) Each shareholder of the Old Common Stock, including each Account of an affected Plan participant, was issued the same proportionate shares of the Equity Warrants based on the number of shares of the Old Common Stock held by the shareholder as of July 31, 2017;

(d) All holders of the Equity Warrants, including the Accounts, were treated in a like manner;

(e) The decisions with regard to the acquisition, holding or disposition of the Equity Warrants by an Account were made by each Plan participant whose Account received the Equity Warrants;

(f) The Accounts did not pay any brokerage fees, commissions, or other fees or expenses to any related broker in connection with the acquisition and holding of the Equity Warrants, nor did the Accounts pay any brokerage fees or commissions in connection with the sale of the Equity Warrants;

(g) Each sale transaction involving the Equity Warrants was for cash, and no sale would enrich the Plan fiduciaries;

(h) Plan participants could: (1) Acquire shares of the New Common Stock for their Plan Accounts by exercising their purchase rights under the Equity Warrants; or (2) direct Merrill Lynch to sell the Equity Warrants held in their Accounts, at any time; and

(i) Plan participants were notified when the Committee approved the sale of the Equity Warrants.

Effective Date: This exemption is effective for the period beginning July 31, 2017, and ending whenever the Equity Warrants are exercised by Plan participants or they expire.

FOR FURTHER INFORMATION CONTACT: Blessed Chuksorji-Keefe of the Department, telephone (202) 693–8567. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC.

Lyssa Hall,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department Of Labor.

[FR Doc. 2019–16163 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Underground Coal Mine Fire Protection

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Underground Coal Mine Fire Protection,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 29, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1219-003* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Underground Coal Mine Fire Protection information collection. The information collection requirements codified in regulations 30 CFR 75.1502 requires an underground coalmine operator to submit for MSHA approval, a plan for the instruction of miners in firefighting and evacuation procedures to follow in the event of an emergency. In addition, various sections of part 75 require that fire drills be conducted quarterly, equipment is tested, and a record is kept of the drills and testing results. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a) and 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0054.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 3, 2019 (84 FR 19127).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0054. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Underground Coal Mine Fire Protection.

OMB Control Number: 1219–0054.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 204.

Total Estimated Number of Responses: 121,486.

Total Estimated Annual Time Burden: 19,305 hours.

Total Estimated Annual Other Costs Burden: $378.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: July 24, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–16101 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Pattern of Violations

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Pattern of Violations,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 29, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201904-1219-005* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073 TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Pattern of Violations information collection. The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, places the ultimate responsibility on mine operators for ensuring the safety and health of miners. The legislative history of the Mine Act emphasizes that Congress included the pattern of violations (POV) provision for mine operators who demonstrated a disregard for the safety and health of miners through a recurring pattern of significant and substantial (S&S) violations. MSHA was to use the POV provision in situations where other enforcement actions had been ineffective at bringing the mines into compliance with safety and health standards. This collection is designed to encourage operators to take proactive measures to bring their mines into compliance. The Federal Mine Safety and Health Act of 1977 authorizes this information collection. *See* 30 U.S.C. 811 and 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0150.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 3, 2019.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0150.

The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Pattern of Violations.

OMB Control Number: 1219–0150.

Affected Public: Private Sector, business or other-for-profits.

Total Estimated Number of Respondents: 44.

Total Estimated Number of Responses: 44.

Total Estimated Annual Time Burden: 5,984 hours.

Total Estimated Annual Other Costs Burden: $4,400.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: July 24, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–16106 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Mine Rescue Teams, Arrangements for Emergency Medical Assistance, and Arrangements for Transportation for Injured Persons

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Mine Rescue Teams, Arrangements for Emergency Medical Assistance, and Arrangements for Transportation for Injured Persons,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 29, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1219-002* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Mine Rescue Teams, Arrangements for Emergency Medical Assistance, and Arrangements for Transportation for Injured Persons information collection. Section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires the Secretary of Labor to publish regulations which provide that mine rescue teams be available for rescue and recovery work to each underground mine in the event of an emergency. In addition, the costs of making advance arrangements for such teams are to be borne by the operator of each such mine. Under 30 CFR part 49 subpart A, Mine Rescue Teams for Underground Metal and Nonmetal Mines, requires every operator of an underground mine to assure the availability of mine rescue capability for purposes of emergency rescue and recovery. This collection of information relates to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for team members and alternates; and experience and training requirements for team members and alternates. The Federal Mine Safety and Health Act of 1977 section 115e authorizes this information collection. *See* 30 U.S.C. 811 and 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0078.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 3, 2019 (84 FR 19126).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty—(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0078. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Mine Rescue Teams, Arrangements for Emergency Medical Assistance, and Arrangements for Transportation for Injured Persons.

OMB Control Number: 1219–0078.

Affected Public: Private Sector—Businesses or Other For-Profits.

Total Estimated Number of Respondents: 202.

Total Estimated Number of Responses: 19,973.

Total Estimated Annual Time Burden: 9,941 hours.

Total Estimated Annual Other Costs Burden: $309,068.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: July 24, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–16100 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Surface Coal Mines Daily Inspection; Certified Person; Reports of Inspection

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Surface Coal Mines Daily Inspection; Certified Person; Reports of Inspection,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 29, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201905-1219-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Surface Coal Mines Daily Inspection; Certified Person; Reports of Inspection information collection requirements codified in regulations 30 CFR 77.1713 that requires an operator of either or both a surface coal mine and surface facility to keep a record of the results of required examinations for hazardous conditions. These records consist of the nature and location of any hazardous condition found and the actions taken to abate the hazardous condition. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a), 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0083.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 3, 2019 (84 FR 19128).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty-(30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0083. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Surface Coal Mines Daily Inspection; Certified Person; Reports of Inspection.

OMB Control Number: 1219–0083.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 893.

Total Estimated Number of Responses: 357,200.

Total Estimated Annual Time Burden: 535,800 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: July 24, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–16104 Filed 7–29–19; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–390 and 50–391; NRC–2019–0138]

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued an exemption in response to a July 23, 2018, request from Tennessee Valley Authority (TVA or the licensee) to implement Optimized ZIRLO™ fuel rod cladding at the Watts Bar Nuclear Plant (Watts Bar), Units 1 and 2.

DATES: The exemption was issued on July 25, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0138 when contacting the NRC about the availability of

information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0138. Address questions about NRC docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Robert Schaaf, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6020, email: *Robert.Schaaf@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

TVA is the holder of Facility Operating License Nos. NPF–90 and NPF–96, which authorize operation of Watts Bar, Units 1 and 2, respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The facilities consist of pressurized-water reactors located in Spring City, Tennessee.

II. Request/Action

By application dated July 23, 2018 (ADAMS Accession No. ML18205A492), TVA, pursuant to section 50.12 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Specific exemptions,'' requested an exemption from certain requirements of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems [ECCS] for light-water nuclear power reactors,'' and appendix K, ''ECCS Evaluation Models,'' to 10 CFR part 50 to allow the use of fuel rod cladding with Optimized ZIRLO™ alloy for future reload applications. The regulations in 10 CFR 50.46 contain acceptance criteria for the ECCS for reactors fueled with zircaloy or ZIRLO™ fuel rod cladding material. In addition, 10 CFR part 50, appendix K, requires that the Baker-Just equation be used to predict the rates of energy release, hydrogen concentration, and cladding oxidation from the metal/water reaction. The Baker-Just equation assumes the use of a zirconium alloy, which is a material different from Optimized ZIRLO™. The licensee requested the exemption because these regulations do not have provisions for the use of fuel rod cladding material other than zircaloy or ZIRLO™. Because the material specifications of Optimized ZIRLO™ differ from the specifications for zircaloy or ZIRLO™, a plant-specific exemption is required to support the reload applications for Watts Bar, Units 1 and 2.

This exemption request relates solely to the specific type of cladding material specified in these regulations for use in light-water reactors. As written, the regulations presume use of either Zircaloy or ZIRLO™ [1] fuel rod cladding. The exemption is required because Optimized ZIRLO™ has a slightly different composition than Zircaloy or ZIRLO™. Therefore, TVA has requested an exemption to consider Optimized ZIRLO™ as an approved fuel rod cladding material. TVA is not seeking an exemption from the acceptance and analytical criteria of 10 CFR 50.46 and appendix K to 10 CFR part 50. The requirements regarding the acceptance and analytical criteria will be maintained.

Along with the exemption request, the submittal from TVA described above also contains a license amendment request to modify Technical Specifications 4.2.1, ''Fuel Assemblies,'' and 5.9.5, ''Core Operating Limits Report (COLR),'' to allow the use of Optimized ZIRLO™ as an approved fuel rod cladding material. This exemption and the proposed Technical Specification changes are subject to a concurrent review that is being documented in the safety evaluation with the license amendments (ADAMS Accession No. ML19112A004).

The NRC has previously approved exemption requests that were similar in nature to that requested by TVA. Precedent exemptions have been approved for other pressurized-water reactor plants, including Beaver Valley Power Station, Units 1 and 2 (ADAMS Accession Nos. ML18022B116 and ML17313A550); Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (ADAMS Accession Nos. ML17319A107 and ML17319A214); and Wolf Creek Generating Station, Unit 1 (ADAMS Accession Nos. ML16179A293 and ML16179A440).

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2), special circumstances include, among other things, when application of the specific regulation in the particular circumstance would not serve, or is not necessary to achieve, the underlying purpose of the rule. The requested exemption to apply the acceptance criteria to Optimized ZIRLO™ fuel rod cladding rather than Zircaloy or ZIRLO™ at Watts Bar, Units 1 and 2, satisfies the criteria as described below.

A. Special Circumstances

The special circumstance that necessitates the request for exemption to 10 CFR 50.46 and appendix K to 10 CFR part 50 is that neither of these regulations explicitly allows the use of Optimized ZIRLO™ fuel rod cladding material. The ultimate objective of 10 CFR 50.46 is to ensure that nuclear power reactors fueled with uranium oxide pellets within Zircaloy or ZIRLO™ cladding must be provided with ECCS that must be designed to provide core cooling following postulated loss-of-coolant accidents. It has been demonstrated in the NRC-approved Westinghouse Topical Report WCAP–14342–A & CENPD–404–NP–A, Addendum 1–A (ADAMS Accession No. ML062080569) that the effectiveness of the ECCS will not be affected by a change from Zircaloy or ZIRLO™ clad fuel to Optimized ZIRLO™ clad fuel. Normal reload safety analyses will confirm that there is no adverse impact on ECCS performance.

[1] ''Optimized ZIRLO'' and ''ZIRLO'' are trademarks or registered trademarks of Westinghouse Electric Company, LLC.

The objective of 10 CFR 50.46(b)(2) and (b)(3) and paragraph I.A.5 of appendix K to 10 CFR part 50 is to ensure that cladding oxidation and hydrogen generation are appropriately limited during a loss-of-coolant accident and conservatively accounted for in the ECCS evaluation model. Appendix K of 10 CFR 50 requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. Westinghouse has shown in Addendum 1–A to WCAP–12610–P–A that the Baker-Just model is conservative in all post-loss-of-coolant accident scenarios with respect to the use of the Optimized ZIRLO™ advanced alloy as a fuel cladding material.

B. The Exemption Is Authorized by Law

The NRC has the authority under 10 CFR 50.12 to grant exemptions from the requirements of 10 CFR part 50 upon showing proper justification. The fuel that will be irradiated at Watts Bar, Units 1 and 2, contains cladding material that does not conform to the cladding material that is explicitly defined in 10 CFR 50.46 and implicitly defined in appendix K to 10 CFR part 50. However, the criteria of these sections will continue to be satisfied for the operation of the Watts Bar, Units 1 and 2, core containing Optimized ZIRLO™ fuel cladding.

C. The Exemption Presents No Undue Risk to Public Health and Safety

The standards for exemption are also satisfied since the exemption will not present an undue risk to public health and safety. The NRC-approved Westinghouse topical report discussed above has demonstrated that predicted chemical, thermal, and mechanical characteristics of the Optimized ZIRLO™ alloy cladding are bounded by those approved for ZIRLO™ under anticipated operational occurrences and postulated accidents. Reload cores are required to be operated in accordance with the operating limits specified in the Technical Specifications and COLR. Thus, the granting of this exemption request will not pose an undue risk to public health and safety.

D. The Exemption Is Consistent With the Common Defense and Security

The exemption request is to allow the licensee to use an improved fuel rod cladding material. The licensee has documented compliance with the conditions and limitations of the NRC safety evaluation regarding the use of Optimized ZIRLO™ fuel rod cladding at Beaver Valley Power Station, Units 1 and 2, and has committed to ensuring compliance for future reloads in the current application for Watts Bar, Units 1 and 2. Use of Optimized ZIRLO™ fuel rod cladding in the Watts Bar, Units 1 and 2, cores will not affect plant operations and is consistent with common defense and security.

E. Environmental Considerations

A review has determined that the proposed amendments would change a requirement with respect to installation or use of a facility component located within the restricted area, as defined in 10 CFR part 20, or would change an inspection or surveillance requirement. However, the proposed amendments do not involve (i) a significant hazards consideration, (ii) a significant change in the types or significant increase in the amounts of any effluents that may be released offsite, or (iii) a significant increase in individual or cumulative occupational radiation exposure. Accordingly, the proposed amendments meet the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed amendments.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Therefore, the Commission hereby grants TVA an exemption from the requirements of 10 CFR 50.46 and appendix K to 10 CFR part 50 to allow the use of Optimized ZIRLO™ fuel rod cladding material at Watts Bar, Units 1 and 2. As stated in this notice, this exemption relates solely to the cladding material specified in these regulations.

Dated at Rockville, Maryland, this 25th day of July 2019.

For the Nuclear Regulatory Commission.

Blake D. Welling,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–16147 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0233]

Pressurized Water Reactor Control Rod Ejection and Boiling Water Reactor Control Rod Drop Accidents

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of reissuance of draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is reissuing for public comment draft regulatory guide (DG), DG–1327, ''Pressurized Water Reactor Control Rod Ejection and Boiling Water Reactor Control Rod Drop Accidents.'' This DG proposes new guidance for analyzing accidents such as a control rod ejection for pressurized water reactors and a control rod drop for boiling-water reactors. It defines fuel cladding failure thresholds for ductile failure, brittle failure, and pellet-clad mechanical interaction and provides radionuclide release fractions for use in assessing radiological consequences. It also describes analytical limits and guidance for demonstrating compliance with regulations governing reactivity limits.

DATES: Submit comments by October 28, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2016–0233. Address questions about docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments,

see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paul Clifford, Office of Nuclear Reactor Regulation, telephone: 301–415–4043, email: *Paul.Clifford@nrc.gov* and Edward O'Donnell, Office of Nuclear Regulatory Research; telephone: 301–415–3317; email: *Edward.ODonnell@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0233 when contacting the NRC about the availability of information regarding this action. You may obtain publicly-available information related to this action, by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2016–0233.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DG is electronically available in ADAMS under Accession No. ML16124A200.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0233 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *https://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Additional Information

The NRC is reissuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled ''Pressurized Water Reactor Control Rod Ejection and Boiling Water Reactor Control Rod Drop Accidents,'' is a proposed new guide temporarily identified by its task number, DG–1327.

DG–1327 describes one acceptable method for demonstrating compliance with appendix A of part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), General Design Criteria (GDC) 28, ''Reactivity Limit,'' with respect to a control rod ejection (CRE) for pressurized-water reactors (PWRs) and a control rod drop (CRD) for boiling-water reactors (BWRs). DG–1327 proposes new guidance for analyzing these reactivity-initiated accidents. It defines fuel cladding failure thresholds for ductile failure, brittle failure, and pellet-clad mechanical interaction and provides radionuclide release reactions for use in assessing radiological consequences. It also describes analytical limits and guidance for demonstrating compliance with regulations governing reactivity limits.

The draft guide incorporates new empirical data from in-pile, prompt power pulse test programs and analyses from several international publications on fuel rod performance under reactivity-initiated accident conditions to provide guidance on acceptable analytical methods, assumptions, and limits for evaluating a CRE accident for a PWR. The draft guide expands the existing guidance for CRE accidents in Regulatory Guide (RG) 1.77, ''Assumptions Used for Evaluation a Control Rod Ejection Accident for Pressurized Water Reactors.'' However, the NRC intends to maintain RG 1.77.

The NRC released the draft guide for public comment on November 21, 2016 (81 FR 83288) with a 60 day comment period that expired on February 21, 2017. A public meeting was held at NRC Headquarters on January 25, 2017, while the guide was open for public comment. During the meeting, the NRC made a commitment to hold a second public meeting to discuss the staff's proposed resolution of key comments prior to finalization of the guide. Following the January 25, 2017 public meeting, the NRC extended the comment period to April 21, 2017 (February 1, 2017; 82 FR 8958) to allow more time for comment. A second public meeting was held at NRC Headquarters on June 5, 2018, to discuss resolution of the public comments. To facilitate discussion at the meeting, drafts of the guide (ADAMS Accession No. ML18138A459) and a table showing the NRC staff's initial resolution of the public comments (ADAMS Accession No. ML18138A458) were made publicly available prior to the meeting.

As a result of the written public comments and discussions at the public meetings, the NRC made several changes to the draft guide, and the NRC's final response to the public comments can be found in ADAMS under Accession No. ML18302A107. Among the changes were: (1) Division of the analytical methods in the staff regulatory guidance to differentiate between PWRs and BWRs, (2) the graphs for cladding failure thresholds were extended based on more recent testing, (3) addition of an appendix to define acronyms and abbreviations used in the guide, (4) addition of an appendix that provides guidance on steady-state and transient gap fission product inventories for releases following a CRE or CRD accident, and (5) addition of an appendix that has alloy-specific cladding hydrogen uptake models.

III. Backfitting and Issue Finality

DG–1327 describes one acceptable method for demonstrating compliance with GDC 28 in 10 CFR part 50, appendix A, with respect to a control rod ejection for PWRs and a control rod drop for BWRs. It addresses fuel cladding failure thresholds for ductile failure, brittle failure, and pellet-clad mechanical interaction, provides radionuclide release fractions for use in assessing radiological consequences, and describes analytical limits and guidance for demonstrating compliance with GDC 28 governing reactivity limits.

This draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting'' (the Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10

CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' Existing licensees and applicants of final design certification rules will not be required to comply with the positions set forth in this draft regulatory guide. Further information on the staff's use of the draft regulatory guide, if finalized, is contained in the draft regulatory guide under Section D., ''Implementation.''

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants. Therefore, the positions in any final draft regulatory guide, if imposed on applicants, would not represent backfitting (except as discussed below).

The exceptions to the general principle are applicable whenever a 10 CFR part 50 operating license applicant references a construction permit or a combined license applicant references a 10 CFR part 52 license (*i.e.,* an early site permit or a manufacturing license) or regulatory approval (*i.e.,* a design certification rule or design approval). The staff does not, at this time, intend to impose the positions represented in the draft regulatory guide in a manner that is inconsistent with the Backfit Rule or any issue finality provisions in these 10 CFR part 52 licenses and regulatory approvals. If, in the future, the staff seeks to impose a position in this regulatory guide in a manner that constitutes backfitting under the Backfit Rule or does not provide issue finality as described in the applicable issue finality provision, then the staff will address the backfitting provisions in the Backtit Rule or criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 24th day of July 2019.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2019–16067 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0153]

Standard Format and Content of License Termination Plans for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.179, ''Standard Format and Content of License Termination Plans for Nuclear Power Reactors.'' This RG (Revision 2) provides general procedures acceptable to the NRC staff for the preparation of license termination plans (LTPs) for nuclear power reactors. This RG also describes the acceptable format and content of LTPs for nuclear power reactor licensees to terminate their licenses and release their sites. Revision 2 does not contain substantive changes in the NRC staff's regulatory guidance since Revision 1 was issued. It provides updated references, minor corrections, and other editorial changes.

DATES: Revision 2 to RG 1.179 is available on July 30, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0153 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, using the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0153. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges Roman; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 2 to Regulatory Guide 1.179 may be found in ADAMS under Accession No. ML19128A067.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Steve Giebel, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–5526, email: *Steve.Giebel@nrc.gov,* and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–2493, email: *Harriet.Karagiannis@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

The NRC typically seeks public comment on a draft version of a regulatory guide by announcing its availability for comment in the **Federal Register**. However, the NRC may directly issue a final regulatory guide without a draft version or public comment period if the changes to the regulatory guide are non-substantive.

The NRC is issuing Revision 2 of RG 1.179 directly as a final RG because the changes are non-substantive. Revision 2 of RG 1.179 incorporates updated references, minor corrections, and other editorial changes to be aligned with NUREG–1700, ''Standard Review Plan for Evaluating Nuclear Power Reactor License Termination Plans,'' Revision 2, issued April 2018. The changes in Revision 2 of the RG are administrative in nature. The changes are intended to improve clarity and do not substantially alter the NRC staff's regulatory guidance for the acceptable format and content of LTPs for nuclear power reactor licensees.

II. Backfitting and Issue Finality

Issuance of this regulatory guide does not constitute backfitting as defined in

title 10 of the *Code of Federal Regulations* (10 CFR) 50.109, ''Backfitting'' (the Backfit Rule), and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of RG 1.179, revision 2, the NRC has no current intention to impose the RG on current holders of an operating license or combined license.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Submitting Suggestions for Improvement of Regulatory Guides

Revision 2 of RG 1.179 is being issued without public comment. However, you may at any time submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs to address new issues. Suggestions can be submitted by the form available online at *https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html.* Suggestions will be considered in future updates and enhancements of the RG.

Dated at Rockville, Maryland, this 24th day of July 2019.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2019–16068 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0150]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from June 29, 2019, to July 15, 2019. The last biweekly notice was published on July 16, 2019.

DATES: Comments must be filed by August 29, 2019. A request for a hearing must be filed by September 30, 2019.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0150. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0150, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0150.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0150, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''Cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment application(s), see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: May 29, 2019. A publicly-available version is in ADAMS under Accession No. ML19149A290.

Description of amendment request: The amendment would revise the Arkansas Nuclear One, Unit 1, Technical Specifications (TSs) by adopting Technical Specifications Task Force (TSTF) Traveler TSTF–563, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP [Surveillance Frequency Control Program]. All components in the channel continue to be tested. The frequency at which a channel test is performed is not an initiator of any accident previously evaluated; therefore, the probability of an accident is not affected by the proposed change. The channels surveilled in accordance with the affected definitions continue to be required to be operable and the acceptance criteria of the surveillances are unchanged. As a result, any mitigating functions assumed in the accident analysis will continue to be performed.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP. The design function or operation of the components involved are not affected and there is no physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed). No credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases are introduced. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the TS definitions of Channel Calibration and Channel Functional Test to allow the frequency for testing the components or devices in each step to be determined in accordance with the TS SFCP. The SFCP assures sufficient safety margins are maintained, and that the design, operation, surveillance methods, and acceptance criteria specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plants' licensing basis. The proposed change does not adversely affect existing plant safety margins, or the reliability of the equipment assumed to operate in the safety analysis. As such, there are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change. Margins of safety are unaffected by method of determining surveillance test intervals under an NRC-approved licensee-controlled program.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.

NRC Branch Chief: Robert J. Pascarelli.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–352 and No. 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Exelon Generation Company, LLC, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 14, 2019. Publicly-available version is in ADAMS under Accession No. ML19165A252.

Description of amendment request: The amendments would remove the Table of Contents (TOC) from the Technical Specifications (TSs) and place it under licensee control.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment is administrative and affects control of a document, the TOC, listing the specifications

in the plant TS. Transferring control from the NRC to EGC [Exelon Generation Company, LLC] does not affect the operation, physical configuration, or function of plant equipment or systems. The proposed amendment does not impact the initiators or assumptions of analyzed events; nor does it impact the mitigation of accidents or transient events.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed change does not alter any assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change is administrative. The TOC is not required by regulation to be in the TS. Removal does not impact any safety assumptions or have the potential to reduce a margin of safety. The proposed change involves a transfer of control of the TOC from the NRC to EGC. No change in the technical content of the TS is involved.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Acting Branch Chief: Lisa M. Regner.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: June 13, 2019. A publicly-available version is in ADAMS under Accession No. ML19170A094.

Description of amendment request: The amendments would revise the Turkey Point Nuclear Generating Unit Nos. 3 and 4 Technical Specifications (TSs) related to Reactor Trip System instrumentation and would resolve non-conservative TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed amendments involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendments modify the mode of applicability and surveillance requirements for the Reactor Trip System (RTS) turbine trip instrumentation such that operability is required in MODE 1 when above the permissive interlock, P–7, and satisfactory surveillance testing is required prior to reaching MODE 1 above P–7 whenever the Unit has been in MODE 3. Aligning the operability requirements with the plant conditions required for the protective feature to function neither changes the manner in which operability will be determined nor the manner in which the equipment will be operated and maintained. No change to the RTS turbine trip instrumentation is proposed and the equipment will remain capable of performing as required upon implementation of the proposed amendments. No changes are proposed to any safety analysis inputs or assumptions. The proposed change additionally resolves two non-conservative TS requirements consistent with NRC Administrative Letter 98–10, and thereby cannot adversely affect the likelihood or the outcome of any design basis accident.

Therefore, this proposed change does not represent a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed amendments create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendments align the RTS turbine trip channel requirements with the plant conditions required for the protective feature to function (*i.e.,* P–7). The proposed change establishes RTS turbine trip channel operability in MODE 1 when above P–7 and requires surveillance testing prior to MODE 1 above P–7 whenever the Unit has been in MODE 3. The inputs and assumptions to safety analyses remain unchanged as a result of the proposed change since no physical change to plant equipment is proposed and the requirement to demonstrate operability prior to the plant conditions necessitating the protective feature remains unchanged. As such, the proposed change cannot introduce new equipment failure modes, cannot change the types or amount of effluent that may be released off-site, and cannot increase individual or cumulative occupational exposures that would result from any accident. The proposed change additionally resolves two non-conservative requirements consistent with NRC Administrative Letter 98–10, and thereby cannot create a new or different kind of accident.

Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed amendments involve a significant reduction in a margin of safety?

Response: No.

The proposed amendments align the RTS turbine trip channel requirements with the plant conditions required for the protective feature to function (*i.e.,* P–7) by establishing RTS turbine trip channel operability in MODE 1 when above P–7 and requiring surveillance testing prior to MODE 1 above P–7 whenever the Unit has been in MODE 3. The proposed amendments additionally resolve two non-conservative TS requirements consistent with NRC Administrative Letter 98–10. The proposed changes do not affect any plant operating margins or the reliability of equipment credited in safety analyses and no changes are proposed to any safety analysis assumptions, safety limits, or limiting safety system settings.

Therefore, the proposed amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Debbie Hendell, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.

NRC Branch Chief: Undine Shoop.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: June 18, 2019. A publicly-available version is in ADAMS under Accession No. ML19169A350.

Description of amendment request: The amendment proposes changes to the Combined License Appendix A Technical Specifications (TS) 3.7.11, Spent Fuel Pool Boron Concentration, Applicability and Required Actions to eliminate an allowance to exit the Applicability of Limiting Condition of Operation 3.7.11, Spent Fuel Pool Boron Concentration, once a spent fuel pool storage verification had been performed. The requested amendment also proposes to eliminate TS 3.7.11 Required Action A.2.2, which provides an option to perform a spent fuel pool storage verification in lieu of restoring spent fuel pool boron concentration to within limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve changes to current plant design or safety analysis assumptions. These changes provide Technical Specifications (TS) consistency with the approved plant design and criticality analysis assumptions and the requirements of 10 CFR 50.68(b)(4). The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the Updated Final Safety Analysis Report (UFSAR) accident analyses are not affected.

The changes do not affect the operation of any systems or equipment that initiate an analyzed accident or alter any structures, systems, and components (SSCs) accident initiator or initiating sequence of events. The proposed changes do not result in any increase in the probability of an analyzed accident occurring.

Meeting the 10 CFR 50.68 requirements is consistent with 10 CFR 50 Appendix A, General Design Criterion (GDC) 62, and thereby establishes that criticality in the fuel storage and handling system is prevented by physical systems or processes, and geometrically safe configurations.

Therefore, the requested amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the safety limits as described in the plant-specific Technical Specifications. In addition, the limiting safety system settings and limiting control settings continue to be met with the proposed changes to the plant-specific Technical Specifications. These changes provide Technical Specifications (TS) consistency with the approved plant design and criticality analysis assumptions and the requirements of 10 CFR 50.68(b)(4). The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed changes do not affect plant protection instrumentation systems, and do not affect the design function, support, design, or operation of mechanical and fluid systems. The proposed changes do not result in a new failure mechanism or introduce any new accident precursors. No design function described in the Updated Final Safety Analysis Report (UFSAR) is affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve changes to current plant design or safety analysis assumptions. These changes provide Technical Specifications (TS) consistency with the approved plant design and criticality analysis assumptions and the requirements of 10 CFR 50.68(b)(4). No safety analysis or design basis acceptance limit/criterion is involved.

The criticality analysis, which meets the applicable requirements of 10 CFR 50.68, Paragraph b, considers the inherent neutron absorbing effect of the materials of construction, including fixed neutron absorbing ''poison'' material. Soluble boron in the spent fuel pool and assembly burnup is used as reactivity credits.

Meeting the 10 CFR 50.68 requirements is consistent with 10 CFR 50 Appendix A GDC 62, and thereby establishes that criticality in the fuel storage and handling system is prevented by physical systems or processes, and geometrically safe configurations. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, and no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer L. Dixon-Herrity.

Tennessee Valley Authority, Docket Nos. 50–390 and 50–391, Watts Bar Nuclear Plant (WBN), Units 1 and 2, Rhea County, Tennessee

Date of amendment request: November 29, 2018. A publicly-available version is in ADAMS under Accession No. ML18334A363.

Description of amendment request: The amendments would modify the WBN Facility Operating Licenses to allow for the implementation of the provisions of 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors.'' The provisions of 10 CFR 50.69 allow adjustment of the scope of equipment subject to special treatment controls (*e.g.,* quality assurance, testing, inspection, condition monitoring, assessment, and evaluation). For equipment determined to be of low safety significance, alternative treatment requirements can be implemented in accordance with this regulation. For equipment determined to be of high safety significance, requirements will not be changed or will be enhanced. This allows improved focus on equipment that has safety significance resulting in improved plant safety.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of structures, systems, and components (SSCs) subject to Nuclear Regulatory Commission (NRC) special treatment requirements and to implement alternative treatments per the regulations. The process used to evaluate SSCs for changes to NRC special treatment requirements and the use of alternative requirements ensures the ability of the SSCs to perform their design function. The potential change to special treatment requirements does not change the design and operation of the SSCs. As a result, the proposed change does not significantly affect any initiators to accidents previously evaluated or the ability to mitigate any accidents previously evaluated. The consequences of the accidents previously evaluated are not affected because the mitigation functions performed by the SSCs assumed in the safety analysis are not being modified. The SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition following an accident will continue to perform their design functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not change the functional requirements, configuration, or method of operation of any SSC. Under the proposed change, no additional plant equipment will be installed.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The proposed change will permit the use of a risk-informed categorization process to

modify the scope of SSCs subject to NRC special treatment requirements and to implement alternative treatments per the regulations. The proposed change does not affect any safety limits or operating parameters used to establish the safety margin. The safety margins included in analyses of accidents are not affected by the proposed change. The regulation requires that there be no significant effect on plant risk due to any change to the special treatment requirements for SSCs and that the SSCs continue to be capable of performing their design basis functions, as well as to perform any beyond design basis functions consistent with the categorization process and results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2 (Catawba), York County, South Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (McGuire), Mecklenburg County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3 (Oconee), Oconee County, South Carolina

Duke Energy Progress, LLC, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant (Brunswick), Units 1 and 2, Brunswick County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1 (Harris), Wake County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (Robinson), Darlington County, South Carolina

Date of amendment request: June 20, 2018.

Brief description of amendments: The amendments revised the Emergency Action Levels (EALs) for Catawba, McGuire, Oconee, Brunswick, Harris, and Robinson consistent with Emergency Preparedness Frequently Asked Questions (EPFAQs) 2015–013 (EAL HG1.1) and 2016–002 (EALs CA6.1 and SA9.1 (SA8.1 for Brunswick)). The amendments also revised the EALs for Harris and Robinson consistent with EPFAQ 2015–014 (EAL HS6.1).

Date of issuance: July 1, 2019.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment Nos.: 303 and 299, for Catawba; 315 and 294, for McGuire; 412, 414, and 413, for Oconee; 291 and 319, for Brunswick; 172, for Harris; and 264, for Robinson. A publicly-available version is in ADAMS under Accession No. ML19058A632; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–35, NPF–52, NPF–9, NPF–17, DPR–38, DPR–47, DPR–55, DPR–71, DPR–62, NPF–63, and DPR–23: Amendments revised the Facility Emergency Plans.

Date of initial notice in ***Federal Register:*** August 14, 2018 (83 FR 40346).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 2019.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (McGuire), Mecklenburg County, North Carolina

Date of amendment requests: May 2, 2017, as supplemented by letters dated July 20 and November 21, 2017; July 10 and December 3, 2018; and March 7 and April 8, 2019.

Brief description of amendments: The amendments modified McGuire's Technical Specifications (TSs) to extend the Completion Time of TS 3.8.1, ''AC [Alternating Current] Sources—Operating,'' Required Action B.6 (existing Required Action B.4, numbered as B.6) for an inoperable emergency diesel generator from 72 hours to 14 days. To support this amendment, the licensee added a supplemental power source (*i.e.,* two supplemental diesel generators per station) with the capability to power any emergency bus. The supplemental diesel generators have the capacity to bring the affected unit to cold shutdown. Additionally, the amendments modified TS 3.8.1 to add new two limiting conditions for operation (LCOs), TS LCO 3.8.1.c and TS LCO 3.8.1.d, to ensure that at least one train of shared components has an operable emergency power supply. Corresponding Conditions, Required Actions and Completion Times of TS 3.8.1 are revised to account for the new supplemental AC power source.

Date of issuance: June 28, 2019.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 314 (Unit 1) and 293 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19126A030; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Renewed Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** February 27, 2017 (83 FR 8512). The supplemental letters dated July 20 and November 21, 2017; July 10 and December 3, 2018; and March 7 and April 8, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 2019.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3 (Waterford 3), St. Charles Parish, Louisiana

Date of amendment request: March 26, 2018, as supplemented by letters dated May 17, 2018, and February 15, 2019.

Brief description of amendment: The amendment revised Waterford 3 Technical Specification (TS) 3/4.7.4, ''Ultimate Heat Sink.'' Specifically, the amendment corrected the wet cooling tower basin level discrepancy, revised requirements for cooling fan operation described in TS 3.7.4 ACTION Statements, revised Surveillance Requirement 4.7.4, and revised Table 3.7–3, ''Ultimate Heat Sink Minimum Fan Requirements Per Train.''

Date of issuance: June 28, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 254. A publicly-available version is in ADAMS under Accession No. ML19164A001; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–38: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** July 31, 2018 (83 FR 36976). The supplemental letter dated February 15, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 2019.

No significant hazards consideration comments received: No.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 2, 2018.

Brief description of amendment: The amendment revised James A. FitzPatrick Nuclear Power Plant Technical Specification 3.1.2, ''Reactivity Anomalies,'' to change the method used to perform the reactivity anomaly surveillance. Specifically, the amendment allows performance of the surveillance based on the difference between the monitored (*i.e.,* actual) core reactivity and the predicted core reactivity. The surveillance was previously performed based on the difference between the monitored control rod density and the predicted control rod density.

Date of issuance: July 11, 2019.

Effective date: As of the date of issuance, and shall be implemented within 90 days.

Amendment No.: 325. A publicly-available version is in ADAMS under Accession No. ML19157A203; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** November 20, 2018 (83 FR 58610).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 11, 2019.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: December 5, 2014; as supplemented by letters dated July 8 and July 22, 2016; February 25, 2017; and February 1, March 15, June 7, September 18, November 9, and November 30, 2018.

Brief description of amendments: The amendments revised the Technical Specification (TS) requirements related to Completion Times for Required Actions to provide the option to calculate longer, risk-informed Completion Times. The amendments also added a new program, the Risk Informed Completion Time Program, to TS Section 6.0, ''Administrative Controls.''

Date of issuance: July 2, 2019.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment Nos.: 247 and 199. A publicly-available version is in ADAMS under Accession No. ML19113A099; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–67 and NPF–16: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** August 14, 2018 (83 FR 40349). The supplements dated September 18, November 9, and November 30, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 2, 2019.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: February 26, 2019.

Brief description of amendments: The amendments revised the Technical Specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler–563, ''Revise Instrument Testing Definitions to Incorporate the Surveillance Frequency Control Program.'' TSTF–563 revises the TS definitions of Channel Calibration, Channel Operational Test, and Trip Actuating Device Operational Test.

Date of issuance: July 11, 2019.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 345 (Unit 1) and 327 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19134A355; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–58 and DPR–74: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 9, 2019 (84 FR 14151).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 11, 2019.

No significant hazards consideration comments received: No.

Oyster Creek Environmental Protection, LLC and Holtec Decommissioning International, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: August 31, 2018.

Brief description of amendment: The amendment revised Renewed Facility Operating License No. DPR–16 to reflect the direct transfer of the Oyster Creek Nuclear Generating Station Renewed Facility Operating License No. DPR–16, and the general license for the Oyster Creek Independent Spent Fuel Storage Installation from Exelon Generation Company, LLC to Oyster Creek Environmental Protection, LLC as the licensed owner and to Holtec Decommissioning International, LLC as the licensed decommissioning operator.

Date of issuance: July 1, 2019.

Effective date: As of the date of issuance, and shall be implemented within 30 days of issuance.

Amendment No.: 297. A publicly-available version is in ADAMS under Accession No. ML19164A155; documents related to this amendment are listed in the Safety Evaluation enclosed with the letter dated June 20, 2019 (ADAMS Accession No. ML19095A454).

Renewed Facility Operating License No. DPR–16: The amendment revised the Renewed Facility Operating License.

Date of initial notice in ***Federal Register:*** October 19, 2018 (83 FR 53119).

The Commission's related evaluation of the amendment is contained in the Safety Evaluation dated June 20, 2019.

SHINE Medical Technologies, LLC, Docket No. 50–608, SHINE Medical Isotope Production Facility, Rock County, Wisconsin

Date of amendment request: December 11, 2018, as supplemented by letter dated March 8, 2019.

Brief description of amendment: The amendment modified Construction Permit No. CPMIF–001 to reflect SHINE Medical Technologies, LLC converting from a corporation into a single-member limited liability company, owned and controlled by Illuminated Holdings, Inc.

Date of issuance: July 1, 2019.

Effective date: As of the date of issuance.

Amendment No.: 1. A publicly-available version is in ADAMS under ADAMS Accession No. ML19162A024; documents related to this amendment are listed in the Safety Evaluation enclosed with the letter dated May 20, 2019 (ADAMS Accession No. ML19102A321).

Construction Permit No. CPMIF–001: Amendment revised the Construction Permit.

Date of initial notice in ***Federal Register:*** February 20, 2019 (84 FR 5116). The supplemental letter dated March 8, 2019, provided additional information that clarified the application and did not expand the scope of the application as originally noticed.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 20, 2019.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: June 29, 2018, as supplemented by letter dated June 12, 2019.

Brief description of amendments: The amendments revised the Allowable Values specified in Technical Specification (TS) Table 3.3.5.1–1 for automatic transfer of the High Pressure Coolant Injection pump suction alignment from the condensate storage tank to the suppression pool for Units 1 and 2. The amendments also increased the Allowable Value specified in TS Table 3.3.5.3–1 for automatic transfer of the Reactor Core Isolation Cooling pump suction alignment from the condensate storage tank to the suppression pool for Unit 1.

Date of issuance: July 8, 2019.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 297 and 242. A publicly-available version is in ADAMS under Accession No. ML19177A166; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** December 4, 2018 (83 FR 62622). The supplemental letter dated June 12, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 2019.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 22nd day of July 2019.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–15849 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0195]

Information Collection: Packaging and Transportation of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Packaging and Transportation of Radioactive Material.''

DATES: Submit comments by August 29, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0008), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0195 when contacting the NRC about the availability of information for this

action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0195.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML19192A186 and ML19192A185, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, title 10 of the Code of Federal Regulations (CFR) part 71, ''Packaging and Transportation of Radioactive Material.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 23, 2019 (84 FR 16889).

1. *The title of the information collection:* 10 CFR part 71, ''Packaging and Transportation of Radioactive Material.

2. *OMB approval number:* 3150–0008.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion. Application for package certification may be made at any time. Required reports are collected and evaluated on a continuous basis as events occur.

6. *Who will be required or asked to respond:* All NRC specific licensees who place byproduct, source, or special nuclear material into transportation, and all persons who wish to apply for NRC approval of package designs for use in such transportation.

7. *The estimated number of annual responses:* 634 responses.

8. *The estimated number of annual respondents:* 220 respondents.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 30,589 hours (25,987.6 hours reporting + 4470 hours recordkeeping + 131.3 hours third-party disclosure).

10. *Abstract:* The NRC regulations in 10 CFR part 71 establish requirements for packaging, preparation for shipment, and transportation of licensed material, and prescribe procedures, standards, and requirements for approval by NRC of packaging and shipping procedures for fissile material and for quantities of licensed material in excess of Type A quantities. The NRC collects information pertinent to 10 CFR part 71 for three reasons: To issue a package approval; to ensure that any incidents or package degradation or defect are appropriately captured, evaluated and if necessary, corrected to minimize future potential occurrences; and to ensure that all activities are completed using an NRC-approval quality assurance program.

Dated at Rockville, Maryland, this 25th day of July 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–16182 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0088]

Information Collection: Collection of Research Code Non-Disclosure Agreement Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a proposed collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Collection of Research Code Non-Disclosure Agreement Information.''

DATES: Submit comments by August 29, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–XXXX), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0088 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0088. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0088 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19099A416. The supporting statement is available in ADAMS under Accession No. ML19182A300.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a proposed collection of information to OMB for review entitled, ''Collection of Research Code Non-Disclosure Agreement Information.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on April 16, 2019, 84 FR 15640.

1. *The title of the information collection:* Collection of Research Code Non-Disclosure Agreement Information.

2. *OMB approval number:* An OMB control number has not yet been assigned to this proposed information collection.

3. *Type of submission:* New.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* As needed.

6. *Who will be required or asked to respond:* Domestic and foreign users of NRC's nuclear safety analytical computer codes.

7. *The estimated number of annual responses:* 640.

8. *The estimated number of annual respondents:* 640.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 640 hours.

10. *Abstract:* This information collection request is an NDA used for domestic and foreign entities to obtain and use the NRC's nuclear safety analytical computer codes. NRC develops and uses computer codes to independently model and evaluate safety issues associated with the licensed use of radioactive materials. As a global leader in nuclear regulatory research and safety assessment, NRC is frequently approached by domestic and international organizations requesting copies of NRC computer codes. In general, to obtain an NRC code an individual or organization first agrees to not redistribute the code (*i.e.,* non-disclosure) through an NDA. The NDA also imposes terms and conditions for code use, and requires notification to NRC of code errors, code modifications, and updated user information. An officially signed and executed NDA of users agreeing to the terms and conditions is current NRC practice for access to NRC-developed computer codes. Once the NDA has been signed, received, reviewed, and accepted, the requesting individual or organization is given access to the requested code. The information collection enables the NRC to ensure that proper procedures and agreements are in place to guide the distribution and use of these codes according to NRC and U.S. Government policies and international agreements such as import-export restrictions and intellectual property rights. Further information collection on code errors and modifications by code users permits NRC to maintain control and quality of its codes in a timely and efficient manner.

Dated at Rockville, Maryland, this 25th day of July 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–16181 Filed 7–29–19; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF SPECIAL COUNSEL

[Previous Control No. 3255–0003]

Modification of OSC Annual Survey

AGENCY: Office of Special Counsel.

ACTION: Notice for public comment.

SUMMARY: The U.S. Office of Special Counsel (OSC) seeks approval from the Office of Management and Budget (OMB) for use of a 2019 survey that differs slightly in process and timing from a previously approved information collection, OSC's annual survey. The prior OMB approval for the annual survey expired November 30, 2016. As required by statute, since 1994 OSC has conducted an annual survey collecting feedback from those who have filed complaints/disclosures with OSC. The prior surveys required 12 minutes to complete. The proposed OSC 2019 survey consists of a single electronic questionnaire with eleven questions that requires 5.5 minutes to complete. The prior annual surveys could only be sent after OSC closed the individual's complaint or disclosure file. The timing therefore deprived OSC of useful feedback about how individuals perceive OSC as they are in the process of working or engaging with OSC. Congress authorized this 2019 survey (and suspended the previously approved annual survey), so OSC could collect feedback from individuals who file complaints or disclosures with OSC while their cases or queries are open. *See* the OSC Reauthorization Act of 2017, Public Law 115, Sec. 1097. OSC is requesting emergency approval for the proposed 2019 survey, which by statute must be completed by the end of FY2019.

DATES: Written comments should be received on or before August 29, 2019. However, pursuant to 5 CFR 1320.13, OSC is requesting OMB's emergency

approval by August 5, 2019. Comments should therefore be communicated to OMB within 5 days of this notice's publication in the **Federal Register**.

ADDRESSES: You may submit written comments by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for OSC, New Executive Office Building, Room 10235, Washington, DC 20503; or by email via: *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Susan Ullman, General Counsel of the U.S. Office of Special Counsel, by telephone at (202) 804–7000, or by email at *sullman@osc.gov*.

SUPPLEMENTARY INFORMATION: OSC is a permanent independent federal investigative and prosecutorial agency. OSC's basic authorities come from four federal statutes: The Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing.

OSC is required to conduct an annual survey of individuals who seek its assistance. Under Section 13 of Public Law 103–424 (1994), codified at 5 U.S.C. 1212 note, OSC distributed prior annual surveys after the conclusion of cases. OSC sent four separate questionnaires to four categories of complainants and whistleblowers, asking (1) whether the respondent was fully apprised of their rights; (2) if their claim was successful at OSC or at the MSPB; and (3) successful or not, if they were satisfied with the service received from OSC. OSC reported the results in its annual report.

The OSC Reauthorization Act of 2017, Public Law 115–91, Sec. 1097, required OSC to suspend its existing survey obligations in order to allow OSC to design a survey to ''collect [ ] information and improv[e] service at various stages of [OSC's] review or investigation.'' The proposed 2019 survey is a single questionnaire consisting of 11 questions to be asked of individuals who have filed a complaint or disclosure with OSC. The 2019 survey asks respondents to identify the stage of their complaint or disclosure; the outcome, if closed; to rate their interactions with OSC staff, including whether OSC was responsive to communications, the frequency and clarity of OSC communications, whether the respondent had the opportunity to provide additional information, and whether OSC allowed the respondent to ask further questions; to rate their overall experience; and to offer any suggestions for improvement.

As required by the Paperwork Reduction 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OSC is soliciting comments for this survey because it collects information. Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited to comment on: (a) The accuracy of OSC's estimate of the burden of the proposed collection of information; (b) ways to enhance the quality, utility, and clarity of the information to be collected; and (c) ways to minimize the burden of the collection of information on respondents.

The OSC Reauthorization Act also requires OSC to publish the 2019 survey's results in OSC's annual report to Congress. Copies of prior years' annual reports are available on OSC's website, at *https://osc.gov/Pages/Resources-ReportsAndInfo.aspx* or by calling OSC at (202) 804–7000. The prior OSC Annual Survey, OMB Control Number 3255–0003, expired on November 30, 2016.

OSC is requesting emergency approval of this modified collection of information, as the 2019 survey must be completed and reviewed by the end of FY2019. As with the prior approved survey, the 2019 survey will be hosted by Survey Monkey (*https://www.surveymonkey.com*). The 2019 survey questionnaires are available for review online at *https://osc.gov/Pages/Resources-ReportsAndInfo.aspx* or by calling OSC at (202) 804–7000.

Type of Information Collection Request: Approval of a re-designed survey collecting information aimed at enabling OSC to improve service at various stages of its review or investigation and thereby better accomplish OSC's mission.

Affected Public: Filers (or their representatives) seeking OSC services through (1) filing complaints alleging prohibited personnel practice or Hatch Act violations; (2) seeking Hatch Act advisory opinions; or (3) making disclosures of information alleging gross mismanagement or waste; a violation of law, rule, or regulation; abuse of authority; a substantial and specific danger to public health or safety; or censorship related to scientific research.

Respondent's Obligation: Voluntary.

Estimated Annual Number of Survey Form Respondents: 500.

Frequency of Survey Form Use: One-time.

Estimated Average Amount of Time for a Person to Respond to Survey: 5.5 minutes.

Estimated Annual Survey Burden: 45.8 hours.

Dated: July 25, 2019.

Bruce Gipe,

Chief Operating Officer.

[FR Doc. 2019–16144 Filed 7–29–19; 8:45 am]

BILLING CODE 7405–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–171 and CP2019–193; MC2019–172 and CP2019–194; MC2019–173 and CP2019–195]

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:* August 1, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal

Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–171 and CP2019–193; *Filing Title:* USPS Request to Add Priority Mail Contract 540 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 24, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 1, 2019.

2. *Docket No(s).:* MC2019–172 and CP2019–194; *Filing Title:* USPS Request to Add Priority Mail Contract 541 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 24, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 1, 2019.

3. *Docket No(s).:* MC2019–173 and CP2019–195; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 96 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 24, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 1, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2019–16170 Filed 7–29–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* July 30, 2019.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 24, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 96 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–173, CP2019–195.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2019–16078 Filed 7–29–19; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Thursday, August 8, 2019, at 10:00 a.m.; and Friday, August 9, 2019, at 9:00 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza SW, in the Benjamin Franklin Room.

STATUS: Thursday, August 8, 2019, at 10:00 a.m.—Closed. Friday, August 9, 2019, at 9:00 a.m.—Open.

MATTERS TO BE CONSIDERED:

Thursday, August 8, 2019, at 10:00 a.m. (Closed)

1. Strategic Issues.
2. Financial Matters.
3. Compensation and Personnel Matters.
4. Executive Session—Discussion of prior agenda items and Board governance.

Friday, August 9, 2019, at 9:00 a.m. (Open)

1. Remarks of the Chairman of the Temporary Emergency Committee of the Board.
2. Remarks of the Postmaster General and CEO.
3. Approval of Minutes of Previous Meetings.
4. Committee Reports.
5. Quarterly Financial Report.
6. Quarterly Service Performance Report.

A public comment period will begin immediately following the adjournment of the open session on August 9, 2019. During the public comment period, which shall not exceed 30 minutes, members of the public may comment on any item or subject listed on the agenda for the open session above. Registration of speakers at the public comment period is required. Speakers may register online at *https://www.surveymonkey.com/r/BOG-8-9-19.* Onsite registration will be available until thirty minutes before the meeting starts. No more than three minutes shall be allotted to each speaker. The time allotted to each speaker will be determined after registration closes. Participation in the public comment period is governed by 39 CFR 232.1(n).

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Acting Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Acting Secretary.

[FR Doc. 2019–16342 Filed 7–26–19; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33576; 812–15026]

Liquid Strategies, LLC and Listed Funds Trust

July 24, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies that operate as exchange-traded funds (''ETFs'') (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure; and (g) the Funds to issue shares in less than Creation Unit size to investors participating in a distribution reinvestment program.

APPLICANTS: Liquid Strategies, LLC (''Initial Adviser''), a limited liability company organized under the laws of the state of Delaware that will be registered as an investment adviser under the Investment Advisers Act of 1940, and Listed Funds Trust (''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

FILING DATES: The application was filed on April 29, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 19, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants, c/o Kent P. Barnes, U.S. Bancorp Fund Services, LLC, 615 E Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Elizabeth Miller, Senior Counsel, at (202) 551–8707, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed ETFs.[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only (other than pursuant to a distribution reinvestment program described in the application). All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Instruments''). Each Fund will disclose on its website the identities and quantities of the Portfolio Instruments that will form the basis for the Fund's calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units only and generally on an in-kind basis, or issued in less than Creation Unit size to investors participating in a distribution reinvestment program. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Instruments and that effect creations and redemptions of

[1] Applicants request that the order apply to the new series of the Trust described in the application, as well as to additional series of the Trust and any other open-end management investment companies or series thereof that currently exist or that may be created in the future (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto is included in the term ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested Order, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and (a)(2) of the Act to permit persons that are affiliated persons, or second-tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[2] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16086 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[2] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86463; File No. SR–CboeBZX–2019–065]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fee Schedule Applicable to Members and Non-Members of the Exchange Pursuant to BZX Rules 15.1(a) and (c)

July 24, 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 12, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members [4] of the Exchange pursuant to BZX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing. The text of the proposed rule change is attached [sic] as Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to modify Step-Up Tier 3.[5]

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's Fees Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, for orders priced at or above $1.00, the Exchange provides a standard rebate of $0.0020 per share for orders that add liquidity [6] and assesses a fee of $0.0025 per share for orders that remove liquidity. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

For example, pursuant to footnote 2 of the Fees Schedule, the Exchange offers five Step-Up Tiers that provide Members an opportunity to qualify for an enhanced rebate on their orders that add liquidity where they increase their relative liquidity each month over a predetermined baseline. Under the current Step-Up Tiers, a Member receives a rebate of $0.0030 (Tier 1 and Tier 2), $0.0031 (Tier 3 and Tier 4), or $0.0032 (Tier 5) per share for qualifying orders which yield fee codes B,[7] V,[8] or Y [9] if the corresponding required criteria per tier is met.[10] Step-Up Tiers 1–5 also each require that Members reach certain Step-Up Add TCV thresholds. As currently defined in the BZX Equities fee schedule, Step-Up Add TCV means ADAV [11] as a percentage of TCV [12] in the relevant baseline month subtracted from current ADAV as a percentage of TCV.[13] The Exchange notes that step-up tiers are designed to encourage Members that provide displayed liquidity on the Exchange to increase their order flow, which would benefit all Members by providing greater execution opportunities on the Exchange.

The Exchange now proposes to modify Step-Up Tier 3 to update the predetermined baseline, ease the ADAV threshold and increase the corresponding rebate. Currently, Step-Up Tier 3 provides that a Member will receive a rebate of $0.0031 per share for their qualifying orders which yield fee codes B, V, or Y where the (1) MPID has a Step-Up Add TCV from January 2018 greater or equal to 0.30% and (2) MPID has an ADAV as a percentage of TCV greater than or equal to 0.45%. The Exchange proposes to modify the required criteria to provide that the Member must have an MPID that (1) has a Step-Up Add TCV from May 2019 (instead of January 2018) greater than or equal to 0.10% (instead of 0.30%) and (2) has an ADAV as a percentage of TCV greater than or equal to 0.25% (instead of 0.45%). The Exchange also proposes to increase the rebate from $0.0031 per share to $0.0032 per share. The proposed changes intend to ease the tier's current criteria and use a more recent month for the predetermined baseline, which the Exchange believes is more representative of current volume trends for market participants. The Exchange hopes these changes will encourage those Members who could not achieve the tier previously to increase their order flow as a means to receive the tier's enhanced (and increased) rebate. To achieve the Step-Up Tier 3, even as modified, Members are still required to increase the amount of liquidity that they provide on BZX on an MPID basis, thereby contributing to a deeper and more liquid market, which benefits all market participants. The proposed change continues to provide Members an opportunity to receive a rebate and is designed to provide Members that provide displayed liquidity on the Exchange a further incentive to increase that order flow, which would benefit all Members by providing greater execution opportunities on the Exchange. The Exchange notes the tier, as modified, continues to be available to all Members.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[14] in general, and furthers the objectives of Section 6(b)(4),[15] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members, issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit

[5] The Exchange initially filed the proposed fee change on July 1, 2019 (SR–CboeBZX–2019–063), effective July 1, 2019. On business date July 12, 2019, the Exchange withdrew that filing and submitted this filing.

[6] Displayed Orders which add liquidity in Tape B securities receive a standard rebate of $0.0025 per share.

[7] Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of $0.0025 per share.

[8] Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of $0.0020 per share.

[9] Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of $0.0020 per share.

[10] *See* Cboe BZX U.S. Equities Fees Schedule, Footnote 2, Step-Up Tiers.

[11] ''ADAV'' means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[12] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[13] The following demonstrates how Step-Up Add TCV is calculated: In December 2018, Member A had an ADAV of 12,947,242 shares and average daily TCV was 9,248,029,751, resulting in an ADAV as a percentage of TCV of 0.14%; In February 2019, Member A had an ADAV of 46,826,572 and average daily TCV was 7,093,306,325, resulting in an ADAV as a percentage of TCV of 0.66%. Member A's Step-Up Add TCV from December 2018 was therefore 0.52% which makes Member A eligible for the existing Step-Up Tier 4 rebate. (*i.e.,* 0.66% (Feb 2019) − 0.14% (Dec 2018), which is greater than 0.50% as required by current Tier 4).

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f.(b)(5).

unfair discrimination between customers, issuers, brokers or dealers.

The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed changes to Step-Up Tier 3 are reasonable because the tier continues to provide an opportunity for Members to receive an enhanced rebate. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[17] including the Exchange,[18] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[19]

Moreover, the Exchange believes the Step-Up Tier 3 continues to be a reasonable means to encourage Members to increase their liquidity on the Exchange based on increasing their relative volume above a predetermined baseline and providing liquidity based on the ADAV threshold requirement on an MPID basis. As noted above, the proposed changes are designed to, overall, ease Step-Up Tier 3's current criteria which the Exchange hopes will encourage those Members who could not achieve the tier previously to increase their order flow as a means to receive the tier's enhanced (and increased) rebate. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that the proposed rebate is still reasonable based on the difficulty of satisfying the tier's criteria and ensures the proposed rebate and threshold appropriately reflects the incremental difficulty to achieve the existing Step-Up Tiers. The proposed rebate amount also does not represent a significant departure from the rebates currently offered under the Exchange's existing Step-Up Tiers. Indeed, the proposed rebate amount is the same offered as Step-Up Tier 5 (*i.e.,* $0.0032 per share) and only slightly higher than the rebates offered under Step-Up Tiers 1, 2, and 4 (*i.e.,* $0.0030 and $0.0031 per share).

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all Members are eligible for the proposed tier and have a reasonable opportunity to meet the tier's criteria, which is less stringent than current Step-Up Tier 3. Without having a view of Members' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any Members qualifying for this tier. However, based on this month's data to date, the Exchange expects two or more Members would be able to satisfy the tier as amended (whereas if Step-Up Tier 3 were unchanged, only one Member would be expected to satisfy the current criteria). The Exchange believes the proposed lower ADAV requirement and proposal to use May 2019 as the predetermined baseline would provide an incentive for additional market participants to increase their adding liquidity each month in order to meet the new requirements and receive the increased rebate. The Exchange also notes that the proposal will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive an enhanced rebate. Furthermore, the proposed rebate would apply to all Members that meet the required criteria under Step-Up Tier 3.

[17] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step Up Tiers.

[18] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 2, Step-Up Tiers 1–4.

[19] *See e.g.,* NYSE Arca Equities, Fees and Charges, Step Up Tiers which offers rebates between $0.0022–$0.0034 per share if the corresponding required criteria per tier is met. NYSE Arca Equities' Step Up Tiers similarly require Members to increase their relative liquidity each month over a predetermined baseline.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will not impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies to all Members equally in that all Members are eligible for the proposed tier and will all receive the proposed rebate if such criteria is met. Additionally the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed tier would incentivize market participants to direct providing displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 12 other equities exchanges and off-exchange venues, including 32 alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more

[20] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

than 23% of the market share.[21] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [22] The fact that this market is competitive has also long been recognized by the courts. *In NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[23] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

[21] See Cboe Global Markets U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/*.

[22] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[23] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [24] and paragraph (f) of Rule 19b–4 [25] 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–CboeBZX–2019–065 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–065. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–065 and should be submitted on or before August 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16097 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 19b–4 and Form 19b–4, SEC File No. 270–38, OMB Control No. 3235–0045

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 19b–4 (17 CFR 240.19b–4), under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 19(b) of the Act (15 U.S.C. 78s(b)) requires each self-regulatory organization (''SRO'') to file with the Commission copies of any proposed rule, or any proposed change in, addition to, or deletion from the rules of such SRO. Rule 19b–4 implements the requirements of Section 19(b) by requiring the SROs to file their proposed rule changes on Form 19b–4 and by clarifying which actions taken by SROs

are subject to the filing requirement set forth in Section 19(b). Rule 19b–4(n) requires a designated clearing agency to provide the Commission advance notice (''Advance Notice'') of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by such clearing agency. Rule 19b–4(o) requires a registered clearing agency to submit for a Commission determination any security-based swap, or any group, category, type, or class of security-based swaps it plans to accept for clearing (''Security-Based Swap Submission''), and provide notice to its members of such submissions.

The collection of information is designed to provide the Commission with the information necessary to determine, as required by the Act, whether the proposed rule change is consistent with the Act and the rules thereunder. The information is used to determine if the proposed rule change should be approved, disapproved, suspended, or if proceedings should be instituted to determine whether to approve or disapprove the proposed rule change.

The respondents to the collection of information are SROs (as defined by Section 3(a)(26) of the Act),[1] including national securities exchanges, national securities associations, registered clearing agencies, notice registered securities future product exchanges, and the Municipal Securities Rulemaking Board.

In calendar year 2018, each respondent filed an average of approximately 39 proposed rule changes. Each filing takes approximately 41 hours to complete on average. Thus, the total annual reporting burden for filing proposed rule changes with the Commission is 67,158 hours (39 proposals per year × 42 SROs × 41 hours per filing) for the estimated future number of 42 SROs.[2] In addition to filing their proposed rule changes with the Commission, the respondents also are required to post each of their proposals on their respective websites, a process that takes approximately four hours to complete per proposal. Thus, the total annual reporting burden on respondents to post the proposals on their websites is 6,552 hours (39 proposals per year × 42 SROs × 4 hours per filing) for the estimated future number of 42 SROs. Further, the respondents are required to update their rulebooks, which they maintain on their websites, to reflect the changes that they make in each proposal they file. The total annual reporting burden for updating online rulebooks is 5,579 hours ((1,638 filings per year − 240 withdrawn filings[3] − 3 disapproved filings[4]) × 4 hours). Finally, a respondent is required to notify the Commission if it does not post a proposed rule change on its website on the same day that it filed the proposal with the Commission. The Commission estimates that SROs will fail to post proposed rule changes on their websites on the same day as the filing 16 times a year (across all SROs), and that each SRO will spend approximately one hour preparing and submitting such notice to the Commission, resulting in a total annual burden of 16 hours (16 notices × 1 hour per notice).

Designated clearing agencies have additional information collection burdens. As noted above, pursuant to Rule 19b–4(n), a designated clearing agency must file with the Commission an Advance Notice of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by such designated clearing agency. The Commission estimates that four designated clearing agencies will each submit five Advance Notices per year, with each submission taking 90 hours to complete. The total annual reporting burden for filing Advance Notices is therefore 2,250 hours (5 designated clearing agencies × 5 Advance Notices per year × 90 hours per response).

Designated clearing agencies are required to post all Advance Notices to their websites, each of which takes approximately four hours to complete. For five Advance Notices, the total annual reporting burden for posting them to respondents' websites is 100 hours (5 designated clearing agencies × 5 Advance Notices per year × 4 hours per website posting). Respondents are required to update the postings of those Advance Notices that become effective, each of which takes approximately four hours to complete. The total annual reporting burden for updating Advance Notices on the respondents' websites is 100 hours (5 designated clearing agencies × 5 Advance Notices per year × 4 hours per website posting).

Pursuant to Rule 19b–4(n)(5), the respondents are also required to provide copies of all materials submitted to the Commission relating to an Advance Notice to the Board of Governors of the Federal Reserve System (''Board'') contemporaneously with such submission to the Commission, which is estimated to take two hours. The total annual reporting burden for designated clearing agencies to meet this requirement is 50 hours (5 designated clearing agencies × 5 Advance Notices per year × 2 hours per response).

The Commission estimates that three security-based swap clearing agencies will each submit 20 Security-Based Swap Submissions per year, with each submission taking 140 hours to complete resulting in a total annual reporting burden of 8,400 hours (3 respondent clearing agencies × 20 Security-Based Swap Submissions per year × 140 hours per response). Respondent clearing agencies are required to post all Security-Based Swap Submissions to their websites, each of which takes approximately four hours to complete. For 20 Security-Based Swap Submissions, the total annual reporting burden for posting them to the three respondents' websites is 240 hours (3 respondent clearing agencies × 20 Security-Based Swap Submissions per year × 4 hours per website posting). In addition, three clearing agencies that have not previously posted Security-Based Swap Submissions on their websites may need to update their existing websites to post such filings online. The Commission estimates that each of these three clearing agencies would spend approximately 15 hours updating their existing websites, resulting in a total one-time burden of 45 hours (3 respondent clearing agencies × 15 hours per website update) or 15 hours annualized over three years.

Respondent SROs will also have to provide training to staff members using the Electronic Form 19b–4 Filing System (''EFFS'') to submit Security-Based Swap Submissions, Advance Notices, and/or proposed rule changes electronically. The Commission estimates that one newly-registered national securities exchange, one anticipated national securities exchange, and one anticipated clearing agency will spend approximately 60 hours training all staff members who will use EFFS to submit Security-Based Swap Submissions, Advance Notices, and/or proposed rule changes electronically, or 20 hours annualized over three years. The Commission also

[1] 15 U.S.C. 78c(a)(26).

[2] In 2018, there were 39 SROs. In May 2019, an additional SRO registered with the Commission (as a national securities exchange). The Commission expects two additional respondents to register during the three-year period for which this Paperwork Reduction Act extension is applicable (one as a registered clearing agency and one as a national securities exchange), bringing the total number of respondents to 42.

[3] For 39 SROs, 223 withdrawn filings equal approximately 5.72 filings per SRO. For 42 SROs, the figure would increase to 240 withdrawn filings.

[4] For 39 SROs, three disapproved filings equal approximately 0.08 filings per SRO. For 42 SROs, the figure would remain at three disapproved filings.

estimates that these newly-registered and anticipated SROs will have a one-time burden of 390 hours to draft and implement internal policies and procedures for using EFFS to make these submissions, or 130 hours annualized over three years. The Commission estimates that each of the 42 respondents will spend 10 hours each year training new compliance staff members and updating the training of existing compliance staff members to use EFFS, for a total annual burden of 420 hours (42 respondent SROs × 10 hours).

In connection with Security-Based Swap Submissions, counterparties may apply for a stay from a mandatory clearing requirement under Rule 3Ca–1. The Commission estimates that each clearing agency will submit five applications for stays from a clearing requirement per year and it will take approximately 18 hours to retrieve, review, and submit each application. Thus, the total annual reporting burden for the Rule 3Ca–1 stay of clearing requirement would be 270 hours (3 respondent clearing agencies × 5 stay of clearing applications per year × 18 hours to retrieve, review, and submit the stay of clearing information).

Based on the above, the total estimated annual response burden pursuant to Rule 19b–4 and Form 19b–4 is the sum of the total annual reporting burdens for filing proposed rule changes, Advance Notices, and Security-Based Swap Submissions; training staff to file such proposals; drafting, modifying, and implementing internal policies and procedures for filing such proposals; posting each proposal on the respondents' websites; updating websites to enable posting of proposals; updating the respondents' online rulebooks to reflect the proposals that became effective; submitting copies of Advance Notices to the Board; and applying for stays from clearing requirements, which is 91,300 hours.

Compliance with Rule 19b–4 is mandatory. Information received in response to Rule 19b–4 shall not be kept confidential; the information collected is public information.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 24, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16088 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86460; File No. SR–NYSE–2019–34]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Amend Exchange Rule 104 To Specify Designated Market Maker Requirements for Exchange Traded Products Listed on the Exchange

July 24, 2019.

On June 7, 2019, New York Stock Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 104 to specify Designated Market Maker (''DMM'') requirements for Exchange Traded Products (''ETPs'') listed on the Exchange pursuant to Exchange Rules 5P and 8P. The proposed rule change was published for comment in the **Federal Register** on June 25, 2019.[3] The Commission has received one comment on the proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is August 9, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[6] the Commission designates September 23, 2019, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2019–34).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16096 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 0–2, SEC File No. 270–572, OMB Control No. 3235–0636

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Several sections of the Investment Company Act of 1940 (''Act'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86151 (June 19, 2019), 84 FR 29908 (June 25, 2019).

[4] *See* Letter from Bernard B. Fudim, to Secretary, Commission, dated June 19, 2019.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

''Investment Company Act'') [1] give the Commission the authority to issue orders granting exemptions from the Act's provisions. The section that grants broadest authority is section 6(c), which provides the Commission with authority to conditionally or unconditionally exempt persons, securities or transactions from any provision of the Investment Company Act, or the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[2]

Rule 0–2 under the Investment Company Act,[3] entitled ''General Requirements of Papers and Applications,'' prescribes general instructions for filing an application seeking exemptive relief with the Commission for which a form is not specifically prescribed. Rule 0–2 requires that each application filed with the commission have (a) a statement of authorization to file and sign the application on behalf of the applicant, (b) a verification of application and statements of fact, (c) a brief statement of the grounds for application, and (d) the name and address of each applicant and of any person to whom questions should be directed. The Commission uses the information required by rule 0–2 to decide whether the applicant should be deemed to be entitled to the action requested by the application.

Applicants for orders can include registered investment companies, affiliated persons of registered investment companies, and issuers seeking to avoid investment company status, among other entities. Commission staff estimates that it receives approximately 184 applications per year under the Act. Although each application typically is submitted on behalf of multiple entities, the entities in the vast majority of cases are related companies and are treated as a single respondent for purposes of this analysis.

The time to prepare an application depends on the complexity and/or novelty of the issues covered by the application. We estimate that the Commission receives 25 of the most time-consuming applications annually, 125 applications of medium difficulty, and 34 of the least difficult applications. Based on conversations with applicants, we estimate that in-house counsel would spend from ten to fifty hours helping to draft and review an application. We estimate a total annual hour burden to all respondents of 5,340 hours [(50 hours × 25 applications) + (30 hours × 125 applications) + (10 hours × 34 applications)].

Much of the work of preparing an application is performed by outside counsel. The cost outside counsel charges applicants depends on the complexity of the issues covered by the application and the time required for preparation. Based on conversations with attorneys who serve as outside counsel, the cost ranges from approximately $10,000 for preparing a well-precedented, routine application to approximately $150,000 to prepare a complex and/or novel application. This distribution gives a total estimated annual cost burden to applicants of filing all applications of $14,090,000 [(25 × $150,000) + (125 × $80,000) + (34 × $10,000)].

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

This collection of information is necessary to obtain a benefit and will not be kept confidential. 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 public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: July 24, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16090 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 80a–1 *et seq.*

[2] 15 U.S.C. 80a–6(c).

[3] 17 CFR 270.0–2.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86464; File No. SR–CboeBZX–2019–064]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fee Schedule Applicable to Members and Non-Members of the Exchange Pursuant to BZX Rules 15.1(a) and (c)

July 24, 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 11, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the fee schedule applicable to Members and non-Members [4] of the Exchange pursuant to BZX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing. The text of the proposed rule change is attached [sic] as Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Member is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' See Exchange Rule 1.5(n).

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to adopt a new Total Volume tier.[5]

The Exchange first notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of several equities venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange's Fees Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Particularly, for securities at or above $1.00, the Exchange provides a standard rebate of $0.0020 per share for orders that add liquidity[6] and assesses a fee of $0.0025 per share for orders that remove liquidity. In response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

For example, pursuant to footnote 1 of the Fees Schedule, the Exchange offers Add Volume tiers that provide Members an opportunity to qualify for an enhanced rebate on their orders that add liquidity where they increase their relative ADAV[7] as a percentage of the TCV.[8] Under the current Add Volume tiers, a Member receives a per share rebate for qualifying orders which yield fee codes B,[9] V,[10] or Y[11] The Exchange notes that the Add Volume tiers are designed to encourage Members that provide displayed liquidity on the Exchange to increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants. The Exchange also notes that it currently does not provide for a similar tier that accounts for a Member's total volume (both liquidity adding and removing orders). The Exchange now proposes to add such a tier to its fee schedule.

Specifically, the Exchange proposes to add a new Total Volume tier under footnote 3 which would provide Members an additional opportunity to qualify for an enhanced rebate on their orders that add liquidity (*i.e.* those yielding fee code B, V, or Y). Under the proposed Total Volume tier, a Member would receive a rebate of $0.0033 per share for their qualifying orders which yield fee codes B, V, or Y where the Member has an ADV[12] that is greater or equal to 1.40% of the TCV. Members that achieve the proposed Total Volume tier must therefore increase their overall order flow, both adding and removing liquidity, as a percentage greater than or equal to 1.40% of the TCV. The Exchange believes the proposed enhanced rebates for both liquidity adding and removing orders incentivizes increased overall order flow to the Book. The proposed tier provides both liquidity providing Members and Members executing on the Exchange an additional opportunity to receive a rebate. It is designed to provide Members that provide displayed liquidity on the Exchange a further incentive to contribute to a deeper, more liquid market, and Members executing on the Exchange an incentive to increase transactions and take such execution opportunities provided by such increased liquidity. The Exchange believes that this, in turn, benefits all Members by contributing towards a robust and well-balanced market ecosystem. The Exchange notes the proposed tier is available to all Members.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[13] in general, and furthers the objectives of Section 6(b)(4),[14] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)[15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed tier is reasonable because it provides an additional opportunity for Members to receive an enhanced rebate by reaching the proposed threshold by means of liquidity adding and removing orders. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by

[5] The Exchange initially filed the proposed fee change on July 1, 2019 (SR–CboeBZX–2019–061). On business date July 11, 2019, the Exchange withdrew that filing and submitted this filing.

[6] Displayed Orders which add liquidity in Tape B securities receive a standard rebate of $0.0025 per share.

[7] ''ADAV'' means average daily volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

[8] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[9] Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of $0.0025 per share.

[10] Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of $0.0020 per share.

[11] Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of $0.0020 per share.

[12] ''ADV'' means the average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f.(b)(5).

exchanges,[16] including the Exchange,[17] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several maker-taker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.[18]

Moreover, the Exchange believes the proposed Total Volume tier is a reasonable means to encourage Members to increase their overall order flow to the Exchange based on increasing their daily total volume (ADV) above a percentage of the total volume (TCV). Particularly, the Exchange believes that adopting a Total Volume tier based on a Member's adding and removing orders will encourage liquidity providing Members to provide for a deeper, more liquid market, and Members executing on the Exchange to increase transactions and take such execution opportunities provided by increased liquidity. In turn, these increases benefit all Members by contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The proposed rebate amount also does not represent a significant departure from the rebates currently offered, or required criteria, under the Exchange's existing tiers. For example, the rebate amount offered under existing Add Volume Tier 6 (also applicable to orders yielding fee code B, V, or Y), for which a Member must have a daily volume add (ADAV) of 1.25% or greater than the TCV to receive a rebate of $0.0032 per share. The Exchange believes the proposed tier is in line with this existing tier, as the natural next highest rebate for a related Add Volume tier would be $0.0033 for daily add volume at a percentage anywhere greater than 1.25% of the TCV. The Exchange, however, notes that it instead proposes this same rebate for reaching a daily add or remove volume at percentage greater than 1.25% (*i.e.* 1.40%, as proposed), which, as stated, incentivizes overall order flow (liquidity providing and liquidity taking orders) to the Exchange.

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all Members are eligible for the proposed Total Volume tier, and would have the opportunity to meet the tier's criteria and would receive the proposed rebate if such criteria is met. Given previous months' data, the Exchange notes that none of its Members would have reached this proposed tier in recent past months had the proposed tier been in place. Accordingly, the proposed tier is designed as an incentive applicable to all Members to submit additional order flow in order to meet the new criteria and achieve the proposed rebate. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for this tier. However, the Exchange believes multiple Member types will be able to achieve the proposed tier, including liquidity providers and broker-dealers, each providing distinct types of order flow to the Exchange to the benefit of all market participants. For example, broker-dealer customer order flow provides more trading opportunities, which attracts Market Makers. Increased Market Maker activity facilitates tighter spreads which potentially increases order flow from other market participants. The Exchange also notes that the proposed tier will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive an enhanced rebate. Furthermore, the proposed rebate would uniformly apply to all Members that meet the required criteria under proposed Total Volume tier.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [19]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change applies to all Members equally in that all Members are eligible for the proposed tier, have a reasonable opportunity to meet the tier's criteria and will all receive the proposed rebate if such criteria is met. Additionally the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed tier would incentivize market participants to direct both liquidity providing and executable order flow to the Exchange. Greater overall order flow benefits all market participants on the Exchange by providing more trading opportunities and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem, which benefits all market participants.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in

[16] *See e.g.,* The Nasdaq Stock Market LLC Rules, Equity 7, Sec. 118, which generally provides for rebates (or discounts) for participant adding and removing orders that together reach certain thresholds of the TCV.

[17] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1, Add Volume Tier, Market Depth Tier, which has an ADV component to its required criteria.

[18] *See e.g.,* The Nasdaq Stock Market LLC Rules, Equity 7, Sec. 118. Particularly, Nasdaq offers a rebate of $0.0029 per share where a Member has (i) shares of liquidity accessed in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.70% of Consolidated Volume during the month, and (ii) shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.50% of Consolidated Volume during the month.

[19] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 12 other equities exchanges and off-exchange venues, including 32 alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 23% of the market share.[20] Therefore, no exchange possesses significant pricing power in the execution of option [sic] order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [21] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[22] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[20] See Cboe Global Markets U.S. Equities Market Volume Summary (June 28, 2019), available at *http://markets.cboe.com/us/equities/market_share/.*

[21] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[22] NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [23] and paragraph (f) of Rule 19b–4 [24] 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–CboeBZX–2019–064 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–064 and should be submitted on or before August 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16098 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86457; File No. SR–LCH SA–2019–004]

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendments No. 1 and No. 2, Relating to the Extension to Clients of CDSClear of the Fee Applicable by LCH SA on the Amount of Allocated Securities Collateral

July 24, 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 9, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

have been prepared by LCH SA. On July 10, 2019, LCH SA filed Amendment No. 1 to the proposed rule change.[3] On July 24, 2019, LCH SA filed Amendment No. 2 to the proposed rule change.[4] LCH SA filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[5] and Rule 19b–4(f)(2)[6] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendments No. 1 and No. 2 (hereafter referred to as the ''proposed rule change''), from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The proposed rule change will extend to the clients of LCH SA CDSClear service the current fee applicable on the amount of allocated securities collateral posted by any clearing member or any other client of LCH SA.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

1. Purpose

As specified in the table below, the current LCH SA fee grid charges a 10bp fee on the amount of allocated securities collateral, except for clients of LCH SA CDSClear service, which are free of charge.

CURRENT LCH SA CDSCLEAR COLLATERAL FEE GRID

Currency	Unsecured overnight index	Cash collateral fee/spread	
		House	Client
EUR	EONIA	30 bps	15 bps.
GBP	SONIA	35 bps	20 bps.
USD	FEDFUND	30 bps	15 bps.
Allocated securities collateral fee/spread		House	Client
		10 bps	Free of charge.

The purpose of the proposed fee change is to align the CDSClear fee grid with other LCH SA business lines and introduce a new fee amount for securities collateral posted by CDSClear clients.

No amendments to the LCH SA CDS Clearing Rules are required to effect these changes.

As specified in Exhibit 5, the proposed change is for LCH SA CDSClear to charge a 10bp fee on the amount of allocated securities posted as collateral by the clients using CDSClear service.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.[7]

LCH SA believes that proposing such clearing fee change is consistent with the requirements of Section 17A of the Act[8] and the regulations thereunder applicable to it, and in particular provides for the equitable allocation of reasonable fees, dues, and other charges among clearing members and market participants by ensuring that clearing members and clients pay reasonable fees and dues for the services provided by LCH SA, within the meaning of Section 17A(b)(3)(D) of the Act.

The proposed clearing fee change is already applicable by LCH SA on the amount of allocated securities collateral posted by all clearing members and clients of Non-US Business'.[9] The objective is to extend it to clients using CDSClear service and apply it equally to all market participants within the CCP.

Further, LCH SA believes that the proposed fee amount is reasonable and has been set up at an appropriate level given the costs, expenses and revenues (to be) generated to LCH SA in providing such services.

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[10]

LCH SA does not believe that the proposed rule change would impose any burden on competition, as it is already applicable within the CCP and will also be extended to clients using CDSClear service for consistency purposes.

Additionally, the proposed fee change will apply equally to all CDSClear clearing members and clients as well and does not adversely affect the ability of such clients or other market participants generally to engage in cleared transactions or to access clearing services.

Further, LCH SA believes that the fee amount has been set up at an appropriate level given the costs and

[3] Amendment No. 1 corrected a technical issue with the initial filing of the proposed rule change but did not make any changes to the substance of the filing or the text of the proposed rule change.

[4] Amendment No. 2 provided a confidential Exhibit 3 to further substantiate statements made in the filing but did not make any changes to the substance of the filing or the text of the proposed rule change.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(2).

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] 15 U.S.C. 78q–1.

[9] See the definition under Order Granting Application for Registration as a Clearing Agency and Request for Exemptive Relief, Order, Securities Exchange Act Release No. 34–79707; File No. 600–36 (Dec. 29, 2016), 82 FR 1398 (Jan. 5, 2017) (available at *https://www.federalregister.gov/documents/2017/01/05/2016-31940/self-regulatory-organizations-lch-sa-order-granting-application-for-registration-as-a-clearing*).

[10] 15 U.S.C. 78q–1(b)(3)(I).

expenses to LCH SA in offering the relevant clearing services.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received but a consultation has been conducted with and feedback sought from CDSClear members. No comment or question has been received following this consultation. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(2)[12] thereunder because it establishes a fee or other charge imposed by LCH SA on its Clearing Members. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

- 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–LCH SA–2019–004 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–LCH SA–2019–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at *https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0.* 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–LCH SA–2019–004 and should be submitted on or before August 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16094 Filed 7–29–19; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86447; File No. SR–BX–2019–026]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees and Credits at Equity 7, Section 118(a)

July 24, 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 11, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees and credits at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 operates on the ''taker-maker'' model, whereby it generally pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange has a schedule, at Equity 7, Section 118(a), which consists of several different credits that it provides for orders in securities priced at $1 or more per share that access liquidity on the Exchange and several different charges that it assesses for orders in such securities that add liquidity on the Exchange.

As a result of a recent rule change,[3] the Exchange presently offers a different system of credits and charges for orders in securities in Tapes A and C than it does for orders in securities in Tape B. The recent changes that the Exchange made to its credits and charges for orders in securities in Tape B, including

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–85912 (May 22, 2019); 84 FR 24834 (May 29, 2019) (SR–BX–2019–013).

increases in the liquidity removal credits offered for such orders, have proven to be successful in increasing liquidity removal activity on the Exchange and in making the Exchange a more attractive market for Tape B securities.

The Exchange now proposes to replicate this success for orders in securities in Tapes A and C while also building on it with respect to orders in securities in Tape B. Specifically, the Exchange proposes to replace, in large part, its existing schedule of credits and charges with a new schedule that is simpler, flatter, and which offers members more robust incentives to increase their liquidity removal activity in securities in all Tapes.

Description of the Changes

Credits for Accessing Liquidity Through the Exchange

The Exchange proposes to eliminate its schedule of existing credits (except as described below) and replace it with a new schedule of credits for orders in securities in all Tapes that remove liquidity from the Exchange (the ''New Credits''). Generally speaking, the proposed New Credits will be higher than the existing credits,[4] higher than the existing credits for the same qualifying criteria,[5] or they will have qualifying criteria which will be more readily achievable than the existing credits. The Exchange believes that higher overall credits will incentivize members to increase their liquidity removal activity in securities in all Tapes. In certain instances, moreover, the availability of the proposed New Credits will also be tied to the level of a member's liquidity adding activity as a means of incentivizing liquidity adding activity even as the Exchange proposes to increase its charges for orders that add liquidity.

Specifically, the Exchange proposes to adopt the following New Credits:

- $0.0027 per share executed for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that: (i) Adds liquidity equal to or exceeding 0.03% of total Consolidated Volume[6] during a month; and (ii) accesses liquidity equal to or exceeding 0.25% of total Consolidated Volume during a month.
- $0.0025 per share executed for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.07% of total Consolidated Volume during month.
- $0.0015 per share executed credit for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that adds liquidity equal to or exceeding an average daily volume of 50,000 shares in a month.

As noted above, the proposed New Credits will not supplant all of the existing credits. Instead, the Exchange proposes that the following existing credits will continue to apply to orders in securities in all Tapes:

- $0.0000 per share executed for an order that receives price improvement and executes against an order with a Non-displayed price; and
- $0.0000 per share executed for an order with Midpoint pegging that removes liquidity.

The Exchange also proposes to continue charging a fee of $0.0003 per share executed for an order in securities in any Tape (excluding an order with midpoint pegging and excluding an order that receives price improvement and executes against an order with a non-displayed price) that removes liquidity from the Exchange and that is entered by a member that does not add at least an average daily volume of 50,000 shares to the Exchange during a month.

Charges for Adding Liquidity to the Exchange

As a means of offsetting the costs of providing the New Credits, the Exchange proposes to largely replace its existing schedule of charges with a new schedule of charges for displayed and non-displayed orders in securities in all Tapes that add liquidity to the Exchange (the ''New Charges''). Generally speaking, the proposed New Charges will be higher than the existing charges.[7]

Specifically, the Exchange proposes to delete all of the existing charges for providing liquidity through the Exchange (except as provided below) and replace them with the following New Charges:

- $0.0025 per share executed charge for a displayed order entered by a member that adds liquidity equal to or exceeding 0.25% total Consolidated Volume during a month;
- $0.0028 per share executed charge for a non-displayed order (other than orders with Midpoint pegging) entered by a member that adds liquidity equal to or exceeding 0.25% total Consolidated Volume during a month;
- $0.0030 per share executed charge for all other non-displayed orders; and
- $0.0029 per share executed charge for all other orders.

The Exchange proposes that following existing charges will continue to apply to orders in securities in all Tapes:

- $0.0005 per share executed for an order with Midpoint pegging entered by a member that adds 0.02% of total Consolidated Volume of non-displayed liquidity excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;
- $0.0015 per share executed for an order with Midpoint pegging entered by entered by other member excluding a buy (sell) order that receives an execution price that is lower (higher) than the midpoint of the NBBO;

[4] Whereas the highest credit under the existing schedule is $0.0026 per share executed for orders in securities in Tape B and $0.0018 per share executed for orders in securities in Tapes A and C, the top credit in the proposed schedule for orders in securities in all Tapes is $0.0027 per share executed.

The Exchange notes that, whereas under the existing schedule, the Exchange provides a $0.0024 per share executed credit for orders in securities in Tape B that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a non-displayed price) entered by members that add at least an average daily volume of 50,000 shares to the Exchange during a month, the proposed schedule will provide a lower credit of $0.0015 per share executed for the same level of activity.

[5] For example, whereas the existing schedule provides a $0.0001 per share executed credit for orders in securities in Tapes A and C that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a non-displayed price) entered by members that add at least an average daily volume of 50,000 shares to the Exchange during a month, the proposed schedule will provide a credit of $0.0015 per share executed for the same level of activity.

[6] The term ''Consolidated Volume'' means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member's trading activity. *See* Equity 7, Section 118(a).

[7] Whereas under the existing schedule, other than for midpoint pegging orders, the Exchange charges between $0.0014 and $0.0030 per share executed for orders in Tapes A and C and between $0.0026 and $0.0030 per share executed for orders in Tape B that add liquidity to the Exchange, the proposed schedule will charge fees ranging from $0.0025 to $0.0030 per share executed for orders in securities in all Tapes (entered by members that add designated volumes of liquidity).

• $0.0024 per share executed for a buy (sell) order with Midpoint pegging that receives an execution price that is lower (higher) than the midpoint of the NBBO; and

• charges for entering BSTG, BSCN, BMOP, BTFY, BCRT, BDRK, BCST, and SCAR orders that execute in a venue other than the Nasdaq BX Equities System.

Applicability to and Impact on Participants

The proposed rule change is a broad restatement of the Exchange's schedule of credits and charges. The Exchange has designed the restated schedule to increase liquidity removal activity on the Exchange for orders in securities in all Tapes and to thereby improve the overall quality and attractiveness of the Nasdaq BX market. The Exchange intends to accomplish this objective by providing overall higher credits to those participants that engage in large volumes of liquidity removal activity on the Exchange, while offsetting the costs of the higher credits by charging participants higher fees for adding liquidity to the Exchange.

Those participants that act as net removers of liquidity from the Exchange will benefit directly from the proposed rule change through the receipts of higher credits. Those participants that act as net adders of liquidity to the Exchange will also benefit indirectly from any improvement in the overall quality of the market. However, net liquidity adders will bear the costs of higher fees for adding liquidity to the Exchange. The Exchange notes that its proposal is not otherwise targeted at or expected to be limited in its applicability to a specific segment(s) of market participants nor will it apply differently to different types of market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal Is Reasonable

The Exchange's proposed change to its schedule of credits and charges is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [10]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several taker-maker exchanges. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.[12]

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.[13] Separately, the Exchange has provided the SEC staff with multiple examples of instances where pricing changes by BX and other exchanges have resulted in shifts in exchange market share. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange has designed its proposed schedule of credits and charges to provide increased overall incentives to members to increase their liquidity removal activity on the Exchange, and to do so broadly in orders in securities in all Tapes. An increase in overall liquidity removal activity on the Exchange will, in turn, improve the quality of the Nasdaq BX market and increase its attractiveness to existing and prospective participants. Generally, the proposed New Credits will be comparable to, if not favorable to, those that its competitors provide.[14]

Meanwhile, the Exchange believes that it is reasonable to offset the costs of providing the New Credits by increasing its charges for members that add liquidity to the Exchange. Although the New Charges will be higher, in many cases, than the existing charges, the Exchange believes that the New Charges will continue to be comparable to liquidity adding charges imposed by its competitors.[15] That said, the Exchange

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] CBOE EDGA provides a standard rebate for liquidity removers of $0.0024 per share executed (or $0.0026 per share executed if a member qualifies for a volume tier), and a standard charge of $0.0030 per share executed for liquidity adders (or between $0.0022 and $0.0026 if a member qualifies for a volume tier). NYSE National has a range of rebates from $0.0010 to $0.0020 per share executed for liquidity removers, and a range of charges from $0.0008 to $0.0027 per share executed for liquidity adders. CBOE BYX provides standard rebates for liquidity removers of $0.0005 per share executed and a range of tiered rebates from $0.0015 to $0.0017 per share executed for liquidity removers; it imposes standard charges ranging from $0.00190 to $0.0030 per share executed and tiered charges ranging from $0.0012 to $0.0014 per share executed for liquidity adders.

[13] The Exchange perceives no regulatory, structural, or cost impediments to market participants shifting order flow away from it. In particular, the Exchange notes that these examples of shifts in liquidity and market share, along with many others, have occurred within the context of market participants' existing duties of Best Execution and obligations under the Order Protection Rule under Regulation NMS.

[14] *See* n. 12, *supra.*

[15] *See id.*

again notes that those participants that do not wish to pay the costs of increased charges are free to shift their order flow to competing venues that offer them lower charges.

The Proposal Is an Equitable Allocation of Credits

The Exchange believes its proposal will allocate its New Credits and New Charges fairly among its market participants. The proposal will flatten and simplify the Exchange's schedule of credits and charges, including by reducing the number of credit and fee tiers and by eliminating tiers, such as growth tiers.

Moreover, it is equitable for the Exchange to increase its overall credits to participants whose orders remove liquidity from the Exchange as a means of incentivizing increased liquidity removal activity and to do so broadly in orders in securities in all Tapes. An increase in overall liquidity removal activity on the Exchange will improve the quality of the Nasdaq BX market and increase its attractiveness to existing and prospective participants.

Likewise, the Exchange believes it is equitable to increase its charges for orders entered by members that add liquidity to the Exchange as a means of offsetting the costs of providing the New Credits. Although participants that are net adders of liquidity to the Exchange will bear the costs of the New Charges, these participants will also benefit from any improvements in the quality and attractiveness of the market that the New Credits provide. Moreover, any participant that wishes to avoid paying higher charges for adding liquidity to the Exchange is free to shift their order flow to competing venues that charge lower fees.

The Proposed Fee Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

The Exchange intends for the proposal to improve market quality for all members on the Exchange and by extension attract more liquidity to the market, improving market wide quality and price discovery. Although net removers of liquidity will benefit most from the proposed increase in credits and charges, this result is fair insofar as increased liquidity removal activity will help to improve market quality and the attractiveness of the Nasdaq BX market to all existing and prospective participants. And although net adders of liquidity to the Exchange will bear the costs of the proposed rule change, this too is fair because net adders of liquidity will also benefit from improvements in market quality. Moreover, any participant that does not wish to pay higher charges to add liquidity to the Exchange is free to shift its order flow to a competing venue.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. As noted above, all members of the Exchange will benefit from an increase in the removal of liquidity by those that choose to meet the tier qualification criteria. Members may grow their businesses so that they have the capacity to receive the higher credits. Moreover, members are free to trade on other venues to the extent they believe that the fees assessed and credits provided are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. The Exchange notes that the tier structure is consistent with broker-dealer fee practices as well as the other industries, as described above.

Intermarket Competition

Addressing whether the proposed fee could impose a burden on competition on other SROs that is not necessary or appropriate, the Exchange believes that its proposed modifications to its schedule of credits and charges will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other 12 live exchanges and from off-exchange venues, which include 32 alternative trading systems. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed restated schedule of credits and charges is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprised more than 37% of industry volume for the month of April 2019.

The Exchange intends for the proposed changes, in the aggregate, to increase member incentives to remove liquidity from the Exchange while maintaining adequate incentives for members to continue to add meaningful levels of liquidity to the Exchange. The Exchange proposes to achieve these objectives by replacing the existing schedule of credits with a simpler, flatter, and more generous schedule of credits. It also intends to replace its existing schedule of charges with a schedule of New Charges to offset the costs of the New Credits.

In the aggregate, all of these changes are procompetitive and reflective of the Exchange's efforts to make it an attractive and vibrant venue to market participants.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–BX–2019–026 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2019–026. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2019–026 and should be submitted on or before August 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16093 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–601, OMB Control No. 3235–0673]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15c3–5

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c3–5 (17 CFR 240.15c3–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15c3–5 under the Exchange Act requires brokers or dealers with access to trading directly on an exchange or alternative trading system (''ATS''), including those providing sponsored or direct market access to customers or other persons, to implement risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of this business activity.

The rule requires brokers or dealers to establish, document, and maintain certain risk management controls and supervisory procedures as well as regularly review such controls and procedures, and document the review, and remediate issues discovered to assure overall effectiveness of such controls and procedures. Each such broker or dealer is required to preserve a copy of its supervisory procedures and a written description of its risk management controls as part of its books and records in a manner consistent with Rule 17a–4(e)(7) under the Exchange Act. Such regular review is required to be conducted in accordance with written procedures and is required to be documented. The broker or dealer is required to preserve a copy of such written procedures, and documentation of each such review, as part of its books and records in a manner consistent with Rule 17a–4(e)(7) under the Exchange Act, and Rule 17a–4(b) under the Exchange Act, respectively.

In addition, the Chief Executive Officer (or equivalent officer) is required to certify annually that the broker or dealer's risk management controls and supervisory procedures comply with the rule, and that the broker-dealer conducted such review. Such certifications are required to be preserved by the broker or dealer as part of its books and records in a manner consistent with Rule 17a–4(b) under the Exchange Act. Compliance with Rule 15c3–5 is mandatory.

Respondents consist of broker-dealers with access to trading directly on an exchange or ATS. The Commission estimates that there are currently 570 respondents. To comply with Rule 15c3–5, these respondents will spend a total of approximately 91,200 hours per year (160 hours per broker-dealer × 570 broker-dealers = 91,200 hours). At an average internal cost per burden hour of approximately $358.51, the resultant total related internal cost of compliance for these respondents is $32,696,340 per

year (91,200 burden hours multiplied by approximately $358.51/hour). In addition, for hardware and software expenses, the Commission estimates that the average annual external cost would be approximately $20,500 per broker-dealer, or $11,685,000 in the aggregate ($20,500 per broker-dealer × 570 brokers and dealers = $11,685,000).

Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 24, 2019.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16089 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86458; File No. SR–NYSEARCA–2019–52]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

July 24, 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 11, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective July 11, 2019.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to modify the criteria for Market Makers to qualify for enhanced posting credits in Penny Pilot issues and SPY (the ''Penny Credit Tiers''). Specifically, to encourage Market Makers and Lead Market Makers (collectively, ''Market Makers'') to direct orders and quotes to the Exchange, this proposed rule change would lower the minimum volume threshold that Market Makers are required to trade in order to receive the credits in the highest of the Penny Credit Tiers (*i.e.,* Super Tier II), thus making it easier to qualify for these credits. The associated per contract credit remains the same. The Exchange proposes to implement the fee changes effective July 11, 2019.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [5]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[6] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[7] Similarly, the equities markets too face stark competition, which is relevant because the Exchange offers ''cross-asset pricing,'' which is designed to incentivize participants to execute a certain amount of volume on both the Exchange's equities and options platform. As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' Indeed, equity trading is currently dispersed across 13 exchanges, 32 alternative trading systems, and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume). Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in the first quarter of 2019, the Exchange averaged less than 9%

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange filed to amend the Fee Schedule for effectiveness on July 1, 2019, (SR–NYSEArca–2019–48) and withdrew such filing on July 11, 2019.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[6] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[7] Based on OCC data, *see id.,* the Exchange's market share in equity-based options declined from 9.57% for the month of January to 9.52% for the month of April.

market share of executed volume of equity trades (excluding auction volume).

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. And, as such, the Exchange has employed cross-asset pricing to encourage Market Makers and their and their affiliated or Appointed OFP(s) (collectively, their OFP(s)) to direct volume to both NYSE Arca Options (''Arca Options'') and NYSE Arca Equity (''Arca Equity'').[8] The Exchange notes that others Exchanges offer tiers with cross-asset criteria requirements.[9]

In response to this competitive environment, the Exchange has established incentives to encourage Market Makers to provide liquid and active markets on the Exchange, including the Penny Credit Tiers. Pursuant to the Penny Credit Tiers, Market Makers receive additional credits (beyond the base credit of $0.28 per contract) if their trading exceeds certain minimum volume thresholds on the Exchange.[10] To receive these additional credits, Market Makers may aggregate their volume traded on Arca Options and Arca Equities with any of their OFP(s). By allowing Market Makers to include these other participants' trading volume in calculating the Market Makers' eligibility for additional credits, Market Makers may encourage an increased level of activity from these other participants.

Super Tier II has the highest volume requirements, includes cross-asset pricing, and the largest associated credit ($0.42 per contract) of the Penny Credit Tiers. The Exchange is proposing to modify the minimum options volume threshold for one of the Super Tier II qualification methods.

Proposed Rule Change

The Exchange proposes to modify one of the qualification volume thresholds for Super Tier II, and will not modify the $0.42 per contract credit associated with this Tier. Specifically, the Exchange proposes to change the method of qualifying for Super Tier II that currently requires:

- A Market Maker to trade at least 0.20% of Total Customer Average Daily Volume (''TCADV'') [11] on the Exchange against such Market Maker's posted interest in all issues (the ''options threshold''), and
- A Market Maker and its OFP(s) [12] to post and trade in Tape B Securities at least 1.50% of US Tape B consolidated average daily volume (''CADV'') [13] for the billing month on the Arca Equity market (the ''equities threshold'').[14]

The Exchange proposes to reduce from 0.20% to 0.10% of TCADV for the options threshold requirement. The Exchange is not proposing to alter the equities threshold, which will remain 1.50% of US Tape B CADV.

As noted above, the Exchange operates in a competitive environment. This proposed change is designed to incent Market Makers to increase their trading volume on the Arca Equities market to qualify for Super Tier II (while making it easier to meet the options volume threshold to qualify for the based on the lower minimum threshold). The Exchange believes Market Makers may, in turn, encourage their OFPs to direct additional order flow to both the Arca Equities and Arca Options platforms. The Exchange notes that Market Makers as well as non-Market Makers stand to benefit from an increase in orders and quotes on the Exchange, which facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

This proposed fee change is targeted at Market Makers. Market Makers serve a crucial role in the options markets by providing liquidity to facilitate market efficiency and functioning. Market Makers add additional value beyond other market participants through continuous quoting and the commitment of capital. Because Market Makers have obligations and regulatory requirements that are not applicable to other market participants, the Exchange believes that the proposed change to make it easier for Market Makers to qualify for Super Tier II, is equitable and not unfairly discriminatory in light of their obligations and the costs associated therewith. The Exchange's fees are constrained by intermarket competition, as Market Makers can register on any or all of the 16 options exchanges. Thus, Market Makers that are also members of other exchanges have a choice of where they post orders and quotes. The proposed rule change is designed to incentivize Market Makers to post liquidity to the Exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for market participants. Moreover, because Market Makers are able to aggregate qualifying volume of their OFPs, Market Makers may encourage their OFPs to direct order flow to the Exchange as well as to NYSE Arca Equities, which would likewise support the quality of price discovery and transparency on the Exchange.

The Exchange cannot predict with certainty whether any Market Maker would avail themselves of this proposed fee change. Market Makers may be registered on other options exchanges and may choose to post their orders and quotes to those exchanges based on available incentives. That said, there is currently one firm that receives the Super Tier II credit under the current options (and equities) threshold(s). Assuming historical behavior can be predictive of future behavior, the Exchange believes that at least one additional firm may qualify for Super Tier II as proposed to be modified

[8] An OFP refers to any OTP that submits, as agent, orders to the Exchange, per Rule 6.1A–O(a)(21). *See* Fee Schedule, *infra* note 9, Endnote 15. An ''affiliate'' of an OTP is ''a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified,'' per Rule 1.1(a). *See id.,* Endnote 8. An ''Appointed OFP'' is an OFP that has been designated by an NYSE Arca Market Maker. *See id.,* Endnote 15.

[9] *See, e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1 and Cboe EDGX Options Exchange Fee Schedule, Footnote 4.

[10] The base credit is available for executions of Market Maker posted interest in Penny Pilot Issues and SPY and has no minimum volume threshold requirement. *See* Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS, Market Maker Penny Pilot and SPY Posting Credit Tiers, *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[11] TCADV refers to Total Industry Customer equity and ETF option average daily volume. TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options.

[12] The Fee Schedule refers to ETP Holders and not OFPs, but the relationship between a Market Maker and an ETP must be by affiliation or appointment in order to allow volume to be aggregated. *See* Fee Schedule, *supra* note 10, Endnote 15.

[13] CADV means Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in CADV.

[14] The Exchange is not modifying the other two bases for a Market Maker to receive the enhanced credit under Super Tier II, which require (1) a Market Maker to trade at least 0.10% of TCADV on the Exchange against such Market Maker's posted interest in all issues, and the Market Maker and its OFP, collectively, post and trade at least 0.42% ADV of Retail Orders of U.S. Equity Market Share Posted on the Arca Equity market; or (2) a Market Maker to trade at least 1.60% of TCADV on the Exchange against such Market Maker's interest in all issues, with at least 0.90% of TCADV from such Market Maker's posted interest in all issues.

herein. The Exchange believes the proposed lower options threshold (with the equity volume threshold unchanged and the same $0.42 per contract credit) would provide an incentive for Market Makers to provide additional liquidity to the exchange to qualify for the higher Super Tier II credit.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[16] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [17]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[18] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in the first quarter of 2019, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[19] In addition, give the cross-asset component of Super Tier II, it is important to note that the equities market is likewise subject to stark competition. As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' Indeed, equity trading is currently dispersed across 13 exchanges, 32 alternative trading systems, and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume). Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in the first quarter of 2019, the Exchange averaged less than 9% market share of executed volume of equity trades (excluding auction volume).

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes that the proposed modification to Super Tier II is reasonable because reducing the options threshold makes it easier for Market Makers to qualify for the Tier, which in turn, should attract more liquidity to the Exchange (as well as to the Arca Equities market), which benefits all market participants. In addition, the Exchange believes the proposed modification would encourage participants to increase their order flow to interact with Market Maker orders and quotes, which potential increase in order flow would benefit all market participants by improving order execution and price discovery, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The Exchange cannot predict with certainty whether any Market Maker would avail themselves of this proposed fee change. Market Makers may be registered on other options exchanges and may choose to post orders and quotes to those exchanges based on available incentives. That said, there is currently one firm that receives the Super Tier II credit under the current options (and equities) threshold(s). Assuming historical behavior can be predictive of future behavior, the Exchange believes that at least one additional firm may qualify for Super Tier II as modified herein. The Exchange believes the proposed lower options threshold (with the equity volume threshold unchanged and the same $0.42 per contract credit) would provide an incentive for Market Makers to post their orders and quotes to the Exchange to qualify for the higher Super Tier II credit.

On the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The Exchange is constrained by intermarket competition, as Market Makers are free to register on any one of the 16 option exchanges. Market Makers serve a crucial role in financial markets by providing liquidity to facilitate market efficiency and price discovery. Market Makers, unlike other market participants, add additional value through continuous quoting and the commitment of capital and have specified obligations and regulatory requirements that are not required of other participants. As noted above, the Exchange is subject to competitive forces such that Market Makers may post their orders and quotes to any of the other 15 option exchanges of which they are a member. The proposed change, which is targeted at Market Makers, is designed to encourage Market Makers to post their orders and quotes to the Exchange, thereby promoting market quality, price discovery and transparency and enhancing order execution opportunities for all market participants—Marker Maker and non-Market Maker alike. Further, encouraging Market Maker activity on the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity to the benefit of all market participants.

The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more Market Maker orders and quotes to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to reduce the minimum options volume trading activity associated with Super Tier II as

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[18] *See supra* note 6.

[19] Based on OCC data, *see supra* note 7, in 2019, the Exchange's market share in equity-based options declined from 9.57% for the month of January to 9.52% for the month of April.

discussed herein because the proposed modification would be available to all similarly-situated market participants on an equal and non-discriminatory basis. Further the proposal should incent Market Makers to qualify for Super Tier II, including by increasing trading on the equities market. The Exchange notes that Market Makers are still eligible to qualify for Super Tier II under the other two existing qualification methods (*see supra* note 14). By continuing to provide such alternative (unchanged) methods to qualify for a Tier, and reducing the options threshold for one of the methods to qualify for Super Tier II, the Exchange believes the opportunities to qualify for credits is increased, which benefits all participants through increased Market Maker activity. Further, encouraging Market Maker activity on the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity.

To the extent that Market Maker activity is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[20] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [21]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed reduced options threshold to meet one of the qualifying bases of Super Tier II would continue to incentivize market participants, Market Makers in particular, to direct their orders and quotes to the Exchange. Greater liquidity benefits all market participants on the Exchange by encouraging OFPs to send orders to the Exchange which results in providing more trading opportunities for all market participants on the Exchange. The proposed reduced options threshold (and Super Tier II credit) would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

The Exchange further notes that Market Makers, unlike other market participants, add additional value through continuous quoting and the commitment of capital and are subject to unique regulatory obligations. Because other market participants do not need to occur the same costs to begin trading on the Exchange, the Exchange believes that offering the proposed fee change to Market Makers would not create an undue burden on non-Market Makers.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. Market Maker have the option of registering on more than one exchange, including NYSE Arca, and may post their orders and quotes to the most attractive venue. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. And with regard to the cross-asset component of Super Tier II, the Arca Equities exchange similarly operates in a competitive environment. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume). Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in the first quarter of 2019, the Exchange averaged less than 9% market share of executed volume of equity trades (excluding auction volume). The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to encourage Market Makers to direct trading interest to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality.

The Exchange further believes that the proposed pricing changes would increase both intermarket and intramarket competition by attracting new entrants to the Exchange at a lower fee for a limited time. By offering the reduced Covered Fees, the Exchange believes that it would retain and attract Market Makers, which participants are an integral component of the option industry marketplace. Further, the incentive would be available to all similarly-situated participants, and, as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants and may, in fact, encourage intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

[20] 15 U.S.C. 78f(b)(8).

[21] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2019–52 on the subject line.

Paper Comments

- *Send paper comments in triplicate to:* Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2019–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–52 and should be submitted on or before August 20, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–16095 Filed 7–29–19; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16047 and #16048; PENNSYLVANIA Disaster Number PA–00098 Administrative]

Declaration of a Disaster for the State of PENNSYLVANIA

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of PENNSYLVANIA dated 07/22/2019.

Incident: Flash Flooding.

Incident Period: 06/20/2019 through 06/21/2019.

DATES: Issued on 07/22/2019.

Physical Loan Application Deadline Date: 09/20/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 04/22/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Berks

Contiguous Counties:

Pennsylvania: Chester, Lancaster, Lebanon, Lehigh, Montgomery, Schuylkill

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.875
Homeowners Without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	8.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16047 6 and for economic injury is 16048 0.

The States which received an EIDL Declaration # are Pennsylvania.

(Catalog of Federal Domestic Assistance Number 59008.)

Christopher Pilkerton,

Acting Administrator.

[FR Doc. 2019–16139 Filed 7–29–19; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 10828]

30-Day Notice of Proposed Information Collection: Office of Language Services Contractor Application; Correction

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information; correction.

SUMMARY: The Department of State published a **Federal Register** Notice on July 17, 2019 that incorrectly identified this collection request. The Notice type of request was an ''Extension of a Currently Approved Collection''. This document corrects the ''Type of Request'' to a ''Revision of a Currently Approved Collection''.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Wanda Lyles Howell, who may be reached on 202–261–8791 or at *lyleswm2@state.gov.*

Correction

In the **Federal Register**, published on July 16, 2019, in FR Doc. 2019–15042, on page 34042, in the first column, the correct ''Type of Request'' is a ''Revision of a Currently Approved Collection''.

Katherine H. Yemelyanov,

Acting Director.

[FR Doc. 2019–16180 Filed 7–29–19; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice: 10832]

Biodiversity Beyond National Jurisdiction; Meeting

ACTION: Notice of public meeting.

SUMMARY: The Department of State will hold an information session regarding upcoming United Nations negotiations concerning marine biodiversity in areas beyond national jurisdiction.

DATES: The public meeting will be held on August 7, 2019, 2:00–3:00 p.m.

ADDRESSES: The meeting will be held at the Harry S. Truman Main State Building, Room 3940, 2201 C Street NW, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: If you would like to participate in this meeting, please send your (1) name, (2) organization/affiliation, and (3) email address and phone number, as well as any requests for reasonable accommodation, to Elana Mendelson at *Katz-MinkEH@state.gov* or 202–647–1073.

SUPPLEMENTARY INFORMATION: The United Nations will convene the third session of an Intergovernmental Conference (IGC) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) on August 19–August 30, 2019, in New York City. The UN General Assembly established the IGC to consider the recommendations of a two-year Preparatory Committee and to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of Sea on BBNJ. The IGC met for its second session March 25–April 5, 2019. It will meet for a fourth session at a yet undetermined date in 2020. Additional information on the BBNJ process is available at *www.un.org/bbnj.*

We would like to invite interested stakeholders to a public meeting to share views about the BBNJ IGC, in particular to provide information to assist the U.S. Government in developing its positions. Stakeholders are invited to provide comments on the IGC President's Draft text, available at *undocs.org/a/conf.232/2019/6.* We will provide a brief overview of the discussions at and outcomes of the second session of the IGC and listen to the viewpoints of U.S. stakeholders. The information obtained from this session will help the U.S. delegation prepare for participation in the upcoming IGC sessions.

Reasonable Accommodation: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other reasonable accommodation should be directed to (see **FOR FURTHER INFORMATION**) at least 5 days prior to the meeting date. Requests received after that date will be considered, but might not be possible to fulfill.

Personal data for entry into the Harry S. Truman building are requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://www.state.gov/privacy/sorns/index.htm* for additional information.

Evan T. Bloom,

Director, Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 2019–16092 Filed 7–29–19; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 10825]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition—Determinations: ''Assyria: Palace Art of Ancient Iraq'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be exhibited in the exhibition ''Assyria: Palace Art of Ancient Iraq,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum at the Getty Villa, Pacific Palisades, California, from on or about October 2, 2019, until on or about September 5, 2022, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2019–16157 Filed 7–29–19; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Transportation Project in North Dakota

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. These actions relate to a proposed transportation project, construction of a new crossing over the Little Missouri River, in the counties of Billings and Golden Valley, State of North Dakota. Those actions grant approvals for the project.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the transportation project will be barred unless the claim is filed on or before December 27, 2019. If the federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Gary Goff, Federal Highway Administration, 4503 Coleman Street, Suite 205, Bismarck, ND 58503; email: *Gary.Goff@dot.gov;* telephone: (701) 221–9466. For the North Dakota Department of Transportation: Kent Leben, North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, ND 58505; email: *khleben@nd.gov;* telephone: (701) 328–3482; Marcia Lamb, Billings County, P.O. Box 168, Medora, ND 58645; email: *mdlamb@nd.gov;* telephone: (701) 623–4377. Office hours are from 8:00 a.m. to 5:00 p.m. (Central Time), Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency action(s) subject to 23 U.S.C. 139(*l*)(1) by issuing a Final Environmental Impact Statement (FEIS)/Record of Decision (ROD) for the following transportation project in the State of North Dakota: Construction of a new crossing over the Little Missouri River (FHWA–ND–EIS–19–01–F). The purpose of the proposed action is to provide users with a safe, efficient, and reliable local connection between the roadways on the east and west sides of the Little Missouri River within Billings County, North Dakota. The actions by the agencies and the laws under which such actions were taken are described in the FEIS for the project, approved on June 6, 2019; the FHWA ROD, issued on June 6, 2019; and other documents in the project records. The FEIS/ROD and other project records are available by contacting the aforementioned points-of-contact.

The FEIS/ROD can also be viewed and downloaded from the project websites at *http://www.billingscountynd.gov/190/Little-Missouri-River-Crossing-Project* and *https://www.dot.nd.gov/projects/dickinson.* This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act [42 U.S.C. 4321–4351], Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671q].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138], Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361–1423h], Fish and Wildlife Coordination Act [16 U.S.C. 661–667d], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470aa–470mm]; Archeological and Historic Preservation Act [16 U.S.C. 469–469c]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic:* American Indian Religious Freedom Act [42 U.S.C. 1996], Farmland Protection Policy Act [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act (Sections 404, 401, and 319) [33 U.S.C. 1251–1387], Land and Water Conservation Fund [16 U.S.C. 4601–4604], Safe Drinking Water Act [42 U.S.C. 300f–300j–26)], Rivers and Harbors Act of 1899 [33 U.S.C. 401–406], Wild and Scenic Rivers Act [16 U.S.C. 1271–1287], Emergency Wetlands Resources Act [16 U.S.C. 3901, 3921], Wetlands Mitigation [23 U.S.C. 119(g) and 133(b)(14)], Flood Disaster Protection Act [42 U.S.C. 4012a, 4106].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

9. *Executive Orders (E.O.):* E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13287, Preserve America; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 11514, Protection and Enhancement of Environmental Quality; E.O. 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (*l*)(1).

Issued on: July 18, 2019.

Sandy Zimmer,

FHWA Acting Division Administrator, Bismarck, North Dakota.

[FR Doc. 2019–15937 Filed 7–29–19; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2019–0004–N–11]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On May 30, 2019, FRA published a notice providing a 60-day period for public comment on the ICRs.

DATES: Interested persons are invited to submit comments on or before August 29, 2019.

ADDRESSES: Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W33–497, Washington, DC 20590 (telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W34–212, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On May 30, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 84 FR 25110. FRA

received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30-days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Designation of Qualified Persons.

OMB Control Number: 2130–0511.

Abstract: The collection of information is used to prevent the unsafe movement of defective freight cars. Railroads are required to inspect freight cars for compliance and to determine restrictions on the movements of defective cars; qualified inspectors are necessary to perform this task.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 692 Railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 1,200.

Total Estimated Annual Burden: 40 hours.

Total Estimated Annual Dollar Cost Equivalent: $3,080.

Title: Qualification and Certification of Locomotive Engineers.

OMB Control Number: 2130–0533.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100–342, 102 Stat. 624 (June 22, 1988), later amended and re-codified by Public Law 103–272, 108 Stat. 874 (July 5, 1994), required FRA to issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of information is also used by FRA to verify that railroads have established required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 741 Railroads.

Frequency of Submission: On occasion; annually; triennially.

Reporting Burden: [1]

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent [2]
240.9—Waivers	741 railroads	2 waiver petitions	1 hour	2	$152
240.101/103—Cert. Prog: Amendments	741 railroads	25 amendments	5 minutes	2	152
—Cert. Prog.—New	5 railroads	5 programs	1 hour	5	380
—Final Review	5 railroads	5 reviews	1 hour	5	385
—Material Modification to Program	741 railroads	10 modified programs	10 minutes	2	152
240.105(b)–(c) Written Reports/Determinations of DSLE Performance Skills.	10 railroads	10 reports	30 minutes	5	575
240.109/App. C—Prior Safety Conduct Data	17,667 candidates	25 responses	5 minutes	2	116
240.111/App C—Driver's License Data	17,667 candidates	17,667 requests	10 minutes	2,945	223,820
—NDR Match—notifications and requests for data.	741 railroads	177 notices + 177 requests	5 min. + 5 min	30	2,010
—Written response from candidate on driver's license data.	741 railroads	20 cases/comments	10 minutes	3	174
240.111(g)—Notice to RR of Absence of License	53,000 candidates	4 letters	5 minutes	.3	19
240.111(h)—Duty to furnish data on prior safety conduct as motor vehicle op.	741 railroads	100 communications	5 minutes	8	464
240.113—Notice to RR Furnishing Data on Prior Safety Conduct—Diff. RR.	17,667 candidates	353 requests + 353 responses.	5 min. + 5 min	59	4,130
240.119—Self-referral to EAP re: Active substance abuse disorder.	53,000 locomotive engineers	150 self-referrals	5 minutes	13	754
240.121—Criteria—Vision/Hearing Acuity Data—New Railroads.	5 railroads	5 copies	5 minutes	.4	32
240.121—Criteria—Vision/Hearing Acuity Data—Cond. Certification.	741 railroads	5 reports	5 minutes	.4	32
240.121—Criteria—Vision/Hearing Acuity Data—Not Meeting Standards—Notice by Employee.	741 railroads	10 notifications	15 minutes	3	174
240.201/221—List of Qualified DSLEs	741 railroads	741 updates	5 minutes	62	4,712
240.201/221—List of Qualified Loco. Engineers	741 railroads	741 updated lists	5 minutes	62	4,712
240.201/223/301—Loco. Engineers Certificate	53,000 candidates	17,667 certificates	5 minutes	1,472	111,872
—False entry on certificates	N/A	N/A	N/A	N/A	N/A
240.207—Medical certificate showing hearing/vision standards are met: Written determinations waiving use of corrective device.	53,000 candidates 741 railroads	17,667 certificates 30 determinations	30 minutes 5 minutes	8,834 3	1,015,910 345
240.219—Denial of Certification	17,667 candidates	30 letters + 30 responses	30 minutes	30	2,280

[1] After an internal agency review, FRA updated the PRA estimates.

[2] Throughout the tables in this document, the dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes 75 percent overhead charges.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent [2]
240.227—Canadian Certification Data	N/A	N/A	N/A	N/A	N/A
240.229—Joint Operations—Notice—not qualified.	321 railroads	184 employee calls	5 minutes	15	870
240.309—RR Oversight Resp.: Detected poor safety conduct—annotation.	15 railroads	6 annotations	15 minutes	2	116
Recordkeeping: 240.205—Data to EAP Counselor.	741 railroads	177 records	5 minutes	15	1,725
240.209/213—Written Tests Records	53,000 candidates	17,667 test records	1 minutes	294	22,334
240.211/213—Performance Test Records	53,000 candidates	17,667 test records	1 minutes	294	22,334
240.215—Retaining info. supporting determination.	741 railroads	17,667 records	5 minutes	1,472	111,872
240.303—Annual operational monitor observation records.	53,000 candidates	53,000 test records	1 minutes	883	67,108
240.303—Annual operating rules compliance test records.	53,000 candidates	53,000 test records	1 minutes	883	67,108
240.305—Engineer's notice of non-qualification to RR.	53,000 engineers or candidates.	100 notifications	5 minutes	8	464
—Relaying certification denial or revocation Status to other certifying railroad.	1,060 engineers	2 letters	15 minutes	1 hour	58
240.307—Notice to engineer of disqualification	741 railroads	1,100 letters	1 hour	1,100	73,700
240.309—Railroad annual review	51 railroads	51 reviews	3	153	11,628
Total	741 railroads	217,059 responses	N/A	18,668	1,752,700

Total Estimated Annual Responses: 216,630.

Total Estimated Annual Burden: 18,668.

Total Estimated Annual Dollar Cost Equivalent: $1,752,700.

Title: Roadway Worker Protection.

OMB Control Number: 2130–0539.

Abstract: On June 10, 2016, FRA amended its Roadway Worker Protection (RWP) regulation (*see* 81 FR 37840) to resolve interpretative issues that had arisen since the original 1996 promulgation of that rule. In particular, this final rule adopted certain terms, resolved miscellaneous interpretive issues, codified certain FRA Technical Bulletins, adopted new requirements governing redundant signal protections and the movement of roadway maintenance machinery over signalized non-controlled track, and amended certain qualification requirements for roadway workers. This final rule also deleted three outdated incorporations by reference of industry standards in FRA's Bridge Worker Safety Standards, and cross referenced the Occupational Safety and Health Administration's regulations on the same point.

Under the information collection associated with the RWP rule (49 CFR part 214), FRA collects a variety of information. To ensure compliance with the rule's requirements, FRA collects data on affected railroads' on-track safety programs to determine that railroads have policies, procedures, and practices in place that protect roadway workers from dangers in their work environment. Railroads are required to provide on-track safety manuals to all roadway workers that they can readily consult to determine what on-track safety procedures are required for their work assignment. Under the regulation, railroads are required to provide initial and recurrent training to roadway workers on their on-track safety program. This includes training for roadway workers who work where on-track safety for adjacent controlled tracks is required, and the appropriate practices and procedures they must follow. FRA collects data from railroads on training through the records that they are required to keep. Additionally, FRA collects information on violations of workplace safety regulations on Form FRA F 6180.119. FRA uses violation information to support actions that will reduce or eliminate hazards to railroad workers. Specifically, FRA uses the information that it collects under this regulation to monitor and enforce requirements relating to the safety of roadway workers and ensure that railroads fulfill their responsibilities to keep roadway workers secure and free from unnecessary and avoidable hazards.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses/50,000 Roadway Workers/State Safety Inspectors.

Form(s): FRA F 6180.119.

Respondent Universe: 741 Railroads.

Frequency of Submission: On occasion.

Reporting Burden: [3]

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent
Form FRA F 6180.119—Part 214 Railroad Workplace Safety Violation Report.	350 Safety Inspectors	129 forms	4 hours	516	$29,412
214.307—Railroad On-Track Safety Programs—RR Programs that comply with this Part + copies at System/Division Headquarters.	741 Railroads	276 programs + 325 copies	2 hours + 2 minutes.	563	42,788
—RR Notification to FRA not less than one month before on-track safety program takes effect.	741 Railroads	276 notices	20 minutes	92	6,992
—RR Amended on-track safety programs after FRA disapproval.	741 Railroads	1 program	4 hours	4	304
—RR Written response in support of disapproved program.	741 Railroads	1 written response	20 hours	20	1,520

[3] After an internal agency review, FRA updated the PRA estimates.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent
214.309—On-Track Safety Manual—RR Provisions for alternative access to information in on-track safety manual.	741 Railroads	741 provisions	60 minutes	741	56,316
—RR Publication of bulletins/notices reflecting changes in on-track safety manual.	60 Railroads	100 bulletins/notices	60 minutes	100	7,600
214.311—RR Written procedure to achieve prompt and equitable resolution of good faith employee challenges.	19 Railroads	5 developed procedures	2 hours	10	760
214.317—On-Track Safety Procedures, generally, for snow removal, and weed spray equipment, tunnel niche or clearing by.	19 Railroads	5 operating procedures	2 hours	10	760
214.318—Procedures established by railroads for workers to perform duties incidental to those of inspecting, testing, servicing, or repairing rolling equipment.	741 Railroads	19 rules/procedures	2 hours	38	2,888
214.320—Roadway Maintenance Machines Movement over signalized non-controlled track—RR request to FRA for equivalent level of protection to that provided by limiting all train and locomotive movements to restricted speed.	741 Railroads	5 requests	4 hours	20	1,520
214.322—Exclusive Track Occupancy, Electronic Display—Written Authorities/Printed Authority Copy If Electronic Display Fails or Malfunctions.	3 Class I Railroads	1,000 written authorities	10 minutes	167	9,519
214.329—Train Approach Warning—Written Designation of Watchmen/Lookouts.	741 Railroads	26,250 written designations	30 seconds	219	16,644
214.336—Procedures for adjacent track movements over 25 mph: Notifications/watchmen/lookout warnings.	100 Railroads	10,000 notices	5 seconds	14	798
—Procedures for adjacent track movements 25 mph or less: Notifications/watchmen/lookout warnings.	100 Railroads	3,000 notices	5 seconds	4	228
214.339—Audible warning from trains: Written procedures that prescribe effective requirements for audible warning by horn and/or bell for trains.	19 Railroads	19 written procedures	4 hours	76	5,776
214.343/345/347/349/351/353/355—Annual training for all roadway workers (RWs)—Records of training.	50,000 roadway workers	50,000 records	2 minutes	1,667	126,692
214.503—Notifications for Non-Compliant Roadway Maintenance Machines or Unsafe Condition.	50,000 roadway workers	125 notices	10 minutes	21	1,197
—Resolution Procedures	19 railroads	5 procedures	2 hours	10	760
214.505—Required environmental control and protection systems for new on-track roadway maintenance machines with enclosed cabs.	741 Railroads/200 contractors.	500 lists	1 hour	500	38,000
—Designations/additions to list	692 Class III Railroads/200 contractors.	150 additions/designations	5 minutes	13	988
214.507—A-Built Light Weight on New Roadway Maintenance Machines.	692 Class III Railroads/200 contractors.	1,000 stickers/stencils	5 minutes	83	4,731
214.511—Required Audible Warning Devices for New On-Track Roadway Maintenance Machines.	692 Class III Railroads/200 contractors.	3,700 identified mechanisms	5 minutes	308	17,556
214.515—Overhead covers for existing on-track roadway maintenance machines.	692 Class III Railroads/200 contractors.	500 requests + 500 responses.	10 mins + 20 mins.	250	17,423
214.517—Retrofitting of Existing On-Track Roadway Maintenance Machines Manufactured On or After Jan. 1, 1991.	692 Class III Railroads/200 contractors.	500 stencils/displays	5 minutes	42	2,394
214.523—Hi-Rail Vehicles	692 Class III Railroads/200 contractors.	5,000 records	5 minutes	417	23,769
—Non-complying conditions	692 Class III Railroads/200 contractors.	500 tags + 500 reports	10 minutes + 15 minutes.	208	11,856
214.527—Inspection for compliance; Repair schedules.	692 Class III Railroads/200 contractors.	550 tags + 550 reports	5 minutes + 15 minutes.	183	10,431
214.533—Schedule of repairs; Subject to availability of parts.	692 Class III Railroads/200 contractors.	250 records	15 minutes	63	4,788
Total	741 railroads	106,482 responses	N/A	6,359	444,410

Total Estimated Annual Responses: 106,482.

Total Estimated Annual Burden: 6,359 hours.

Total Estimated Annual Dollar Cost Equivalent: $444,410.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2019–16011 Filed 7–29–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0137]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on an information collection that is due to expire on March 31, 2020. PHMSA will request a renewal with no change for the information collection identified by the Office of Management and Budget (OMB) control number 2137–0631.

DATES: Interested persons are invited to submit comments on or before September 30, 2019.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number PHMSA–2019–0137 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2019–0137.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Hill by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will submit to OMB for renewal. The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA will request a three-year term of approval for this information collection activity. PHMSA requests comments on the following information collection:

1. *Title:* Customer Notifications for Installation of Excess Flow Valves.

OMB Control Number: 2137–0631.

Current Expiration Date: 3/31/2020.

Type of Request: Renewal without change.

Abstract: This information collection will cover the reporting and recordkeeping requirements for gas pipeline operators associated with the requirement of operators to notify customers of their right to request the installation of excess flow valves.

Affected Public: Gas pipeline operators.

Annual Reporting and Recordkeeping Burden:

Estimated number of responses: 4,381.

Estimated annual burden hours: 4,381.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the collection of information, including whether the information has practical utility in helping the agency to achieve its pipeline safety goals;

(b) The accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on July 24, 2019, under authority delegated in 49 CFR 1.97.

John A. Gale,

Director, Standards and Rulemaking Division.

[FR Doc. 2019–16137 Filed 7–29–19; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one person that has been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person is blocked, and U.S. persons are generally prohibited from engaging in transactions with him.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for

Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On July 19, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

SALMAN, Salman Raouf (a.k.a. AL–REDA, Salman; a.k.a. AL–RIDA, Samwil Salman; a.k.a. EL–REDA, Samuel Salman; a.k.a. REMAL, Salman; a.k.a. SALMAN, Salman Raof; a.k.a. SALMAN, Salman Rauf; a.k.a. ''MARQUEZ, Andree''), Lebanon; DOB 05 Jun 1963; alt. DOB 1965; nationality Colombia; alt. nationality Lebanon; Additional Sanctions Information—Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Passport AD 059541 (Colombia); alt. Passport AC 128856 (Colombia); National ID No. 84.049.097 (Colombia) (individual) [SDGT] (Linked To: HIZBALLAH).

Designated pursuant to section 1(c) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism'' (E.O. 13224) for acting for or on behalf of HIZBALLAH, an entity whose property and interests in property are blocked pursuant to E.O. 13224.

Dated: July 19, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–16140 Filed 7–29–19; 8:45 am]

BILLING CODE 4810–AL–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 U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

Notice of OFAC Actions

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 authorities listed below.

Entities

1. BAKHTAR RAAD SEPAHAN COMPANY (a.k.a. BAKHTAR RAAD ENGINEERING COMPANY; a.k.a. BAKHTAR RAAD SEPAHAN CO.; a.k.a. RADSEPAHAN), Number 8, Keyvan 2 Building, between 2nd & 3rd Western Avenue, Mohaberat Street, Shahinshahr, Esfahan, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' (''E.O. 13382''), for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. TAWU MECHANICAL ENGINEERING AND TRADING COMPANY (f.k.a. METAALKUNDE BV; a.k.a. TAWU BVBA; a.k.a. TAWU BVBA MECHANICAL ENGINEERING AND TRADING COMPANY; a.k.a. ''TAWU''), Bleidenhoek 34, 2230 Herselt, Belgium; Additional Sanctions Information—Subject to Secondary Sanctions; V.A.T. Number BE0686.896.689 (Belgium); Business Registration Number 686896689 (Belgium); alt. Business Registration Number BE0686896689 (Belgium) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. SANMING SINO-EURO IMPORT AND EXPORT CO., LTD (Chinese Simplified: 三明市中伊欧进出口有限公司), Unit 911, Building Number 7, Hengda House, Sha County, Sanming City, Fujian Province, China; Additional Sanctions Information - Subject to Secondary Sanctions; Business Registration Number 91350400MA32K7W49G (China) [NPWMD] [IFSR] (Linked To: TALEBI, Sohayl; Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13382, for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, SOHAYL TALEBI, a person whose property and interests in property are blocked pursuant to E.O. 13382, and pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. HENAN JIAYUAN ALUMINIUM INDUSTRY CO., LTD (Chinese Simplified: 河南嘉源铝业有限公司) (a.k.a. HENAN JIAYUAN ALUMINUM INDUSTRY COMPANY, LIMITED), Rm. 1402, Unit 2, Building 27, Shangwu Inner Ring Rd, Zhengdong New Area, Zhengzhou, Henan, China; No. 1402, Unit 2, Building 27, Shangwu Inner Ring Road (Zhengdong), Zhengzhou Area, Pilot Free Trade Zone, Henan, China; Website www.jyalco.com; Additional Sanctions Information - Subject to Secondary Sanctions; United Social Credit Code Certificate (USCCC) 914101006905518610 (China) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. TAMIN KALAYE SABZ ARAS COMPANY (a.k.a. KALAYE SABZ ORZ COMPANY; a.k.a. TAMIN KALAYE SABZ; a.k.a. TAMIN KALAYE SABZ COMPANY; a.k.a. ''KSO COMPANY''; a.k.a. ''TS CO.''; a.k.a. ''TS COMPANY''), No. 13, Unit 12, Sazman Ab Ave., Jenah Blvd., Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; National ID No. 1463468660 (Iran); Company Number 10980302323 (Iran) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

6. SUZHOU ZHONGSHENG MAGNETIC INDUSTRY CO., LTD. (Chinese Simplified: 苏州中盛磁业有限公司) (a.k.a. SUZHOU ZHONGSHENG MAGNETIC COMPANY LIMITED), Room 17002, Zhongxiang Mansion, No. 666, Xiangcheng Blvd., Yuanhe Town, Xiangcheng District, Suzhou, Jiangsu 215133, China; Zhong Xiang building, No. 666, Xiangcheng Avenue, Suzhou, Xiangcheng District 17002, China; Website www.zhongsheng-magnet.com; Additional Sanctions Information - Subject to Secondary Sanctions; United Social Credit Code Certificate (USCCC) 91320507582255256P (China) [NPWMD] [IFSR] (Linked To: TAMIN KALAYE SABZ ARAS COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, TAMIN KALAYE SABZ ARAS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

7. SUZHOU A-ONE SPECIAL ALLOY CO., LTD (Chinese Simplified: 苏州埃文特种合金有限公司) (a.k.a. SUZHOU AIWEN SPECIAL ALLOY CO., LTD.), No.2 Weihua Road, Suzhou Industrial Park, Jiangsu Province, China; No.2, Weihua Road, Suzhou Industrial Park, Jiangsu Province 215121, China; Room 1219, Building 2, Hetai Dushi Living Plaza, No. 2, Weihua Road, Weiting, Suzhou Industrial Park, Suzhou 215000, China; Website www.sz-alloy.com; Additional Sanctions Information - Subject to Secondary Sanctions; Registration ID 91320594MA1MAHHR9W (China) [NPWMD] [IFSR] (Linked To: TAMIN KALAYE SABZ ARAS COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, TAMIN KALAYE SABZ ARAS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Individuals

1. KARIMI–ADEGANI, Afsaneh (a.k.a. KARIMIADEGANI, Afsaneh); DOB 06 Jul 1970; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Female; Passport F35323181 (Iran) (individual) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. TALEBI, Sohayl (a.k.a. TALEBI, Soheyl), Vriesenhof 3000 Leuven, Belgium; DOB 28 May 1960; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. BORJI, Salim (a.k.a. BORJI SOUMEH, Salim); DOB 22 Dec 1964; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport B30739118 (Iran) (individual) [NPWMD] [IFSR] (Linked To: TAMIN KALAYE SABZ ARAS COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13382, for acting or purporting to act for or on behalf of, directly or indirectly, TAMIN KALAYE SABZ ARAS COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

4. NAJAFI, Mehdi (a.k.a. MOJTAHEDNAJAFI, Seyedmehdi; a.k.a. MOJTAHEDNAJAFI, Seyedmehdi Miraliasghar; a.k.a. NAJAFI, Seyed Mehdi Mojtahed), No. 1–30th Bld# 2nd, Shahrak Farhangian Sheykh Fazlollah Nour, Tehran 1464873861, Iran; DOB 21 Sep 1971; POB Tehran, Iran; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport I15597905 (Iran); National ID No. 0054385946 (Iran) (individual) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iii) of E.O. 13382, for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

5. FAKHRZADEH, Mohammad (a.k.a. FAKHR ZADEH, Mohammad), Tehran, Iran; DOB 22 May 1978; POB Malayer, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; National ID No. 3932714806 (Iran) (individual) [NPWMD] [IFSR] (Linked To: IRAN CENTRIFUGE TECHNOLOGY COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13382, for acting or purporting to act for or on behalf of, directly or indirectly, IRAN CENTRIFUGE TECHNOLOGY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: July 18, 2019.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2019–15796 Filed 7–29–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

[Case IDs VENEZUELA–16241, VENEZUELA–16242, VENEZUELA–16243, VENEZUELA–16244]

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On July 19, 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. GUERRERO MIJARES, Hannover Esteban, Caracas, Capital District, Venezuela; DOB 14 Jan 1971; Gender Male; Cedula No. 10537738 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13692 of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela'' (E.O. 13692), as amended by Executive Order 13857 of January 25, 2019, ''Taking Additional Steps To Address the National Emergency With Respect to Venezuela,'' (E.O. 13857) for being a current or former official of the Government of Venezuela.

2. BLANCO MARRERO, Rafael Ramon (Latin: BLANCO MARRERO, Rafael Ramón), Caracas, Capital District, Venezuela; DOB 28 Feb 1968; Gender Male; Cedula No. 6250588 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

3. FRANCO QUINTERO, Rafael Antonio, Miranda, Venezuela; DOB 14 Oct 1973; Gender Male; Cedula No. 11311672 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

4. GRANKO ARTEAGA, Alexander Enrique, Miranda, Venezuela; DOB 25 Mar 1981; Gender Male; Cedula No. 14970215 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

Dated: July 24, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–16131 Filed 7–29–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Concerning Information Reporting for Hedging Transactions and Third-Party Network Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning information reporting for hedging transactions.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Hedging Transactions.

OMB Number: 1545–1480.

Regulation Project Number: TD 8985.

Abstract: TD 8985 contains final regulations relating to the character of gain or loss from hedging transactions. The regulations reflect changes to the

law made by the Ticket to Work and Work Incentives Improvement Act of 1999. The regulations affect businesses entering into hedging transactions.

Current Actions: There are no changes to the burden. We are submitting this request for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 167,100.

Estimated Time per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 171,050.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: July 23, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–16189 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2014–49

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Revenue Procedure 2014–49, Disaster Relief.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Disaster Relief.

OMB Number: 1545–2237.

Form Number: Rev. Proc. 2014–49.

Abstract: This revenue procedure establishes a procedure for temporary relief from certain requirements of § 42 of the Internal Revenue Code for owners of low-income buildings (Owners) and housing credit agencies of States or possessions of the United States (Agencies) affected by major disaster areas declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act).

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 3,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,750.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16059 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Concerning Information Reporting for SS–8 and SS–8(PR)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning information reporting for requesting a determination of the status of a worker under the common law rules for purposes of federal employment taxes and income tax withholding.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

OMB Number: 1545–0004.

Form Project Number: Forms SS–8 and SS–8(PR).

Abstract: Firms and workers file Form SS–8 to request a determination of the status of a worker under the common law rules for purposes of federal employment taxes and income tax withholding.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, Federal government, farms, and state, local or tribal governments.

Estimated Number of Respondents: 4,705.

Estimated Time per Respondent: 31 Hours 34 minutes.

Estimated Total Annual Burden Hours: 148,621.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: July 23, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–16186 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224. Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317–5745, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov*.

SUPPLEMENTARY INFORMATION:

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

The IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

1. *Title:* U.S. Departing Alien Income Tax Statement.

OMB Number: 1545–0138.

Form Number: 2063.

Abstract: Form 2063 is used by a departing resident alien against whom a termination assessment has not been made, or a departing nonresident alien who has no taxable income from United States sources, to certify that they have

satisfied all U.S. income tax obligations. The data is used by the IRS to certify that departing aliens have complied with U.S. income tax laws.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 20,540.

Estimated Time per Response: 50 minutes.

Estimated Total Annual Burden Hours: 17,049.

2. *Title:* Amortization of Reforestation Expenditures.

OMB Number: 1545–0735.

Regulation: TD 7927.

Abstract: Internal Revenue Code section 194 allows taxpayers to elect to amortize certain reforestation expenditures over a 7-year period if the expenditures meet certain requirements. The regulations implement this election provision and allow the IRS to determine if the election is proper and allowable.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business, or other for-profit organizations, and farms.

Estimated Number of Respondents: 12,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 6,001.

3. *Title:* Creditability of Foreign Taxes.

OMB Number: 1545–0746.

Regulation Project Number: LR–100–78.

Abstract: Section 1.901–2A of the regulation contains special rules that apply to taxpayers engaging in business transactions with a foreign government that is also taxing them. In general, such taxpayers must establish what portion of a payment made pursuant to a foreign levy is actually tax and not compensation for an economic benefit received from the foreign government. One way a taxpayer can do this is by electing to apply the safe harbor formula of section 1.901–2A by filing a statement with the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 120.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 41.

4. *Title:* Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands.

OMB Number: 1545–0782.

Regulation Project Number: TD 6629.

Abstract: Internal Revenue Code section 934(a)(1954 code) provides that the tax liability incurred to the Virgin Islands shall not be reduced except to the extent provided in Code section 934(b) and (c). Taxpayers applying for tax rebates or subsidies under section 934 of the 1954 Code must provide certain information in order to obtain these benefits.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent/ Reporting: 12 minutes.

Estimated Time per Respondent/ Record-Keeping: 10 minutes.

Estimated Total Annual Reporting Burden Hours: 100.

Estimated Total Annual Record-keeping Burden Hours: 85.

5. *Title:* Interest Charge on DISC-Related Deferred Tax Liability.

OMB Number: 1545–0939.

Form Number: 8404.

Abstract: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Responses: 200.

Estimated Time per Response: 7 hrs., 47 min.

Estimated Total Annual Burden Hours: 1,558.

6. *Title:* Chemicals That Deplete the Ozone Layer.

OMB Number: 1545–1361.

Regulation Project Number: TD 8662.

Abstract: These regulations impose reporting and recordkeeping requirements necessary to implement Internal Revenue Code sections 4681 and 4682 relating to the tax on chemicals that deplete the ozone layer and on products containing such chemicals. The regulation affects manufacturers and importers of ozone-depleting chemicals, manufacturers of rigid foam insulation, and importers of products containing or manufactured with ozone-depleting chemicals manufacture, import, export, sell, or use ODCs. In addition, the regulation affects persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates. This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilant or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons, other than manufacturers and importers of ozone-depleting chemicals, holding such chemicals for sale or for use in further manufacture on January 1, 1990, and on subsequent tax-increase dates.

This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons who

Current Actions: There is no change to this existing regulation.

Type of Review: Revision of a currently approved collection.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150,350.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Reporting Burden Hours: 75,265.

7. *Title:* Stock Transfer Rules: Carryover of Earnings and Taxes.

OMB Number: 1545–1711.

Regulation Project Number: REG–116050–99.

Abstract: This document contains final regulations addressing the carryover of certain tax attributes, such as earnings and profits and foreign income tax accounts, when two corporations combine in a corporate reorganization or liquidation that is described in both section 367(b) and section 381 of the Internal Revenue Code (Code).The final regulations relate

to the carryover of certain tax attributes, such as earnings and profits and foreign income tax accounts, when two corporations combine in a section 367(b) transaction.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 600.

Estimated Time per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,800.

8. *Title:* Tip Rate Determination Agreement (TRDA) for industries other than the food and beverage industry and the gaming industry.

OMB Number: 1545–1717.

Form Number: N/A.

Abstract: Announcement 2000–20, 2000–19 I.R.B. 977, and Announcement 2001–1, #2001–2 I.R.B. p.277 contain information required by the Internal Revenue Service in its tax compliance efforts to assist employers and their employees in understanding and complying with Internal Revenue Code section 6053(a), which requires employees to report all their tips monthly to their employers. The Internal Revenue Service is expanding its Tip Rate Determination/Education Program (TRD/EP), which is designed to enhance tax compliance among tipped employees through taxpayer education and voluntary advance agreements instead of traditional audit techniques.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 18 hours, 58 minutes.

Estimated Total Annual Burden Hours: 1,897.

9. *Title:* Employment Tax Adjustments; and Rules Relating to Additional Medicare Tax.

OMB Number: 1545–2097.

Regulation: REG–111583–07 [T.D. 9405(final)] and REG–130074–11.

Abstract: This document contains final regulations relating to employment tax adjustments and employment tax refund claims. These regulations modify the process for making interest-free adjustments for both underpayments and overpayments of Federal Insurance Contributions Act (FICA) and Railroad Retirement Tax Act (RRTA) taxes and federal income tax withholding (ITW) under sections 6205(a) and 6413(a), respectively, of the Internal Revenue Code (Code).

Current Actions: There is a no in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a previously approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 3,400,000.

Estimated Time per Respondent: 4 hours and 58 minutes.

Estimated Total Annual Burden Hours: 16,900,000.

The following paragraph applies to all of the collections of information covered by this notice:

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

Approved: July 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16057 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning United States Additional Estate Tax Return.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: United States Additional Estate Tax Return.

OMB Number: 1545–0016.

Form Number: 706–A.

Abstract: Form 706–A is used by individuals to compute and pay the additional estate taxes due under Code section 2032A(c). IRS uses the information to determine that the taxes have been properly computed. The form is also used for the basis election of section 1016(c)(1).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 180.

Estimated Time per Respondent: 9 hours, 19 minutes.

Estimated Total Annual Burden Hours: 1,678.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16056 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–NEC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 1099–NEC, Nonemployee Compensation.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dionne McLeod, at (267) 994–5217, Internal Revenue Service, Room 3256, 600 Arch Street, Philadelphia, PA 19106, or through the internet at *Dionne.a.McLeod@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Nonemployee Compensation.

OMB Number: 1545–0116.

Form Number: 1099–NEC.

Abstract: Form 1099–NEC is used to report payments made in the course of a trade or business for services performed by someone who is not an employee, cash payments for fish and withholding of federal income tax under the backup withholding rules.

Current Actions: The PATH Act accelerated the due date for filing of Form 1099 that include nonemployee compensation (NEC) from February 28 to January 31, and eliminated the automatic 30-day extension for forms that include NEC. Continuing to include NEC on Form 1099–MISC will increase the submission burden on taxpayers because they will have to separate those forms with NEC from those without. It also requires analysis of Forms 1099–MISC by the IRS to be able to determine the proper due date and apply late filing penalties appropriately. To alleviate the burden and eliminate confusion regarding due dates, IRS reinstated Form 1099–NEC. There will be a change in the paperwork burden previously approved by OMB.

Type of Review: Reinstatement of a previously approved information collection.

Affected Public: Individuals, business or other for-profit organizations, not for-profit institutions, farms and Federal, state, local or tribal governments.

Estimated Number of Respondents: 70,802,480.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 5,900,206.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16055 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Concerning Form 8610 and Schedule A (Form 8610)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden associated with Form 8610, Annual Low-Income Housing Credit Agencies Report, and Schedule A (Form 8610), Carryover Allocation of Low-Income Housing Credit.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Buildings qualifying for carryover allocations.

OMB Number: 1545–0990.

Form Number(s): 8610, Sch A (F8610).

Abstract: State housing credit agencies (Agencies) are required by Code section 42(l)(3) to report annually the amount of low-income housing credits that they allocated to qualified buildings during the year. Agencies report the amount allocated to the building owners and to the IRS in Part I of Form 8609. Carryover allocations are reported to the Agencies in carryover allocation documents. The Agencies report the carryover

allocations to the IRS on Schedule A (Form 8610). Form 8610 is a transmittal and reconciliation document for Forms 8609, Schedule A (Form 8610), binding agreements, and election statements.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 1,353.

Estimated Time per Respondent: 4 Hour 58 minutes.

Estimated Total Annual Burden Hours: 6,738.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: July 23, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–16188 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8233

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning nonresident alien individuals withholding exemption claim on compensation for independent and certain dependent personal services based on a tax treaty.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Christina Leeper, at (737) 800–7737 or Internal Revenue Service, 3651 S. IH 35, Austin TX 78741, or through the internet, at *Christina.E.Leeper@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Number: 1545–0795.

Form Number: Form 8233.

Abstract: Compensation paid to a nonresident alien (NRA) individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, compensation may be exempt from withholding because of a U.S. tax treaty. Form 8233 is used to request exemption from withholding.

Current Actions: Program change resulted in a change to the form which caused a change to the paperwork burden previously approved by OMB.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 75,617.

Estimated Time per Respondent: 8.95 minutes.

Estimated Total Annual Burden Hours: 676,773.

The following paragraph applies to all of the collections of information covered by this notice.

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16060 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13614–NR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden,

invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning nonresident alien intake and interview data.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Christina Leeper, at (737) 800–7737 or Internal Revenue Service, 3651 S. IH 35, Austin, TX 78739, or through the internet, at *Christina.E.Leeper@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Nonresident Alien Intake and Interview Sheet.

OMB Number: 1545–2075.

Form Number: Form 13614–NR.

Abstract: The form is used to assist volunteer tax preparers in preparing tax returns for nonresident aliens. It ensures essential personal information is obtained and collected in a consistent manner which is critical to the preparation of accurate returns compliant with tax law.

Current Actions: There were minor changes to the form since the last OMB approval, however, the burden estimate did not change.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 565,039.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 141,260.

The following paragraph applies to all of the collections of information covered by this notice.

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16061 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Concerning Qualified Conservation Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning qualified conservation contributions.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Conservation Contributions.

OMB Number: 1545–0763.

Regulation Project Number: TD 8069.

Abstract: Internal Revenue Code section 170(h) describes situations in which a taxpayer is entitled to a deduction for a charitable contribution for conservation purposes of a partial interest in real property. This regulation requires a taxpayer claiming a deduction to maintain records of (1) the fair market value of the underlying property before and after the donation and (2) the conservation purpose of the donation.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 1 Hour 15 minutes.

Estimated Total Annual Burden Hours: 1,250.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: July 23, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–16187 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13803

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 13803, Application to Participate in the Income Verification Express Service (IVES) Program.

DATES: Written comments should be received on or before September 30, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application to Participate in the Income Verification Express Service (IVES) Program.

OMB Number: 1545–2032.

Form Number: Form 13803.

Abstract: Form 13803, Application to Participate in the Income Verification Express Service (IVES) Program, is used to submit the required information necessary to complete the e-services enrollment process for IVES users and to identify delegates receiving transcripts on behalf of the principle account user.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 24, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–16058 Filed 7–29–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Pricing for 2019 United States Mint Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

The United States Mint is establishing a price for two new United States Mint numismatic products in accordance with the table below:

Product	2019 retail price
2019 United States Mint Ornament	$24.95
2019 Mighty Minters Ornament™	24.95

FOR FURTHER INFORMATION CONTACT: Cathy Olson, Marketing Specialist, Sales and Marketing; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202–354–7519.

Authority: 31 U.S.C. 9701.

Dated: July 24, 2019.

Patrick Hernandez,

Chief Administrative Officer, United States Mint.

[FR Doc. 2019–16082 Filed 7–29–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Pricing for 2019 United States Mint Numismatic Product

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for a new United States Mint numismatic product in accordance with the table below:

Product	2019 retail price
2019 American Liberty High Relief Silver Medal™	$99.95

FOR FURTHER INFORMATION CONTACT: Katrina McDow, Marketing Specialist, Sales and Marketing; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202–354–8495.

Authority: 31 U.S.C. 5111, 5112, 5132 & 9701.

Dated: July 24, 2019.

Patrick Hernandez,

Chief Administrative Officer, United States Mint.

[FR Doc. 2019–16081 Filed 7–29–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0860]

Agency Information Collection Activity Under OMB Review: Reimbursement of Adoption Expenses for Certain Veterans

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 29, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0860'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov.* Please refer to ''OMB Control No. 2900–0860'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Reimbursement of Adoption Expenses for Certain Veterans (VA Form 10–10152).

OMB Control Number: 2900–0860.

Type of Review: Extension and revision of a currently approved collection.

Abstract: Section 260 of the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Pub. L. 114–223) states that VA may use appropriated funds available to VA for the Medical Services account to provide, among other things, reimbursement of adoption expenses to a covered Veteran. ''Covered Veteran'' means a Veteran who has a service-connected disability that results in the inability of the Veteran to procreate without the use of fertility treatment. The term ''adoption reimbursement'' is defined at Public Law 114–223 section 260(a)(4) to mean reimbursement for the adoption-related expenses for an adoption that is finalized after the date of the enactment of the Act under the same terms as apply under the adoption reimbursement program of the Department of Defense, as authorized in Department of Defense Instruction 1341.09, including the reimbursement limits and requirements set forth in such instruction.

This law was enacted on September 29, 2016, and funding for the program is authorized through September 30, 2018. VA's authority to provide reimbursement of qualifying adoption expenses to the same cohort described in Public Law 114–223 section 260 was subsequently renewed and extended in nearly identical form in section 236 of Division J, Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2018, Public Law 115–141 (March 23, 2018) (the ''2018 Act''). Under this most recent authority, VA's adoption expense reimbursement program remains subject to the funding period covered by the 2018 Act and the availability of appropriations.

To implement this benefit, VA has developed VA Form 10–10152, paralleling DD 2675, which requires any Veteran requesting reimbursement of qualifying adoption expenses to submit the same types of evidence as required under the DoD policy, as mandated by Public Law 114–223 section 260. VA Form 10–10152 was previously approved by OMB through the PRA clearance process, and VA now seeks an extension of that approval of this information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 24201 on May 24, 2019, pages 24201 and 24202.

Affected Public: Individuals or Households.

Estimated Annual Burden: 480 hours.

Estimated Average Burden per Respondent: 6 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 80.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–16103 Filed 7–29–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0160]

Agency Information Collection Activity: State Home Programs for Veterans

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 30, 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. 2900–0160'' 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: State Home Programs for Veterans (VA Forms 10–5588, 10–5588A, and 10–10SH).

OMB Control Number: 2900–0160.

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: Congress passed Public Law 115–159, the State Veterans Home Adult Day Health Care Improvement Act of 2017, requiring VA to pay State homes for medical model adult day health care to certain eligible Veterans, and Title 38, CFR part 52, which provides for the payment of per diem to State homes that provide adult day health care to eligible Veterans. It also continues to provide for the payment of per diem to State homes that provide care to eligible Veterans in accordance with Title 38, CFR part 51. The intended effect of these provisions is to provide a safeguard that Veterans are receiving high quality care in State homes.

This information collection is necessary to ensure that VA per diem payments are limited to facilities providing high quality care. To verify this level of care, VA requires those facilities providing nursing home care, domiciliary, and adult day health care programs to Veterans to supply various kinds of information. The information required includes an application/eligibility for admission and justification for payment; records and reports which facility management must maintain regarding activities of payment for eligible residents or participants; and the records and reports that facilities management and health care professionals must maintain regarding the level of care approved for residents or participants.

This OMB Control Number previously included six additional forms, VA Forms 10–0460, 10–0143, 10–0143A, 10–0144, 10–0144A, and 10–3567, which have now been separated out into another information collection (to be approved under a separate OMB Control Number). This information collection, under OMB Control Number 2900–0160, now includes only three forms: VA Forms 10–5588, 10–5588A, and 10–10SH.

a. VA Form 10–5588: State Home Report and Statement of Federal Aid Claimed—38 CFR 51, 52 and Title 38, U.S.C., Sections 1741, 1742, 1743 and 1745—is used to assess and provide per diem to State homes. This collection is used by the State home employees and VA Staff.

b. VA Form 10–5588A: Claim for Increased Per Diem Payment for Veterans Awarded Retroactive Service Connection—38 CFR 51, 52 and Title 38, U.S.C., Sections 1741, 1742, 1743 and 1745—is used to assess and provide per diem to State homes retroactively. This collection is used by the State home employees and VA Staff.

c. VA Form 10–10SH: State Home Program Application for Veterans Care Medical Certification—38 CFR 51, 52 and Title 38, U.S.C., Sections 1741, 1742, 1743 and 1745—provides for the collection of information to apply for the benefits of this program.

VA Form 10–5588

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 834 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 139.

VA Form 10–5588A

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 180 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Monthly.

Estimated Number of Respondents: 45.

VA Form 10–10SH

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 3,802 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 11,406.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–16102 Filed 7–29–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Federal Deposit Insurance Corporation

12 CFR Part 370
Recordkeeping for Timely Deposit Insurance Determination; Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AF03

Recordkeeping for Timely Deposit Insurance Determination

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its rule entitled ''Recordkeeping for Timely Deposit Insurance Determination'' to clarify the rule's requirements, better align the burdens of the rule with the benefits, and make technical corrections.

DATES: Effective October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Marc Steckel, Deputy Director, Division of Resolutions and Receiverships, (571) 858–8224; Teresa J. Franks, Associate Director, Division of Resolutions and Receiverships, (571) 858–8226; Shane Kiernan, Counsel, Legal Division, (703) 562–2632, *skiernan@fdic.gov;* Karen L. Main, Counsel, Legal Division, (703) 562–2079, *kamain@fdic.gov;* James P. Sheesley, Counsel, Legal Division, (703) 562–2047; Andrew J. Yu, Senior Attorney, Legal Division, (703) 562–2784.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The policy objective of the final rule is to reduce compliance burdens for insured depository institutions (IDIs) covered by the FDIC's rule entitled ''Recordkeeping for Timely Deposit Insurance Determination'' [1] (part 370 or the rule) while maintaining its benefits and continuing to support the FDIC's ability to promptly determine deposit insurance coverage in the event such an IDI fails. Part 370 requires each IDI with two million or more deposit accounts (each a covered institution, or CI) to (1) configure its information technology system (IT system) to be capable of calculating the insured and uninsured amount in each deposit account by right and capacity, for use by the FDIC in making deposit insurance determinations in the event of the covered institution's failure, and (2) maintain complete and accurate information needed by the FDIC to determine deposit insurance coverage with respect to each deposit account, except as otherwise provided. After the rule was adopted and while covered institutions began implementing the IT system and recordkeeping capabilities mandated by the rule, the FDIC received feedback from covered institutions, industry consultants, information technology service providers, and agents placing deposits on behalf of others, who identified components of the rule that are unclear or unduly burdensome. The final rule seeks to address many of these issues with the result being an overall reduction in compliance burdens for covered institutions while maintaining standards to ensure that covered institutions implement the recordkeeping and IT system capabilities needed by the FDIC to make a timely deposit insurance determination for an IDI of such size and scale.

II. Background

In 2016, the FDIC adopted part 370 (original part 370) to facilitate prompt payment of FDIC-insured deposits when large IDIs fail.[2] By reducing the difficulties that the FDIC would face in making a prompt deposit insurance determination at a failed covered institution, part 370 enhances the ability of the FDIC to meet its statutory obligation to pay deposit insurance ''as soon as possible'' following failure and to resolve the covered institution in the manner least costly to the Deposit Insurance Fund (DIF).[3] Fulfilling these statutory obligations is essential to the FDIC's mission. Part 370 also achieves significant policy objectives: Maintaining public confidence in the FDIC and the banking system; enabling depositors to meet their financial needs and obligations; preserving the franchise value of the failed covered institution and protecting the DIF by allowing a wider range of resolution options; and promoting long term stability in the banking system by reducing moral hazard. A regulation that was previously adopted by the FDIC entitled ''Large-Bank Deposit Insurance Determination Modernization'' (§ 360.9) furthered these policy goals with respect to IDIs that have at least $2 billion in domestic deposits and either 250,000 deposit accounts, or $20 billion in total assets.[4] Part 370 provides the necessary additional measures required by the FDIC to ensure prompt and accurate payment of deposit insurance to depositors of the larger, more complex IDIs that qualify as covered institutions.

The FDIC is authorized to prescribe rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act (FDI Act).[5] To pay deposit insurance, the FDIC uses a failed IDI's records to aggregate the amounts of all deposits that are maintained by a depositor in the same right and capacity and then applies the standard maximum deposit insurance amount (SMDIA), currently $250,000 per right and capacity.[6] The FDIC generally relies on the failed IDI's deposit account records to identify deposit owners and the right and capacity in which deposits are insured.[7] Section 7(a)(9) of the FDI Act authorizes the FDIC to take action as necessary to ensure that each IDI maintains, and the FDIC receives on a regular basis from such IDI, information on the total amount of all insured deposits and uninsured deposits at the IDI.[8] The requirements of part 370, obligating covered institutions to maintain complete and accurate records regarding the ownership and insurability of deposits and to have an IT system that can be used to calculate deposit insurance coverage in the event of failure, facilitate the FDIC's prompt payment of deposit insurance and enhance the FDIC's ability to implement the least costly resolution of these covered institutions.

Part 370 became effective on April 1, 2017, with a compliance date of April 1, 2020, for IDIs that became covered institutions on the effective date.[9] The FDIC has engaged in discussions with covered institutions, trade associations, and other interested parties since adoption of part 370 and has learned about issues and challenges these parties face in implementing the capabilities required by part 370. These issues and challenges include: The need for additional time to complete implementation; concerns regarding the nature of the compliance certification; the effect of merger transactions; the scope of the definition of ''transactional features;'' and the covered institution's ability to certify performance by a third party with respect to submission of information to the FDIC within 24 hours for deposit accounts with transactional features that are insured on a pass-through basis.

On April 11, 2019, the FDIC published in the **Federal Register** a notice of proposed rulemaking (NPR) soliciting public comment on its proposal to amend part 370 (the proposal or proposed rule) to provide for elective extension of the compliance

[1] 12 CFR part 370.

[2] 81 FR 87734 (Dec. 5, 2016).

[3] 12 U.S.C. 1821(f)(1); 12 U.S.C. 1823(c)(4).

[4] 12 CFR 360.9. *See* 73 FR 41180 (July 17, 2008).

[5] 12 U.S.C. 1819(a) (Tenth), 1820(g), 1821(d)(4)(B)(iv).

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

[7] 12 U.S.C. 1822(c), 12 CFR 330.5.

[8] 12 U.S.C. 1817(a)(9).

[9] 81 FR 87734, 87738; 12 CFR 370.2(d).

date, revise the treatment of deposits created by credit balances on debt accounts, modify the requirements relating to accounts with transactional features, change the procedures regarding exceptions, and clarify matters relating to certification requirements.[10] In the NPR, the FDIC also proposed certain technical changes to part 370. It was the FDIC's belief that the proposal would better align the burdens imposed by part 370 upon covered institutions with the benefit of better enabling the FDIC to achieve its statutory obligations and policy objectives.

The NPR's comment period ended on May 13, 2019. The FDIC received five comment letters in total: Three comment letters from three covered institutions, one joint comment letter from three trade associations, and one comment letter from a financial intermediary that functions as a deposit broker. These comment letters are available on the FDIC's website, and the details of the comments are discussed under III. Discussion of Comments and the Final Rule. The FDIC considered all of the comments it received when developing the final rule.

III. Discussion of Comments and the Final Rule

A. Summary

The FDIC is amending part 370 in advance of the compliance date for the original covered institutions. The FDIC is making changes to part 370 that, among other things:

- Include an optional one-year extension of the compliance date upon notification to the FDIC;
- provide clarifications regarding compliance certification, and the effect of a change in law or a merger transaction on compliance;
- enable IDIs that are not covered institutions to voluntarily become covered institutions under part 370 and be released from the provisional hold and standard data format requirements of § 360.9;
- revise the actions that must be taken by a covered institution with respect to deposit accounts with transactional features that are insured on a pass-through basis;
- amend the alternative recordkeeping requirements for certain types of deposit relationships;
- clarify the process for requesting exception from the rule's requirements, provide for published notice of the FDIC's responses, and provide that certain exceptions may be deemed granted; and
- make corrections and technical and conforming changes.

B. Elective Extension of the Compliance Date

The FDIC proposed to amend § 370.6 of the rule by adding a new paragraph (b)(2) to provide covered institutions that became covered institutions on the effective date with the option to extend their April 1, 2020, compliance date by up to one year (to a date no later than April 1, 2021) upon notification to the FDIC. The notification would need to be provided to the FDIC prior to the original April 1, 2020, compliance date and state the total number and dollar amount of deposits in deposit accounts for which the covered institution expected its IT system would not be able to calculate deposit insurance coverage as of the original April 1, 2020, compliance date. The FDIC recognizes that some of these covered institutions may need additional time to implement new capabilities in their IT systems and to achieve a new level of regularity in their recordkeeping. The FDIC believed that an extension of up to one year would help these covered institutions more efficiently focus their efforts on complying with part 370 rather than on seeking exceptions to compliance with part 370. In connection with this amendment, the FDIC also proposed to revise the definition of compliance date in § 370.2(d) to reference § 370.6(b).

The commenters voiced support for the FDIC's proposal and found one year to be an appropriate length of time for an extension. One commenter stated that the one year will allow additional time for data clean up, client outreach, and internal testing. This commenter believed that this operational extension will result in improved and enhanced deposit records, fewer items in the pending file, fewer requests for relief or extensions, reduction in potential miscalculations, and enhancements to front-end account opening systems.

Two commenters suggested that the optional extension should be available to all covered institutions because all covered institutions encountered many issues, including interpretive issues and system challenges, that have hindered progress in implementing the rule. One commenter stated that by providing this optional extension to all covered institutions, it would avoid potential arguments that the FDIC was more lenient with certain covered institutions.

Another commenter appreciated the option for the one-year extension but suggested that the extension be automatic without the need to request an extension. This commenter explained that covered institutions did not have three years to comply with the rule because the FDIC provided guidance over a year after the effective date of April 1, 2017. The commenter further argued that a covered institution may be competitively disadvantaged regarding pass-through deposit insurance requirements if a covered institution does not elect the one-year extension because a covered institution's customers may move their business to a covered institution that has not yet imposed the requirements of the rule. Finally, this commenter stated that the majority of covered institutions will request an extension and resources would be better allocated on compliance efforts than on a notification.

The Final Rule

The FDIC has amended the rule as proposed. Part 370 became effective on April 1, 2017, so all IDIs that became covered institutions on that date are subject to a compliance date of April 1, 2020. Part 370 requires covered institutions to achieve a new set of capabilities in their IT systems, and a new level of regularity in their recordkeeping, in some cases requiring the collection of new information from depositors. The nature of these requirements was understood prior to the effective date of the rule, but the amount of time required to achieve compliance could only be estimated at the time the FDIC issued part 370. The FDIC's experience in dealing with covered institutions to date indicates that, despite significant and timely efforts, many covered institutions would be unable to meet part 370's requirements by the compliance date without expending significant resources to complete required IT and recordkeeping tasks on an expedited basis. Each covered institution so situated would need to produce an extension request, adding to its burden, and the FDIC would have to process such requests. Feedback to date has enabled the FDIC to determine that a one-year extension for a covered institution that became a covered institution on the effective date of April 1, 2017, is unlikely to significantly impact the FDIC's ability to achieve its objectives. Accordingly, the final rule provides for an elective one-year extension for such covered institutions upon notification to the FDIC. To be certain, the final rule does not require that an eligible covered institution request the extension, but rather requires that the covered institution notify the FDIC that it has elected to extend its compliance date. This notification must be provided to the

[10] 84 FR 14814 (Apr. 11, 2019).

FDIC prior to the original April 1, 2020, compliance date and state the total number and dollar amount of deposits in deposit accounts for which the covered institution expects its IT system would not be able to calculate deposit insurance coverage as of the original compliance date. The FDIC does not believe that this elective extension should be automatic because some covered institutions may not need it. Further, the FDIC will need to know which covered institutions have elected to take the extension so that it can appropriately stage its compliance testing program. The information provided by each covered institution in its notification will help the FDIC understand the extent to which the covered institution's capabilities could be utilized prior to the extended compliance date should those capabilities be needed. This informational requirement will not affect the ability of a covered institution to extend its compliance date. In connection with this amendment, the final rule also amends the definition of compliance date in § 370.2(d) to reference § 370.6(b).

The final rule does not change the compliance date for IDIs that became covered institutions after the effective date of April 1, 2017. For these covered institutions, the compliance date will be the date that is three years after the date that such IDI became a covered institution. Extending this three-year implementation period for such covered institutions is unnecessary; IDIs are accustomed to anticipating and meeting increased regulatory requirements as their size increases. Further, as part 370's recordkeeping and IT system capabilities become more commonplace in the banking industry, the FDIC expects covered institutions and their advisors to experience less difficulty in implementing these capabilities. That being said, these covered institutions may request an extension under § 370.6(b)(1) should they need it.

The final rule also left undisturbed the ability of the FDIC under § 370.7 to accelerate the implementation of part 370 requirements for a particular covered institution under certain circumstances. Retention of these requirements provides additional assurance that the optional one-year extension of the initial compliance date for all IDIs that were covered institutions as of the effective date of April 1, 2017 may be made without jeopardizing the objectives of part 370.

The FDIC does not share one commenter's view that a covered institution may be competitively disadvantaged regarding pass-through deposit insurance requirements if a covered institution does not elect the one-year extension because a covered institution's customer may move its business to a covered institution that has not yet imposed the requirements of the rule. The FDIC does not believe it likely that a customer will move its business to another covered institution solely based on a covered institution's decision to elect a one-year extension of its compliance date.

C. Compliance

1. Part 370 Compliance Certification and Deposit Insurance Summary Report

In the NPR, the FDIC proposed to revise § 370.10(a)(1) to address the requirements for the certification of compliance that a covered institution must submit to the FDIC upon its initial compliance date and annually thereafter. The FDIC proposed to clarify that the time frame within which a covered institution must implement the capabilities needed to comply with part 370 and test its IT system is the ''preceding twelve months'' rather than during the ''preceding calendar year.'' The FDIC proposed to revise the testing standard for the certification from confirmation that a covered institution has ''successfully tested'' its IT system to confirmation that ''testing indicates that the covered institution is in compliance.'' The FDIC also proposed to clarify the standard by which the § 370.10(a)(1) compliance certification is made by revising this paragraph to state that the certification must be signed by the chief executive officer or chief operating officer and made to the best of his or her ''knowledge and belief after due inquiry.'' This proposal clarified that the executive's essential duty is to take reasonable steps to ensure and verify that the certification is accurate and complete to the best of his or her knowledge after due inquiry.

Many commenters believed that the § 370.10(a) compliance certification is unnecessary and should be eliminated from the rule. These commenters believed that such a certification does not add assurance of compliance but adds more cost and complexity for the covered institution. Additionally, these commenters stated that existing oversight by regulatory authorities and compliance testing by the FDIC would assure part 370 compliance. One commenter stated that compliance with laws and regulations is a priority for every banking organization and senior executives are held responsible for compliance. Two commenters submitted that, if the FDIC requires this compliance certification, then the FDIC should make the proposed ''knowledge and belief after due inquiry'' change.

Two commenters recommended that the rule be revised to allow a qualified compliance certification in which areas of noncompliance that require remediation are acknowledged. One commenter recommended that § 370.10(a) be amended by adding ''such testing indicated that the covered institution is in substantial compliance with this part.'' This commenter also recommended that the certification be provided ''subject to'' identified issues found in testing or otherwise by the covered institution, the FDIC, or other party. Another commenter believed that there is a risk of exposure to liability for the certifying executives if there are acknowledged deficiencies. This commenter also stated that ''CIs have been assured repeatedly by FDIC managers that, when a CI is making a good faith effort to implement part 370, they will be patient with elements of that implementation that have been identified and accepted by them as under construction.''

The Final Rule

The final rule adopts the amendment as proposed. The FDIC did not revise the rule to provide a qualified compliance certification as recommended by certain commenters because covered institutions may request an exception for known deficiencies in compliance. This is important because the FDIC needs to know about the shortcomings of a covered institution's part 370 capabilities in order to make best use of those capabilities in the event of the covered institution's failure. The FDIC believes that the revision to the relief provisions in the rule will facilitate the processing of exception requests. Additionally, the FDIC addressed the strict liability concern raised by covered institutions by adding ''to the best of his or her knowledge and belief after due inquiry'' to § 370.10(a). The FDIC will not informally grant a covered institution's request for relief. All covered institutions seeking relief must formally request such relief according to the requirements of the rule.

2. Effect of Changes to Law

The FDIC recognizes that future changes to law could impact a covered institution's compliance with the requirements of part 370 by, among other things, changing deposit insurance coverage and related recordkeeping and calculation requirements. The FDIC proposed to add a new paragraph (d) to § 370.10 to address the effect of changes to law that alter the availability or

calculation of deposit insurance. The proposed rule provided that a covered institution would not be in violation of part 370 as a result of such change in law for such period as specified by the FDIC following the effective date of such change in law.

One commenter appreciated FDIC's acknowledgment of the impact on covered institutions of future changes to law that alter the availability or calculation of deposit insurance. This commenter recognized that the scope of future changes to law would impact the part 370 implementation time frame for covered institutions. Several commenters suggested that at least 18 months would be required to update data records and make system changes following such changes to law in order to bring a covered institution's system into compliance with part 370. One commenter incorrectly suggested that § 360.9 provides for at least 18 months to achieve compliance following a legislative change; therefore part 370 should be revised to allow at least as long an adjustment period.[11] Another commenter stated that 12 months is a realistic minimum time frame. This commenter suggested that the FDIC retain discretion to increase the minimum time period depending on the nature and impact of the change to law. The commenter also suggested that the FDIC seek feedback from covered institutions and rely on industry associations to provide guidance for realistic time frames for covered institutions to comply with such changes to law.

The Final Rule

The FDIC has amended the rule in this respect as proposed in the NPR. A covered institution will not be considered to be in violation of part 370 as a result of a change in law that alters the availability or calculation of deposit insurance for such period as specified by the FDIC following the effective date of such change. The FDIC will publish notice of the specified period of time in the **Federal Register**.

Although commenters suggested a 12-month or 18-month minimum time frame for a covered institution to re-establish compliance with part 370, these commenters also recognized that the amount of time needed will depend upon the scope of a change to law impacting a covered institution's part 370's recordkeeping and IT capabilities. The FDIC does not believe that it is appropriate to set a minimum time period for a covered institution to resolve compliance deficiencies resulting from a change to law without knowing what the change to law is. The FDIC acknowledges that changes in law may be made with immediate effect, yet the covered institutions may reasonably require time to collect necessary records and reconfigure their IT systems to calculate deposit insurance under the changed laws. The final rule allows the FDIC to provide covered institutions with a time frame to re-establish compliance that is appropriate given the specific change to law.

3. Effect of Merger Transaction by a Covered Institution

Original part 370 does not expressly address merger transactions. In the NPR, the FDIC proposed adding a provision to the rule to provide a covered institution with a one-year period following the effective date of a merger with another IDI to provide the covered institution with time after a merger to ensure that new deposit accounts and IT systems are in compliance with the requirements of part 370.

Several commenters supported the FDIC's proposal to provide covered institutions with a grace period for compliance violations that occur as the direct result of a merger. These commenters requested a 24-month grace period, however, based on the expectation that a covered institution would need more than one year to merge systems and fully integrate records and operations as a result of a merger. One commenter also suggested that this provision should be amended to address deposit assumption transactions.

The Final Rule

The FDIC considered these comments and made two revisions to the proposal. First, the final rule replaces ''merger'' with ''merger transaction.'' For the purposes of this paragraph, ''merger transaction'' has the same meaning as provided in section 18(c)(3) of the FDI Act.[12] This revision clarifies that a ''merger transaction'' is broader than a merger and can include deposit assumption transactions and other merger transactions by a covered institution. Second, the final rule provides a 24-month grace period rather than a one-year grace period following the effective date of a merger transaction. This 24-month grace period does not extend a covered institution's preexisting compliance date; rather, it provides a 24-month grace period to remedy compliance deficiencies that occur as the direct result of a merger transaction. In cases where this 24-month grace period is not sufficient, a covered institution may request a time-limited exception pursuant to § 370.8(b) for additional time to integrate deposit accounts or IT systems.

D. Voluntary Compliance With Part 370

In the NPR, the FDIC proposed to enable an IDI that is not a covered institution to voluntarily become a covered institution. Such IDI would need to notify the FDIC of its election and would be considered a covered institution as of the date on which such notice is delivered to the FDIC. Its compliance date would be the date on which it submits its first certification of compliance and deposit insurance coverage summary report pursuant to § 370.10(a). The FDIC proposed this revision to enable banking organizations with one part 370 covered institution and one 360.9 institution to develop a single unified deposit recordkeeping and IT system that would be compliant with part 370 and no longer have to maintain a separate, parallel system to satisfy the requirements of § 360.9 concerning provisional hold capabilities and standard data format for deposit account and customer data.[13]

One commenter supported this proposal recognizing that an IDI may voluntarily comply with part 370 for efficiency when the IDI has an affiliated covered institution and their holding company would prefer to comply with the rule across its organization.

The Final Rule

The FDIC has amended the definition of ''covered institution'' in § 370.2(c) as proposed. An IDI may voluntarily comply with part 370 by delivering written notice to the FDIC stating that it will voluntarily comply with the requirements of part 370. Such an IDI would be considered a covered institution as of the date on which the notification is delivered to the FDIC. The compliance date for such an IDI would be the date on which the covered institution submits its first certification of compliance and deposit insurance coverage summary report pursuant to § 370.10(a). An IDI subject to § 360.9 must continue to comply with § 360.9 until it meets the conditions for release from § 360.9 requirements set forth in § 370.8(d).

[11] Section 360.9 neither expressly addresses effects of changes to law nor provides any minimum time period for such changes to law.

[12] See 12 U.S.C. 1828(c).

[13] 84 FR 14814, 14817.

E. Deposit Accounts With ''Transactional Features''

1. Purpose for Identifying Deposit Accounts With ''Transactional Features''

Part 370 applies a bifurcated approach to recordkeeping requirements, generally requiring that a covered institution itself maintain all information needed to calculate deposit insurance coverage for many types of deposit accounts while allowing covered institutions to maintain less information for other accounts because there are impediments to bringing that information into the covered institution's records. Among these ''alternative recordkeeping'' accounts are those that meet the requirements of §§ 330.5 (Recognition of deposit ownership and fiduciary relationship) and 330.7 (Accounts held by agent, nominee, guardian, custodian or conservator) and certain trust accounts. Part 370 uses the ''transactional features'' definition to identify those alternative recordkeeping accounts that may support depositors' routine financial needs and therefore require a prompt deposit insurance determination to avoid delays in payment processing should the covered institution's deposit operations be continued by a successor IDI. The original part 370 required covered institutions to certify that, for alternative recordkeeping accounts with transactional features, the account holder would submit to the FDIC the information necessary to complete a deposit insurance calculation with regard to the account within 24 hours following the appointment of the FDIC as receiver. It also provided exceptions to this certification requirement for certain types of accounts.

The NPR described the FDIC's efforts to create appropriate recordkeeping requirements for those types of deposit accounts for which depositors need daily access to funds but for which the covered institution is not required to maintain all information needed to complete a deposit insurance determination. In the NPR, the FDIC proposed to retain the bifurcated approach to recordkeeping requirements but change the definition used to classify accounts with transactional features.

The FDIC proposed narrowing the definition of transactional features to focus on accounts capable of making transfers directly from the covered institution to third parties by methods that would necessitate a prompt insurance determination to avoid disruptions to payment processing. As stated in the NPR, the FDIC intends that the transactional features definition identify only the subset of alternative recordkeeping accounts for which an insurance determination within 24 hours following its appointment as receiver is essential to fulfillment of its policy objectives.[14] The FDIC proposed to revise § 370.2(j) to define transactional features primarily by reference to the parties who could receive funds directly from the account by methods that may not be reflected in the close-of-business account balance on the day of initiation of such transfer. Under the proposed revision, an alternative recordkeeping account would have transactional features if it could be used to make transfers to anyone other than the account holder, the beneficial owner of the deposits, or the covered institution itself, by a method that would result in the transfer not being reflected in the close-of-business ledger balance for the account on the day the transfer was initiated. Transfers that are included in the close-of-business account balance for an account on the day of failure generally will be completed under FDIC rules,[15] with funds transferred out of the account not being included in the deposit insurance determination for the account. Since such transfers would not be affected by the deposit insurance determination, any delay in completing the deposit insurance determination for such account would not create delays in processing payments. The proposed definition also included linked accounts that support accounts with transactional features.

In the NPR, the FDIC solicited comment on whether it would be better to eliminate the definition of transactional features and instead provide that any special requirements for alternative recordkeeping accounts be applicable without regard to whether the accounts do or do not have ''transactional features.''

Some commenters supported the FDIC's proposed revisions to the definition. One commenter concluded that the revised definition better supports the FDIC's ability to determine deposit insurance coverage promptly than the original definition, and another commenter noted that the revised definition aids in identifying pass-through accounts that support depositors' routine financial needs in a reasonable, burden-reducing manner. Another commenter made similar comments. All supportive commenters requested some modifications to the proposed definition for the purpose of clarifying that deposit accounts utilized in certain business arrangements would not be considered to have ''transactional features.''

Other commenters expressed opposition to the revisions to the definition. One stated that the revised definition failed to add clarity or improve the description of the accounts that required prompt processing. This commenter requested that the FDIC develop a more customer-friendly definition and suggested that the FDIC simply use the term ''checking accounts.'' Another commenter expressed concern that the definition was still unclear and proposed that the FDIC use the ''transaction account'' definition used in other regulations, such as Regulation D[16] or Regulation CC.[17]

Finally, commenters expressed a variety of responses to the FDIC's question regarding removal of the definition of transactional features and application of the related requirements to all alternative recordkeeping accounts. One supported the proposal, expressing that it appropriately places the onus on the depositors to submit data quickly to obtain a prompt deposit insurance determination. Another supported retaining the definition so that covered institutions could have the flexibility to use the definition to distinguish between accounts on that basis if they so desired, rather than being obligated to comply with the related requirements as to all alternative recordkeeping accounts. Another wrote that maintaining the definition and the option to treat all § 370.4(b)(1) alternative recordkeeping accounts as accounts with transactional features was a benefit of the proposed rule. Finally, one commenter expressed opposition to elimination of the definition and application of the requirements to all alternative recordkeeping accounts on the grounds that some of the requirements would impose a significant burden as certain account holders would be unable to meet these requirements with regard to certain alternative recordkeeping accounts such as trust accounts.

The Final Rule

The final rule reflects the FDIC's continuing effort to establish a framework for providing prompt payment of deposit insurance for deposits maintained in accounts subject to the alternative recordkeeping requirements of § 370.4(b)(1) through capabilities that are least burdensome to

[14] 84 FR 14814, 14818.

[15] See 12 CFR 360.8.

[16] 12 CFR part 204.

[17] 12 CFR part 229.

covered institutions and account holders. The final rule retains the term ''transactional features,'' with clarifying changes to the definition, and alters the required actions that a covered institution must take with respect to deposit accounts with transactional features for which the covered institution maintains its deposit account records in accordance with the alternative recordkeeping requirements set forth in § 370.4(b)(1). The final rule amends § 370.5(b), which lists account types for which a covered institution need not take these actions, as proposed in the NPR.

The proposed definition of transactional features is adopted in the final rule substantially as proposed. Retaining the definition allows the FDIC to focus on those alternative recordkeeping accounts that are most likely to require a deposit insurance determination immediately upon failure. It provides the covered institution with options to comply by taking the actions specified in § 370.5(a) with regard to: Only those alternative recordkeeping accounts described in the definition, a larger subset of alternative recordkeeping accounts, or all alternative recordkeeping accounts other than those described in § 370.5(b). Revising the definition to adopt the ''transaction account'' definitions of Regulation D or Regulation CC, or to limit it to checking accounts, would result in an unacceptably narrow definition that would exclude some accounts for which ready access to funds remains important to depositors and their payees. Use of a narrower definition would also increase the likelihood that some in-process transactions involving the account would be disrupted, should a deposit insurance determination be delayed due to a lack of information regarding deposit ownership.

In response to the comments, the definition is revised from the proposed rule by replacing ''transfers'' with ''transfer,'' ''parties'' with ''party,'' ''methods'' with ''method,'' to make clear the FDIC's intention that the ability to make one or more transfers to any one or more parties other than the account holder, beneficial owner of the deposits, or the covered institution is sufficient for an account to have transactional features, if such transfer or transfers is made by a method or methods that may result in such transfer being reflected in the end-of-day ledger balance for such deposit account on a day that is later than the day that such transfer is initiated, even if initiated prior to the institution's normal cutoff time for such transaction. When interpreting this definition, the FDIC will consider transfers to custodians and trustees acting on behalf of the beneficial owner of the deposits to be transfers to the beneficial owner of the deposits, such that the ability to transfer from the deposit account to a custodian or trustee of the beneficial owner of the deposits, pursuant to a method described in the definition, will not itself result in the account having transactional features. In such circumstances, a custodian or trustee acting on behalf of the beneficial owner of the deposits is not a third party transferee of the type that indicates that the account is being used by the beneficial owner of the deposits to meet its ''day-to-day financial obligations,'' a central motivation for the requirements of § 370.5(a).[18] Rather, as the comment described above indicates, it is merely a transfer between accounts maintained for the beneficial owner of deposits and should be treated accordingly.

2. Actions Required for Certain Deposit Accounts With Transactional Features Under § 370.5(a)

Original part 370 required the covered institution to certify to the FDIC that, for alternative recordkeeping accounts with transactional features, the account holder ''will provide to the FDIC the information needed . . . to calculate deposit insurance coverage . . . within 24 hours after'' failure. In the NPR, the FDIC proposed replacing the certification requirement with a requirement that covered institutions instead take ''steps reasonably calculated'' to ensure that the account holder would provide to the FDIC the information needed for the FDIC to use a covered institution's part 370-compliant IT system to accurately calculate deposit insurance available for the relevant deposit accounts within 24 hours after the failure of the covered institution. Under the proposed rule, ''steps reasonably calculated'' included, at a minimum, contractual arrangements with the account holder that obligated the account holder to deliver information needed for deposit insurance calculation to the FDIC in a format compatible with the covered institution's IT system immediately upon the covered institution's failure and a disclosure to account holders to inform them that delay in delivery of information to the FDIC, or submission in a format that is not compatible with the covered institution's IT system, could result in delayed access to deposits should the covered institution fail and the FDIC need to conduct a deposit insurance determination.

The FDIC proposed to revise the actions of the covered institution required with respect to alternative recordkeeping accounts with transactional features and also amended the list of accounts excepted from those requirements.

One commenter expressed support for removing the certification requirement and replacing it with an obligation to take steps reasonably calculated to ensure the required depositor information is timely delivered for alternative recordkeeping accounts with transactional features. This commenter and another remarked favorably on the required contractual arrangements called for in the proposed rule, noting that account holders play a role in a deposit insurance determination for accounts with transactional features and that the proposed language appropriately makes them part of a solution that allows for timely processing.

Two commenters objected to the contractual requirement. One emphasized the bilateral nature of its deposit agreements and expressed concern that account holders may not agree to the required contract terms as doing so could be burdensome, and that these account holders may instead move their deposits to banks that are not covered institutions. It requested that the proposed requirement be limited to an obligation to make a good faith ''attempt to enter into contractual arrangements that obligate the account holder to deliver all the information needed . . .'', and to only be required to make the disclosure described in the proposed rule if the account holder did not agree to such terms. This commenter also suggested that the contractual language require the account holder to deliver the information within 24 hours of the covered institution's failure, rather than immediately upon failure. The other commenter objecting to the FDIC's proposal did so in the event that the definition of transactional features was removed from the final rule, and consequently, the requirement would apply to all alternative recordkeeping accounts. It noted the significant difficulties that some account holders would have in meeting both the timing and formatting delivery requirements and suggested limiting the requirement to pass-through accounts that named all beneficial owners and account participants in the account title.

The Final Rule

The final rule furthers the focus of the covered institution's obligations upon

[18] 81 FR 87734, 87751.

its own actions, rather than those of the account holder. To be sure, the FDIC expects that a covered institution will configure its information technology system to calculate deposit insurance coverage for the accounts within 24 hours following delivery of properly formatted depositor information by account holders. The FDIC's proposal to require that the covered institution take ''steps reasonably calculated'' to ensure that certain account holders make a timely delivery of properly formatted information is adopted, with further revision to the specific actions that ''steps reasonably calculated'' must include at a minimum. With respect to the first specific action, the FDIC acknowledges the comments regarding challenges that amendment of bilateral deposit agreements presents to covered institutions and has adjusted the final rule accordingly. Comments demonstrated that this provision could not be accommodated by some account holders for reasons of impossibility. Other commenters highlighted the burden that this imposed on covered institutions to re-negotiate agreements with account holders who may ultimately not accept such terms. The final rule amends § 370.5(a) by adding a new paragraph similar to that proposed in the NPR, but with the requirement that a covered institution make ''a good faith effort to enter into contractual arrangements with the account holder . . .'' By requiring that covered institutions make a good faith effort, the final rule provides flexibility to covered institutions whose account holders are unable or unwilling to execute new deposit agreements addressing part 370-related information production capabilities.

The second specific action to be included among ''steps reasonably calculated'' is comprised of two parts. A covered institution must provide a disclosure to account holders substantially similar to the disclosure set forth in the proposed rule to inform these account holders that their ability to access deposits in a timely manner after the covered institution's failure is dependent on meeting the information production requirements. A covered institution must also provide these account holders with an opportunity to validate their capability to deliver information needed for calculation of deposit insurance coverage in the format required by the covered institution's information technology system. These specific actions are expected to ensure that account holders are aware of the need to make a prompt submission of properly formatted deposit ownership information in order to have timely access to insured deposits, and that the account holder knows the manner in which it must make that submission. The account holder is the party best positioned to collect, maintain, format, and submit the depositor information, and has the greatest incentive to do so should the covered institution fail. The FDIC intends to include a review of a covered institution's efforts to take ''steps reasonably calculated,'' including those minimum requirements, as part of its compliance testing described in § 370.10(b).

3. Exceptions From the Requirements of § 370.5(a) for Certain Types of Deposit Accounts

Original part 370 provided an enumerated list of accounts that a covered institution did not need to address when making the certification required pursuant to § 370.5(a). The FDIC proposed retaining this list of deposit account types in the NPR, but broadened the exception for mortgage servicing accounts under § 370.5(b)(1) to include all deposits in such an account and expanded the list by adding deposit accounts maintained by an account holder for the benefit of others to the extent that the deposits in the custodial account are held for: A formal revocable trust that would be insured as described in 12 CFR 330.10; an irrevocable trust that would be insured as described in 12 CFR 330.12; or an irrevocable trust that would be insured as described in 12 CFR 330.13. The proposed rule also made a technical amendment to § 370.5(b)(4) to correct an incorrect cross reference.

Four commenters were supportive of the proposed changes. One suggested that the list be expanded to include custodial accounts, agency accounts, and fiduciary accounts not used for day to day transactions.

The Final Rule

Section 370.5(b) of the final rule provides an enumerated list of accounts for which a covered institution need not take the actions prescribed under § 370.5(a). In the NPR, the FDIC proposed to make three revisions to the list set forth in § 370.5(b) of the original part 370. First, the FDIC proposed to expand the exception for mortgage servicing accounts under § 370.5(b)(1) to include all deposits in such an account and not limit the exception to the extent that those accounts are comprised of principal, interest, taxes, and insurance. Second, the FDIC proposed a technical amendment to § 370.5(b)(4) to correct an incorrect cross reference to the applicable section of the FDIC's regulations governing deposit insurance coverage for deposit accounts held in connection with an employee benefit plan. Third, the FDIC proposed to add to this list deposit accounts maintained by an account holder for the benefit of others to the extent that the deposits in the custodial account are held for: A formal revocable trust that would be insured as described in 12 CFR 330.10; an irrevocable trust that would be insured as described in 12 CFR 330.12; or an irrevocable trust that would be insured as described in 12 CFR 330.13.

Commenters largely agreed with the FDIC's proposed revisions to § 370.5(b). One suggested that ''additional custodial accounts, agency accounts and fiduciary accounts that are not used for day-to-day transactions should be included in the list of exceptions in addition to the employee benefit accounts currently included in the list of excepted accounts. These should include other types of retirement accounts and employee benefit plans, public bond accounts and other types of custody and agency accounts, including those maintained within trust departments of the CIs or trust departments of affiliates of the CIs. Due to the nature and structure of the custodial, agency and other fiduciary relationships, the large majority of these accounts do not require immediate access to funds on deposit.'' The FDIC believes these suggestions are not specific enough to include in the enumerated list under § 370.5(b) and would be more appropriately addressed with a tailored exception request pursuant to § 370.8(b). The FDIC notes, however, that the final rule's revision of § 370.5(a) to focus the covered institution's actions on enabling account holders to best position themselves to take the actions that need to be taken after failure to obtain deposit insurance should provide sufficient flexibility for a covered institution to meet its obligations with respect to these additional custodial accounts, agency accounts and fiduciary accounts that are not used for day-to-day transactions. In all respects, the final rule amends § 370.5(b) as proposed for the reasons discussed in the NPR.

F. Recordkeeping Requirements

1. Alternative Recordkeeping Requirements for Certain Trust Accounts

Section 370.4(b)(2) of the original part 370 provides covered institutions with the option of meeting the alternative recordkeeping requirements set forth in § 370.4(b)(2) rather than the general recordkeeping requirements set forth in

§ 370.4(a) for certain types of deposit accounts held in connection with a trust. Specifically, formal revocable trust deposit accounts that are insured as described in 12 CFR 330.10 (''formal REV accounts,'' for which the corresponding right and capacity code is ''REV'' as set forth in Appendix A) and irrevocable trust deposit accounts that are insured as described in 12 CFR 330.13 (''IRR accounts,'' for which the corresponding right and capacity code is ''IRR'' as set forth in Appendix A) are eligible for alternative recordkeeping under § 370.4(b)(2). (The alternative recordkeeping requirements for these trust deposit accounts are different from the alternative recordkeeping requirements set forth in § 370.4(b)(1), which generally applies to deposit accounts that would be entitled to additional deposit insurance on a pass-through basis).

In the preamble to the original part 370, the FDIC explained that the recordkeeping requirements for formal REV accounts and IRR accounts were intended to ensure that covered institutions maintain enough information to allow for the calculation of an initial minimum amount of deposit insurance that would be available for these deposit accounts. The FDIC stated that ''[f]or deposit accounts held in connection with formal trusts for which the covered institution is not trustee, the covered institution will need to maintain in its deposit account records the unique identifier of the account holder, and the unique identifier of the grantor (if the grantor is not the account holder) if the account has transactional features. *The unique identifier of the grantor is needed in order to begin calculating how much deposit insurance would be available, at a minimum, on deposit accounts held in connection with a formal trust.* The covered institution will also need to maintain in its deposit account records information sufficient to populate the 'pending reason' field of the pending file set forth in Appendix B, which is to be generated by the covered institution's IT system pursuant to § 370.3(b) of the final rule.'' [19] The FDIC explained further that ''many consumers now open formal trust accounts and use them to handle their daily financial transactions. Compliance with this requirement regarding the grantor will permit the FDIC to begin the deposit insurance determination process and, during that delay, allow access to some portion of that deposit account and process outstanding checks.'' [20]

[19] 81 FR 87734, 87739. Emphasis added.

[20] Id. at 87752.

The FDIC expects that a covered institution's IT systems will be able to calculate an initial minimum amount of deposit insurance that would be available for formal REV accounts and IRR accounts based on the information that is maintained in the covered institution's deposit account records, even if that information is not all of the information that would be needed to calculate the full and final amount of deposit insurance that would be available for the deposits in those accounts. Ideally, this could be done within 24 hours after failure, but in any event by the next business day after a covered institution's failure to enable fulfillment of payment instructions presented on one of those accounts. Section 370.4(b)(2)(ii) of the original part 370 requires that a covered institution maintain ''the unique identifier of the grantor'' in its deposit account records for formal REV accounts and IRR accounts if those accounts have transactional features because, without that data element, even an initial amount of deposit insurance cannot be made available. The capability to provide some insurance coverage and enable the depositor to access a portion of the deposit shortly after a covered institution's failure should mitigate the adverse effects that could be caused by restricting access to all deposits in such accounts until the full extent of coverage can be calculated based on additional information delivered by the account holder at some later point in time after the covered institution's failure.

Since the adoption of part 370 in 2016, the FDIC has learned about specific challenges that covered institutions face with respect to certain types of deposit accounts held in connection with a trust. In the NPR, the FDIC proposed two amendments to § 370.4(b)(2) to clarify the rule's requirements and to more closely align part 370's burdens with its benefits. These two amendments are discussed in sections F.1.a. ''DIT accounts'' and F.1.b. ''Right and capacity code for certain trust accounts'' below. Three commenters discussed challenges to identification of trust grantors; while the FDIC has not eliminated this requirement, the final rule clarifies that this requirement will be satisfied upon identification of one grantor notwithstanding the fact that multiple grantors may exist. The FDIC believes that the changes made by this final rule balance its objectives with respect to certain trust accounts in a manner that is appropriate given challenges faced by covered institutions.

a. DIT Accounts

In the NPR, the FDIC proposed to amend § 370.4(b)(2) to include irrevocable trust deposit accounts that are insured as described in 12 CFR 330.12 (''DIT accounts,'' for which the corresponding right and capacity code is ''DIT'' as set forth in Appendix A) as deposit accounts eligible for the alternative recordkeeping requirements. The FDIC recognized in the NPR that, although a covered institution as trustee for an irrevocable trust should be able to gather and verify the information needed to calculate the amount of deposit insurance coverage for such trust's deposit account(s) at any given time (such information being, among other things, the identities of trust beneficiaries and their respective interests), requiring continuous update of deposit account records could be overly burdensome. Additionally, there may be a significant lag between the time at which a change occurs and when the covered institution as trustee becomes aware of it and is able to update the respective deposit account records accordingly for purposes of part 370. Because of these issues, the FDIC believed it would be appropriate to enable covered institutions to maintain their deposit account records for DIT accounts in accordance with the alternative recordkeeping requirements.

Nearly all of the commenters were supportive of the FDIC's proposal to permit covered institutions to meet the alternative recordkeeping requirements for DIT accounts, and none objected. In light of the challenges associated with maintaining accurate information continuously in deposit account records for these accounts, the final rule amends § 370.4(b)(2) as proposed. DIT accounts are now an additional category of trust deposit accounts for which a covered institution may meet the alternative recordkeeping requirements rather than the general recordkeeping requirements. This amendment may result in a deposit insurance determination for DIT accounts not being made within 24 hours after a covered institution's failure; as discussed below, however, an initial minimum amount of deposit insurance available for these accounts could be calculated within that time frame using information that covered institutions regularly maintain for these accounts. To conform with this amendment, § 370.4 has been revised by removing paragraph (a)(1)(iv), which previously required a covered institution to maintain in its deposit account records for each DIT account

the unique identifier for the trust's grantor and each trust beneficiary.

b. Right and Capacity Code for Certain Trust Accounts

In the NPR, the FDIC proposed to amend § 370.4(b)(2)(iii) by replacing the requirement that a covered institution maintain in its deposit account records for certain trust deposit accounts the corresponding ''pending reason'' code from data field 2 of the pending file format set forth in Appendix B with a requirement that a covered institution maintain in the respective deposit account records the corresponding ''right and capacity code'' from data field 4 of the pending file format set forth in Appendix B. The FDIC explained in the NPR preamble its expectation that covered institutions should be able to identify which of the right and capacity codes apply for deposit accounts that fall into this recordkeeping category based on the titling of the deposit account or documentation maintained in a covered institution's deposit account records concerning the relationship between the covered institution and the named account holder. As a threshold matter, for a deposit account held in connection with a trust to be eligible for alternative recordkeeping under § 370.4(b)(2), a covered institution must be able to determine that the deposit account would be insured as a REV account, an IRR account, or a DIT account. The FDIC expects that a covered institution should be able to identify the applicable right and capacity code using information that the covered institution already maintains. In most cases, titling of the deposit account, tax reporting information, or documentation generated and maintained by a covered institution to ensure compliance with Bank Secrecy Act and anti-money laundering standards, taken individually or collectively, should be sufficient for a covered institution to determine whether a deposit account is a formal REV account or an IRR account. Where a covered institution is the trustee for an irrevocable trust, then the covered institution should know whether the deposit account it maintains as trustee on behalf of the trust is a DIT account.

Several commenters disagreed with the proposal to require a right and capacity code rather than a pending reason code. One argued that ''provisions in the trust agreement may alter the 'right and capacity' of a trust without the bank's knowledge . . . For example, the bank may not be informed that a revocable trust has turned irrevocable.'' Another commenter reiterated this point. The FDIC does not, however, share this concern. While formal revocable trusts could become irrevocable trusts upon the occurrence of specific events or satisfaction of certain conditions, this change in status alone does not alter the insurability of the deposits in the account. Section 330.10(h) of the FDIC's deposit insurance regulation states that ''if a revocable trust account converts in part or entirely to an irrevocable trust upon the death of one or more of the trust's owners, the trust account shall continue to be insured under the provisions of this section.'' [21] Further, it provides that ''this section shall apply to all existing and future revocable trust accounts and all existing and future irrevocable trust accounts resulting from formal revocable trust accounts.'' [22] Accordingly, a deposit account established in connection with a formal revocable trust continues to be insured as an REV account even after the trust becomes irrevocable. The applicable category of deposit insurance for REV accounts does not change unless or until the deposit account is restructured.

A different commenter submitted that ''because these accounts would be placed in the pending file initially regardless of assignment of the ownership right and capacity, assigning a pending [reason] code indicating the nature of the account (*i.e.,* trust) similar to the treatment of all other accounts placed in the pending file seems more appropriate.'' This comment does not seem to consider the FDIC's objective of providing an initial minimum amount of deposit insurance available for certain trust deposits held in an account with transactional features. However, the FDIC believes that a solution exists that furthers its objectives without frustrating covered institutions' efforts to meet part 370's recordkeeping requirements.

Specifically, the final rule amends § 370.4(b)(2)(iii) to require covered institutions to maintain the corresponding ''right and capacity code'' from data field 4 of the pending file format set forth in Appendix B *if it can be identified.* If a covered institution makes a reasonable effort to identify the applicable ''right and capacity code'' but cannot be certain that it is correct, then the covered institution may instead maintain the corresponding ''pending reason'' code from data field 2 of the pending file format set forth in Appendix B. The FDIC expects that covered institutions should, for a vast majority of trust accounts, be able to identify the applicable ''right and capacity'' code.

Although § 370.4(b)(2)(iii) has been amended differently than proposed, the FDIC reiterates the notion that only deposit accounts held in connection with a trust that would be insured as either formal REV accounts, IRR accounts, or DIT accounts are eligible for alternative recordkeeping treatment under § 370.4(b)(2). Covered institutions must sufficiently investigate deposit accounts to make this determination in order to avoid treating deposit accounts of trusts that are insured as described in 12 CFR 330.11(a)(2), or any other provision, as deposit accounts that are eligible for alternative recordkeeping. If a covered institution cannot be sure that a deposit account held in connection with a trust would be insured as either a formal REV account, an IRR account, or a DIT account, then it should seek an exception pursuant to § 370.8(b).

For trust accounts with transactional features that would be insured as either a formal REV account, an IRR account, or a DIT account, but for which the covered institution cannot identify which corresponding ''right and capacity'' code is applicable and therefore instead maintains a ''pending reason'' code, the covered institution will need to maintain the identity of at least one of the trust's grantors in order to meet the requirement set forth in § 370.4(b)(2)(ii), even if the account is a DIT account. If the ''right and capacity'' code is not maintained in the deposit account records for a trust account that has transactional features, then the covered institution has no basis to not maintain the identity of a grantor of the trust, unless the covered institution has sought an exception for the respective account(s) pursuant to § 370.8(b). Additionally, any initial minimum amount of deposit insurance available for the account based on aggregation by grantor may be limited if the applicable right and capacity has not been identified prior to a covered institution's failure.

c. Grantor Identification

Pursuant to § 370.4(b)(2)(ii), a covered institution is required to maintain the unique identifier of the grantor of a trust in its deposit account records for formal REV accounts and IRR accounts. The FDIC solicited comment on this requirement in the NPR, asking for which types of trust accounts covered institutions do not maintain identification of the grantor. The FDIC also asked whether it would be difficult for covered institutions to obtain the grantor's identity in order to assign a unique identifier if identifying

[21] 12 CFR 330.10(h).

[22] Id.

information is not maintained in the deposit account records for certain types of trust accounts.

Three commenters provided substantive responses to these questions. One explained that ''[a]lthough the grantor's name may have been recorded in the trust certification or other documentation when the account was opened, a unique identifier, such as a Social Security number, may not have been required or obtained.'' This commenter further explained that any ''identifying information for the grantor [that] was obtained is likely recorded on a records system other than that for deposits, such as a paper file.'' The second commenter shared a substantially similar response, adding that ''the ability to provide a unique identifier and grantor information is limited, as this information is often unknown unless the trust agreements are accessed.'' The third commenter stated that ''assigning the unique identifier of the grantor will be difficult since this information is not always maintained in the bank's systems.'' This commenter added that a ''manual review of trust documents would be needed to determine the grantor named on each trust account, with additional coding required to assign the grantor a unique identifier on the bank's systems.''

Each of these commenters suggested that the FDIC eliminate the requirement to maintain unique identifiers for grantors of trusts under § 370.4(b)(2)(ii). The first commenter provided two alternative bases. First, the commenter contended that ''deposit insurance calculations for trust deposit accounts cannot be completed without both grantor and beneficiary information. However, banks do not need to store this information, as it is obtained during resolution of a bank along with the beneficiary information required for deposit insurance calculations.'' Second, this commenter argued that ''because CIs are not required to maintain beneficiary information under 'alternative recordkeeping,' the recording of grantor information alone is of no benefit.'' This commenter further explained that ''[r]equiring CIs to obtain and input grantor information that they do not and are not otherwise required to maintain would essentially duplicate much of the post-closing process of contacting trustees to identify beneficiaries, yet still would not allow CIs to achieve the part 370 goal of being able to complete deposit insurance calculations.'' The second commenter shared this view, adding that ''[t]here is no benefit to accessing this information prior to bank failure and these accounts should be in the pending file with a process to update that information at bank failure.'' The third commenter reasoned that ''[a]s these accounts would all be placed in the pending file initially, regardless of assignment of the unique identifier for the grantor, it may be more practical to remove this very cumbersome and timely task from the requirements of part 370.''

The FDIC has considered these comments and determined that this requirement should not be eliminated. Part 370 was adopted with the expectation that a covered institution would need to engage in new recordkeeping efforts, to include conversion of information to a format that can be used by its information technology system to calculate deposit insurance coverage in an automated fashion, as well as correction of recordkeeping deficiencies through engagement with depositors or by leveraging other sources of information associated with tax reporting or compliance with Bank Secrecy Act and anti-money laundering requirements. The FDIC believes that covered institutions will generally be able to identify grantors, particularly those associated with formal REV accounts. In instances where satisfying this recordkeeping requirement is just not possible, § 370.8(b) provides covered institutions with the opportunity to request an exception.

It does not appear that the commenters have considered the FDIC's objective to provide an initial minimum amount of deposit insurance coverage for formal REV accounts and IRR accounts that have transactional features. The FDIC expects that covered institutions will recognize the benefits afforded to depositors should the FDIC be in a position to meet this objective because sufficient information is maintained in a covered institution's deposit account records. Moreover, the FDIC expects that the costs that covered institutions may bear in fulfilling this informational requirement are justified.

The final rule retains the requirement that grantor identity be maintained in the deposit account records for formal REV accounts and IRR accounts with transactional features because, without that information, the FDIC cannot begin to calculate the minimum amount of deposit insurance that would be available for those accounts. Having the identity of the grantor upon failure is expected to enable the FDIC, using the covered institution's IT system, to aggregate formal REV accounts that have the same grantor and provide access to combined balances up to the amount of the SMDIA (currently $250,000) in each category so that payment instructions presented against these accounts can be processed after failure. The same capability is expected for IRR accounts having a common grantor. This capability will facilitate the FDIC's resolution efforts by enabling a successor IDI to continue payments processing uninterrupted, and will also mitigate adverse effects of the covered institution's failure on these account holders. When the covered institution identifies a deposit account as a trust account but cannot designate the account as either a formal REV account or as an IRR account, then the covered institution will maintain the ''pending reason'' code in its deposit account records instead of the ''right and capacity'' code. Under those circumstances, the FDIC will not be able to provide access to an initial amount of deposits in each category but rather will need to limit initial coverage to the SMDIA as though all such accounts were insured in the same category.

The FDIC has made a minor revision to § 370.4(b)(2)(ii) in the final rule to clarify that a covered institution must maintain in its deposit account records the unique identifier of ''a'' grantor, rather than ''the'' grantor, if the account has transactional features. For trusts that have multiple grantors, covered institutions do not need to maintain the identification of all grantors. While the FDIC would need to know the identity of all grantors to calculate the total amount of deposit insurance coverage for one of these trusts, it believes that having the identity of one grantor will be sufficient to calculate the minimum amount of deposit insurance coverage so that some deposits can be made available immediately after a covered institution's failure. Any additional deposit insurance coverage would be calculated by the FDIC using the covered institution's IT system as the account holder delivers information substantiating the additional coverage to the FDIC.

The requirement that grantor identity be maintained in the deposit account records for formal REV accounts and IRR accounts does not apply with respect to DIT accounts. Deposits held in DIT accounts are insured per trust without regard to the rule for aggregation by grantor that is applicable in the IRR and REV categories. In the DIT category, each ''trust estate'' is insured to the SMDIA.[23] All DIT accounts held for the same trust are added together and insured, at a

[23] 12 U.S.C. 1817(i) and 12 CFR 330.12. Section 330.1(p) defines ''trust estate'' as the determinable and beneficial interest of a beneficiary or principal.

minimum, to the SMDIA. The FDIC expects to be able to use a covered institution's part 370-compliant IT system to make the minimum amount of deposit insurance available on DIT accounts within the first 24 hours after the covered institution's failure, with the remainder to be made available as information substantiating the right to additional deposit insurance coverage is delivered to and reviewed by the FDIC. The FDIC would then remove the remaining restriction on access to deposits in such accounts or debit uninsured deposits from such accounts accordingly.

2. Recordkeeping Requirements for a Deposit Resulting From a Credit Balance on an Account for Debt Owed to the Covered Institution

During the FDIC's outreach calls and meetings with many covered institutions, the covered institutions described many functional and operational impediments to their ability to comply with the various recordkeeping requirements of § 370.4. Generally, when the covered institution maintains the requisite depositor information in its own records to perform the deposit insurance calculation, the FDIC would expect the covered institution to comply with § 370.4(a). Other types of accounts, like agent or fiduciary accounts (based on pass-through deposit insurance principles), certain trust accounts, and official items, have already been addressed in §§ 370.4(b) and (c). However, another recordkeeping problem raised by the covered institutions occurs when a borrower of a covered institution has a credit balance on a debt owed to a covered institution. For example, if a bank customer/credit cardholder has a positive balance on a credit card account after returning merchandise and receiving a credit to the account, then that credit amount would be recognized as the customer's ''deposit'' at the covered institution. In accordance with § 3(*l*)(3) of the FDI Act, such an overpayment on a debt owed to a covered institution would constitute a deposit.[24] The FDIC must include (and aggregate, if necessary) such a deposit in order to perform a deposit insurance determination in the event of a covered institution's failure.

Upon initial review, it would appear that a covered institution should be able to comply with the requirements of § 370.4(a) because the covered institution will presumably have in its IT system(s) all of the relevant information regarding the depositor (created by making an overpayment on his or her outstanding debt with the covered institution). The problem, as described to the FDIC by various covered institutions, is that the requisite information regarding the ownership of the deposit, the amount of the deposit as well as other relevant information such as a unique identifier, would be maintained on a covered institution's loan platform rather than on any of its deposit systems. Moreover, the deposit platforms are not usually linked or integrated in any way with a covered institution's various loan platforms. The covered institutions informed the FDIC that it would be unduly expensive for them to integrate or link the various loan platforms with their deposit systems based on their assertions that not many of the credit balances are very high; *i.e.,* much lower than the SMDIA. Therefore, they questioned the need to incur the cost to integrate the loan platforms with the deposit systems.

In order to address the covered institutions' concerns, the FDIC proposed adding a new paragraph (d) to § 370.4. Covered institutions would not be required to comply with the recordkeeping requirements of § 370.4(a) even though they maintained the depositor information necessary to perform a deposit insurance determination on their internal IT systems—just not their deposit platforms. In lieu of integrating their various loan platforms with their deposit systems, the covered institutions would be required to address the issue of credit balances existing on their loan platforms in another manner.

Proposed § 370.4(d)(1) required that immediately upon a covered institution's failure, its IT system(s) must be capable of restricting access to (i) any credit balance reflected on a customer's account associated with a debt obligation to the covered institution or (ii) an equal amount in the customer's deposit account at the covered institution.

Section 370.4(d)(2)(i) required the covered institution to be able to generate a file in the format set forth in Appendix C within 24 hours after failure for all credit balances related to open-end loans (revolving credit lines) such as credit card accounts and HELOCs. In other words, the 24-hour requirement applied to any type of consumer loan account where the customer or borrower has the ability to draw on the credit line without the prior approval or intervention of the covered institution. This time frame would be necessary to ensure that the FDIC would have sufficient time, after the covered institution's failure, to identify the loan customers with credit balances, match them to their corresponding deposit accounts, and restrict access to an amount equal to the overpayment in the customer's deposit account before the next business day.

With respect to all other types of loan accounts with overpayments, proposed § 370.4(d)(2)(ii) would have required the covered institution to be able to generate a file in the format set forth in Appendix C promptly after the covered institution's failure. For closed-end loan accounts, where the borrower has paid more than the balance owed or the outstanding principal balance, the credit balances would not be available or accessible to the customer without the covered institution's authorization or initiation of the payment.

Four of the five commenters commented on the proposed rule's treatment of credit balances in the event of a covered institution's failure; none of the comments expressed approval of the proposed rule's approach in its entirety. One of the commenters expressly supported the FDIC's decision not to require covered institutions to integrate their loan and deposit systems. Another commenter, however, stated that the proposal required effort which would be ''significant, costly, and provides minimal benefit to the bank or customer.''

The commenters addressed both the ''restricting access'' requirement as well as the requirement to prepare a file of the credit balances in the Appendix C format. One comment letter stated that the covered institutions should not be required to restrict access to the credit balances on open-end or closed-end credit accounts or to amounts equivalent to the credit balance on a borrower's deposit account. Two other commenters believed that access to credit balances on loan systems should not be restricted—particularly on closed-end loan accounts. Several of the commenters also opposed restricting access to the credit balances on credit card accounts; one stated that freezing access to credit card accounts ''would potentially negatively impact customers who rely on credit card transactions for daily purchases such as food and transportation.'' Commenters suggested that the requirement to restrict access to credit balances on credit card accounts should only apply when the credit balance is near or above the SMDIA. Moreover, any accounts above the specified threshold would have access restricted through a manual process. Finally, one commenter asserted that freezing an amount equivalent to the

[24] 12 U.S.C. 1813(*l*)(3).

credit balance on the borrower's loan account on the bank's deposit system would require a matching process ''which is not currently within bank capabilities.''

The other major area of concern discussed in the comments was the requirement to prepare a file of the credit balances in the Appendix C format. Generally, the commenters were not in favor of the Appendix C file format. One commenter stated that to require data in the Appendix C format would be a significant challenge. Another requested that the automated report in the Appendix C format be deleted; this commenter asserted that only a manual review of credit balances would be necessary, and the focus should be limited to the larger credit balances. One commenter suggested that the requisite data regarding closed-end loan credit balances should not have to be prepared in the Appendix C file format. This commenter believed, like several others, that the credit balances file could be processed manually after a covered institution's failure. Finally, one commenter offered two alternatives for preparing the credit balances file. First, the covered institutions would only have to match customer information and create a file of credit balances for those accounts with large credit balances; this list would be prepared manually. Another option would require covered institutions to prepare a credit balance file only for credit balances on open-end loan accounts that exceed a specified dollar threshold; the commenter suggested a dollar threshold of $200,000. In other words, if a covered institution has a customer with a credit balance on its credit card account which is $200,000 or less, then the preparation of a file with the credit balance information would not be required.

The Final Rule

As structured in the proposal, the approach to identifying and including the credit balances in the deposit insurance calculation would require two steps. The first step would restrict access to either the credit balance on the covered institution's loan system or an amount equivalent to the credit balance on the customer's deposit account. The second step would generate the data file in the Appendix C format. In the development of the second step, the FDIC distinguished between closed-end and open-end loan accounts. Production of the data file consisting of the credit balances on open-end credit accounts would be needed immediately to complete the deposit insurance determination within 24 hours of the covered institution's failure. On the other hand, the data file for the closed-end credit accounts could be prepared on a different, less urgent, time frame for use in the deposit insurance calculation.

After due consideration of the comments received, the FDIC has revised the proposed rule to address many of the commenters' concerns. In response to some of the commenters, the FDIC has decided to modify the two step approach—particularly with respect to the requirement to restrict access to accounts on the relevant loan platforms. In the final rule, a covered institution's IT system will not be required to restrict access to the credit balances on its borrowers' credit accounts. This modification applies to both open-end and closed-end loan accounts. The FDIC recognizes that borrowers such as mortgagors cannot access any credit balance existing on a covered institution's mortgage loan system without the authorization and/or participation of the covered institution. Therefore, one of the FDIC's chief concerns is eliminated; *i.e.,* the borrower cannot spend down the credit balance during the pendency of the deposit insurance determination process and potentially receive payment of uninsured funds. As structured, closed-end loan systems already restrict the borrower/customer's ability to access the credit balance autonomously. The covered institutions do not have to implement new procedures or modify their existing systems in order to restrict access to credit balances on the closed-end loan systems.

With respect to credit balances resulting from overpayments on open-end credit accounts, the FDIC has also eliminated the requirement that a failed covered institution's IT system must be able to restrict access to the credit balances on the customers' credit accounts housed on the loan platforms. This means at failure, the covered institution's credit card account systems would remain accessible to its credit cardholders. The credit cardholders would be able to continue to charge the cost of goods and services over closing weekend against any credit balance outstanding on their accounts at the time of the covered institution's failure. Although the final rule would not require the covered institution's IT system to automatically restrict access to an open-end loan system on a system-wide basis, the FDIC expects that after the covered institution's failure, FDIC staff would be able to manually restrict open-end credit accounts when the credit balances equal or exceed the deposit insurance threshold of $250,000 to ensure that no funds are paid on any uninsured portion of the open-end credit account.

Although the requirement to restrict access to both open-end and closed-end credit account systems has been eliminated, the requirement that a covered institution's IT system be able to restrict ''access to some or all of the deposits in a deposit account until the FDIC has made its deposit insurance determination for that deposit account'' remains. This was not a new requirement and is not specific to § 370.4(d). Rather, it is an existing requirement from § 370.3(b)(3) and is fundamental to the FDIC's process for conducting a deposit insurance determination over any bank's closing weekend. It is customary practice for the FDIC, on closing night, to restrict access to the failed bank's deposit systems until the deposit insurance determination is completed. Usually, funds are available to the failed bank's depositors by the next business day. Rather than requiring the failed covered institution's system to restrict access to the amount equivalent to the credit balance on the loan system, the FDIC expects the covered institution's IT systems to be capable of restricting access to some or all deposits on the covered institution's deposit systems beginning on closing night. Then, provided that the covered institution's IT system is capable of producing the relevant data file in the Appendix C format, the objective is to complete the deposit insurance determination over the closing weekend, any uninsured funds that result from credit balances on open-end credit accounts will be debited, and the remaining funds will be available on the next business day—which is usually the following Monday.

Because the borrowers cannot independently access the overpayments on their closed-end credit accounts, the need to produce the file with the necessary data regarding the overpayments is not as critical as the situation regarding the open-end loan accounts. FDIC staff will use the covered institution's IT system to run the Appendix C data file for such closed-end credit accounts to complete the deposit insurance calculation process at some point after failure. It is important to note that by allowing the closed-end loan credit balances to be handled in a more idiosyncratic manner, it is quite possible that these borrowers/customers of the failed covered institution will have to wait longer to receive any additional deposit insurance funds represented by their overpayments. Nevertheless, these depositors should have access to any

insured funds in their deposit accounts on the next business day because the credit balances on their closed-end loan accounts could be debited at a later time if, when aggregated with other deposits in the same right and capacity, a depositor's total amounts would exceed the SMDIA.

Two of the commenters asserted that the covered institutions are not able to take a ''snapshot'' of credit card accounts to identify credit balances as of close-of-business on the day of failure. From the FDIC's perspective, this functional weakness will have to be rectified. After failure, the FDIC must be able to identify the precise amount of a credit balance as of the close of the business day and will rely on that amount in making its insurance determination. Several commenters offered the alternative of placing holds on loan accounts with credit balances in excess of a predetermined threshold amount. Presumably, the covered institutions must have developed some functionality to determine large credit balances; ideally, this same functionality could be adapted to identify the overpayments on all open-end credit accounts. One commenter noted, however, that ''a cardholder may have incurred transactions earlier in the day that will enter the system for processing later.'' Those transactions would be posted the following business day and therefore are not relevant to the deposit insurance determination.

The second step in the FDIC's approach to include all of the credit balances in the deposit insurance determination requires the covered institution's IT system to produce a data file in the Appendix C format. Several of the commenters suggested limiting the data file to only credit balances that exceed a predetermined threshold such as $200,000 or greater. Additionally, if the list of credit balances were so limited, the commenters concluded that FDIC staff would be able to create the list manually using the covered institution's IT system. Finally, some commenters did not want to use the Appendix C format at all. The FDIC has determined that the proposed requirement to produce files of both the closed-end and the open-end credit balances, respectively, in the Appendix C format will be retained. Nevertheless, as set forth in the proposed rule, the timing of the production of the data file in the Appendix C format will depend upon whether the data file relates to closed-end or open-end credit balances.

The FDIC identified a number of issues with the commenters' recommendations. First, in order to complete the deposit insurance determination, a covered institution must be able to extract the requisite information from the data on its loan platforms to create a file listing the credit balances on the loan accounts as well as the other data fields as set forth in the Appendix C file format. The Appendix C format includes the minimum number and type of data fields that the FDIC would need in order to identify and aggregate these credit balances with the other deposits owned by each depositor of the failed covered institution. The FDIC would expect the covered institution's IT system, which must be compliant with § 370.3(b), to be able to accept and process the file as formatted in Appendix C.

Second, it would not be possible for the FDIC to conduct a timely deposit insurance determination on the failed covered institution's deposit accounts if only credit balances in excess of $200,000 on the open-end accounts are available over closing weekend. There were many comments noting that the amount of a credit balance on any individual credit card account, for example, is generally not very large. Therefore, the commenters did not believe that it should be necessary to create the capability to generate the requisite data file on all credit balances at failure. From the FDIC's perspective, there are two issues with that view. A depositor's credit balance, when aggregated with his/her deposit account balance (in the same right and capacity), could exceed the SMDIA—even if the credit balance, alone, is not significant. The FDIC, by statute, is only authorized to pay depositors their *insured deposits* in a failed bank resolution.[25] Paying more would exceed its statutory authority. Moreover, although each individual overpayment may seem insignificant, in the aggregate—across all of the failed covered institution's credit card and deposit account owners, the DIF could fund these overpayments to uninsured depositors by a significant amount. These overpayments to uninsured depositors ultimately would diminish the FDIC's recovery from the failed covered institution's receivership.[26] Paying uninsured depositors would represent a misuse of all IDIs' insurance premiums which fund the DIF. Therefore, the FDIC must be able to receive a data file in the Appendix C format that includes all of the credit balances for both the closed-end and open-end loan accounts.

Finally, the FDIC will require the Appendix C data file for open-end credit balances to be produced in a time frame that will allow the covered institution's IT system to complete the calculation of deposit insurance coverage within the first 24 hours after the covered institution's failure. Because access to the open-end credit systems will not be restricted after the covered institution's failure, the credit cardholders will still be able to run down any credit balances on their accounts during closing weekend. The FDIC will need the requisite data file within 24 hours so that FDIC staff would be able to complete the deposit insurance determination within the prescribed time frame, debit any uninsured amounts from the depositors' deposit accounts, and release the remaining insured funds by the next business day. This objective cannot be accomplished unless the covered institution's IT functionality is capable of producing the Appendix C file on a system-wide basis in a time frame that allows the covered institution's IT system to complete the deposit insurance calculation within the first 24 hours after failure. With respect to the production of the data file for the closed-end loan credit balances, the FDIC believed that the term ''promptly'' in the proposed rule would provide sufficient latitude to produce the requisite file in a reasonable time period. Nevertheless, commenters still expressed concern regarding an acceptable time frame to generate the Appendix C data file. Therefore, the FDIC confirms that there will be no mandated time frame for files generated for closed-end loan accounts in the final rule.

Several commenters expressed concern that if open-end credit systems were required to be restricted after the covered institution's failure, then the failed covered institution's credit card customers would be inconvenienced. On the other hand, if the Appendix C files are not produced in a timely manner and the deposit insurance determination cannot be completed, then the failed covered institution's depositors will be inconvenienced when their deposit accounts are not accessible on the next business day. In order to avoid such an outcome, the FDIC has adopted the § 370.4(d) provisions as set forth in this final rule.

G. Relief

In the NPR, the FDIC proposed to revise § 370.8(b) to expressly allow submission of a request by more than one covered institution for exception from one or more of the rule's requirements. Each covered institution

[25] 12 U.S.C. 1821(f)(1).

[26] The FDIC, in its corporate capacity, has a subrogated claim for the amounts paid to the failed covered institution's depositors. See 12 U.S.C. 1821(g)(1).

would still be required to submit the institution-specific data required to substantiate the request as required under § 370.8(b). The FDIC also proposed to add a new paragraph (b)(2) to § 370.8 to provide that the FDIC will publish in the **Federal Register** a notice of its response to each exception request. The FDIC's notice of exception would not disclose the identity of the requesting covered institution(s) nor any confidential or material nonpublic information. Additionally, the FDIC proposed a new paragraph (b)(3) to § 370.8 that would allow a covered institution to notify the FDIC that, based on substantially similar facts and the same circumstances as presented in the notice published by the FDIC pursuant to § 370.8(b)(2) in the proposed rule, the covered institution is electing to use the same exception. Such exception would be considered granted subject to the same conditions stated in the FDIC's published notice unless the FDIC informs the covered institution to the contrary within 120 days after receipt of the covered institution's complete notification letter. Under this proposal, the covered institution's notification letter would need to include the information required under § 370.8(b)(1), cite the applicable notice of exception published pursuant to § 370.8(b)(2), and demonstrate how the covered institution's exception is based upon substantially similar facts and the same circumstances as described in the applicable notice published by the FDIC.

Commenters generally supported the FDIC's proposal to revise § 370.8(b). Two commenters supported the revision regarding multiple covered institutions submitting an exception request because it reduces burden for covered institutions and the industry. However, one of the two commenters believed that industry associations should also be allowed to submit requests for relief on behalf of covered institutions.

Several commenters recommended the FDIC shorten its proposed 120-day timeframe for disallowing a covered institution's invoked exception. Three commenters suggested that 120 days is too long for the FDIC to deny a deemed exception and suggested the time frame be shortened to 60 days. One of the three commenters argued that covered institutions ''would be concerned with the cost and delay of progressing with part 370 implementation for four months only then to have to backtrack to treat accounts understood to be excused.'' Another commenter suggested a 120-day time frame is too long and a denial of an exception request would result in the need for customer outreach or significant system enhancements. This commenter stated that 30 days seems more reasonable.

Three commenters supported the FDIC's proposal of the ''substantially similar facts and the same circumstances'' standard and believed that this standard was a reasonable basis for deeming an exception granted. Another commenter suggested that this proposed standard be changed to ''substantially similar facts and circumstances'' without providing a rationale.

Additionally, several commenters requested that certain data be removed from the FDIC response to exception requests before publication in the **Federal Register**. One commenter suggested that dollar amounts and bank-specific information be categorized as identifying information and be removed from the FDIC's response. Another commenter advocated that the proposed § 370.8(b)(2) add a nondisclosure provision specifically stating that the notice will not disclose identifying, confidential, or material nonpublic information of the requesting covered institution(s).

The Final Rule

The FDIC has amended § 370.8(b) along the lines proposed, with one further revision based on a comment. The final rule will expressly allow submission of a request by more than one covered institution for exception from one or more of the rule's requirements. Each covered institution will still be required to submit the covered institution-specific data required to substantiate the request as required under current § 370.8(b).

The final rule also provides that the FDIC will publish in the **Federal Register** a notice of its response to each exception request. The FDIC's notice of exception will not disclose the identity of the requesting covered institution(s) nor any confidential or material nonpublic information. The FDIC believes that it is unnecessary to add a provision to the rule stating that the FDIC will not disclose the identity of the requesting covered institution and confidential, material nonpublic information. Subject to statutory and regulatory exceptions, the FDIC does not disclose confidential or material nonpublic information and will not do so under this rule.

The final rule further amends § 370.8(b) to include the ''substantially similar facts and circumstances'' standard as suggested by a commenter. The final rule revises the proposed new paragraph (b)(3) to § 370.8 by allowing a covered institution to notify the FDIC that, based on ''substantially similar facts and circumstances'' as presented in the notice published by the FDIC pursuant to § 370.8(b)(2), the covered institution elects to use the same exception.

The FDIC wants to provide covered institutions with more certainty with respect to exception relief and believes that § 370.8(b)(3) of the final rule provides covered institutions with more flexibility to determine whether one of the FDIC's published responses is applicable to its situation. The FDIC will still make the determination of whether a covered institution's facts and circumstances are substantially similar to the facts and circumstances in the FDIC's published notice and retains the ability to deny a covered institution's invocation of relief pursuant to § 370.8(b)(3). The final rule will also minimize time spent by the FDIC and covered institutions alike on processing this type of exception request.

The FDIC also believes that the 120-day time frame for a response to a request under this process is appropriate. The FDIC understands that covered institutions will be expecting a quick response from the FDIC, and it will make every effort to respond promptly within 120 days. Covered institutions providing notice to the FDIC under § 370.8(b)(3) should submit such notice to the FDIC at least 120 days before the covered institution's compliance date. Any covered institution that is denied a request for relief must comply with the requirements of the rule. However, if the covered institution's compliance date has not passed, the covered institution may submit an extension request at the same time it submits an exception request or notice under § 370.8(b)(3).

H. Technical Modifications

The FDIC proposed to make the following corrections and technical and conforming changes, including:

—Technical amendment to § 370.1 to correct an incorrect cross reference.

—Technical amendment to remove the definition of ''brokered deposit'' from § 370.2 because that term is not used in the regulatory text of part 370.

—Technical amendment to § 370.4(c) to remove reference to future guidance.

—Technical amendment to information technology system requirements in § 370.3(a) by adding a reference to the new paragraph (d) in § 370.4, which addresses treatment of credit balance deposits. Another technical amendment strikes a reference to information collected ''from the account holders'' in the last sentence of paragraph (a), referring instead to

''information collected after failure'' because additional information needed to calculate deposit insurance for accounts may be supplied by the respective account holders or by an additional data production process developed by a covered institution.

—Technical amendment to general recordkeeping requirements accommodating new paragraph (d) in § 370.4 (regarding treatment of credit balance deposits).

—Technical revision to § 370.8(d) to clarify that a covered institution that is released from § 360.9 under § 370.8(d) remains released from § 360.9 only for so long as it is a covered institution as defined by part 370.

—Technical amendment to § 370.10(b) to clarify that material changes to a covered institution's information technology system, deposit-taking operations, or financial condition occurring after the covered institution's compliance date could result in more frequent testing.

—Technical revisions to ''Appendix B to Part 370—Output Files Structure'' to identify the mandatory versus permissive nature of certain data fields. Appendix B to part 370 provides basic templates for four information files that a covered institution's information technology system should be able to produce during its process for calculating deposit insurance and retain afterward as a record of the calculation. Revisions to these data file templates would indicate what data is non-essential and therefore may be given a null value if the covered institution does not have the information needed to populate the field.

—A new Appendix C is included to provide a file format for covered institutions to deliver the requisite deposit information regarding the credit balances maintained on their loan platforms.

Two commenters addressed these proposed technical amendments. Both commenters suggested that the government ID fields in the appendices should be allowed to be populated with a null value. One commenter explained that part 370 requires a unique ID, which can be a government ID but may be another unique number. This commenter also stated that covered institutions may not have a government ID for every account. Additionally, this commenter stated that the purpose of the DP_Hold_Amount field in the appendices is unclear and reporting this field involves unnecessary complexity for covered institutions.

The Final Rule

The final rule adopts the amendments as proposed. The FDIC believes that covered institutions should have a valid customer identification type as described in the appendices. Additionally, the DP_Hold_Amount cannot be given a null value, but if there is no hold amount then the value should reflect a zero amount.

I. Additional Recommendations From Commenters

Some comment letters also made recommendations that were not addressed in the proposed rule. The FDIC has summarized these comments below and considered all comments for the final rule.

1. Effect of Pending Requests for Relief

One commenter suggested revising § 370.10(c) to provide a one-year grace period for pending requests of relief that are denied. Section 370.10 was not revised in the proposed rule and provides that a covered institution that has submitted a request for extension, exemption, or exception will not be considered in violation while awaiting the FDIC's response. This commenter was concerned that if an exception request is denied, the covered institution will not be in compliance with part 370 immediately upon receipt of such denial.

The FDIC addressed this issue under III. G. Relief. If § 370.10(c) was revised as suggested by the commenter, then a covered institution with a denied request for relief would effectively receive a one-year extension as a result of this recommended revision. Any covered institution that has been denied a request for relief must comply with the requirements of the rule. Therefore, the FDIC has not revised § 370.10(c) in the final rule.

2. Settlement and Clearing Accounts

One commenter recommended that deposits placed in settlement accounts be afforded the same treatment as official items under § 370.4(c). The commenter described settlement accounts as internal accounts that hold comingled funds withdrawn from various deposit accounts and held in the internal accounts pending transfer out of the covered institution. The commenter stated that in the event of a failure, clawing back allotments from these omnibus accounts would take time and require manual intervention, posing the same difficulties in resolution as for official items.

The commenter also suggested that omnibus accounts held by covered institutions in connection with their business as American Depository Receipt (ADR) depositories should be eligible for § 370.4(c) treatment. The commenter described such omnibus accounts in connection with ADRs as accounts which receive payment of cash distributions from the foreign share issuer for eventual transmission out of the covered institution as payment to the ADR holders. The commenter also stated that identifying the beneficial owner due the funds temporarily held in a deposit account at the covered institution is not feasible, which presents a situation similar to that of accounts held at a bank to honor official items or settlement accounts.

This commenter also recommended that clearing accounts be excluded from the final rule. The commenter described clearing accounts as an internal account on the general ledger system or system of record holding funds that represent transactions and balances that require reconciliation or manual review before the funds can be allocated to accounts. The commenter explained that these funds are in clearing accounts because errors have occurred or the transfer of funds is otherwise in-process; consequently, the proper customers and account assignments have not yet been confirmed. Since deposit insurance calculations cannot be performed for funds that have not yet been assigned to customers, the commenter believed that such clearing accounts should be allowed to mirror the treatment accorded other in-process transactions initiated prior to close-of-business and awaiting settlement when a bank fails.

Another commenter recommended that settlement, clearing, and other similar accounts generally utilized for internal operations and processing be excluded from the final rule because ownership interest of such funds is rarely ascertainable, and the funds may not be entitled to FDIC insurance. The commenter requested that if these accounts are to be included in the final rule, these accounts should be permitted to use alternative recordkeeping and be assigned a new pending reason code.

The FDIC considered these comments, and the final rule does not provide for settlement and clearing accounts, as described above, to receive the same treatment as official items under § 370.4(c). Section 3(*l*)(4) of the FDI Act provides a definition of the payment instruments customarily recognized as ''official items'' of an insured depository institution.[27] Many of these instruments are enumerated in § 370.4(c): ''accounts held in the name of the covered institution from which withdrawals are

[27] 12 U.S.C. 1813(*l*)(4).

made to honor a payment instrument issued by the covered institution, such as a certified check, loan disbursement check, interest check, traveler's check, expense check, official check, cashier's check, money order, or similar payment instrument.'' Two important characteristics of official items are that (i) the account holding the funds is titled in the name of the covered institution and (ii) the payment instruments are issued by the covered institution. Therefore, it would ordinarily be reasonable to expect a covered institution to be able to comply with the recordkeeping requirements of § 370.4(a). Nevertheless, the covered institution may not have sufficient information in its records to identify the actual owner of the payment instrument at the time of the covered institution's failure. One reason for that impossibility is that many of these instruments are negotiable. The FDIC addressed this situation by including § 370.4(c) in the original final rule, which states that ''[t]o the extent that the covered institution does not have such information, it need only maintain in its deposit account records for those accounts the corresponding 'pending reason' code listed in data field 2 of the pending file format set forth in Appendix B (and need not maintain a 'right and capacity' code).''

The FDIC believes that the funds placed in settlement and clearing accounts are not the same as payment instruments described as official items in § 370.4(c). As defined in the FDI Act, ''official items'' are *deposits,* and are payment instruments issued by the covered institution. These are definitely not funds owned by the covered institution. With respect to certain settlement or clearing accounts described by the commenters, there is no general presumption that can be made regarding the ownership of the funds deposited therein. As described, there are circumstances where the funds might belong to an entity, such as a corporation in the case of the ADR payments or could represent a cash account of the covered institution and not be eligible for deposit insurance at all—as one commenter asserted. In the event of a bank failure, the funds placed in such omnibus settlement and clearing accounts that have not been transmitted from the failed covered institution at the time of failure would be handled in accordance with the procedures set forth in § 360.8 of the FDIC's regulations.[28] Although these funds may not be considered in the initial deposit insurance determination, these funds will be included in the deposit insurance determination once the funds are returned to the customer's deposit account. Because it is not possible to identify with specificity and uniformity which omnibus accounts could qualify for special treatment similar to that afforded to official items, the FDIC recommends that a covered institution submit an exception request for those omnibus settlement or clearing accounts that would meet such a standard.

3. Mortgage Servicing Accounts

One commenter recommended that all mortgage servicing accounts receive the same treatment under § 370.5(b)(1), regardless of whether the account is maintained by a covered institution or an external mortgage servicer is the account holder. This commenter suggested that mortgage servicing accounts that are maintained by the covered institution as the mortgage servicer should be afforded the same treatment as mortgage servicing accounts that are relieved from the 24 hour certification requirement set forth in § 370.5(a).[29] Currently, mortgage servicing accounts that are serviced by the covered institution meet the criteria for recordkeeping pursuant to § 370.4(a) because the covered institution would maintain the necessary depositor information in its own IT systems. This commenter was concerned that the costs that covered institutions must bear to maintain mortgage servicing account to comply with § 370.4(a) could drive business away from covered institutions as mortgage servicers.

The FDIC has considered this request but has determined that such an amendment is not warranted. First, such mortgage servicing deposit accounts do not qualify for § 370.5(b)(1) treatment because such accounts are not eligible for alternative recordkeeping pursuance to § 370.4(b)(1). During periodic outreach calls, covered institutions explained to the FDIC that a large number of them use the mortgage servicing platform software provided by the same service provider. Currently, that software program does not allow the covered institutions to generate principal and interest information at the individual loan level on a daily basis, although it is possible to determine the taxes and insurance component of the mortgage payments received daily, if necessary. The FDIC further understands that a group of the covered institutions have begun working with this service provider to develop the capability to access the principal and interest information on a daily basis. This capability will become available in a matter of time. Under the final rule, covered institutions that are mortgage servicers are required to maintain in their deposit account records for each account, including mortgage servicing accounts, the information necessary for its information technology system to meet the requirements set for in § 370.3 in accordance with the general recordkeeping requirements set forth in § 370.4(a). The FDIC acknowledges that it may take some time for covered institutions to satisfy the requirements of § 370.4(a) for such mortgage servicing accounts. Therefore, a covered institution may request a time-limited exception for such accounts under § 370.8(b).

4. Option To Employ Focused Part 370 Processing

One commenter recommended that part 370 be amended to permit a covered institution to employ an optional focused approach to compliance by notifying the FDIC. The commenter suggested that the FDIC would set a dollar threshold below the SMDIA, and all depositors whose ''total relationship'' (*i.e.,* aggregated deposits across all rights and capacities) falls below that threshold would be excluded from part 370 treatment. Any depositor whose total deposits exceeded the threshold as of the initial compliance date would become subject to all the requirements of part 370. Covered institutions would be required to track the designated depositors' total deposits on a quarterly basis; and covered institutions would be allowed three months to bring a depositor's accounts into compliance if the aggregated deposit exceeded the threshold.

The FDIC believes that the recommended optional focused approach would prevent the FDIC from making a timely and complete deposit insurance determination after a covered institution's failure. All deposit-related information required by part 370, especially deposit ownership information, is necessary for the FDIC to make a complete and accurate deposit insurance determination. At the time of a covered institution's failure, the FDIC would endeavor to pay insured deposits to *all* depositors as soon as possible—not just those depositors whose information would be accessible because of the covered institution's compliance with part 370. It is quite possible that the majority of a covered institution's depositors would have a ''total relationship'' with the covered institution that would be below the established threshold. Because of the size of these largest institutions, the

[28] 12 CFR 360.8.

[29] See 12 CFR 370.5(b)(1).

volume of deposit accounts that would then have to be evaluated using some other IT functionality and recordkeeping system could still be enormous. Missing depositor information, IT functionality as well as the volume of accounts that would not be handled in accordance with the part 370 protocol could cause a significant delay in the FDIC's determination of deposit insurance coverage for the excluded depositors. This would not be acceptable to the FDIC. Moreover, it is unclear how this process of monitoring these excluded accounts on a quarterly basis and subsequent compliance with part 370 when the account exceeds the threshold would alleviate much burden for the covered institutions. Evaluating all of these accounts on a quarterly basis to confirm their excluded status and bringing them into part 370 compliance, when necessary, would seem to be more labor intensive and costly than integrating them into the part 370 recordkeeping and IT functionality initially. Ultimately, the FDIC firmly believes that this recommendation is not feasible for covered institutions; such an approach would not allow the FDIC to achieve its statutory objective of paying insured deposits as soon as possible. This commenter also stated that FDIC managers have accepted an approach adopted by some covered institutions during this part 370 implementation phase whereby total customer relationships above the SMDIA are addressed prior to the implementation date, then low-balance relationships are addressed through service contracts, and other accounts below the SMDIA may be remediated past the compliance date. The FDIC is concerned that the commenter believes that FDIC managers have accepted such an approach. A covered institution must comply with the requirements of the final rule by the covered institution's compliance date, unless the FDIC has approved a request for relief or the covered institution notifies the FDIC that it will invoke relief from certain part 370 requirements in accordance with § 370.8(b)(2).

IV. Expected Effects

The rule is likely to benefit covered institutions by reducing compliance burdens associated with part 370. Additionally, the rule is likely to benefit financial market participants by helping to support prompt determination of deposit insurance in the event a covered institution fails. Part 370 requires all IDIs with two million or more deposit accounts to have complete deposit insurance information, by ownership right and capacity, except as otherwise permitted. As of December 31, 2018, there were 36 covered institutions. According to part 370, the compliance date for covered institutions that became covered institutions on part 370's effective date is April 1, 2020. Although the compliance date of April 1, 2020, has not yet been reached, we consider the effects of the rule relative to a baseline that includes the cost to covered institutions estimated for compliance with original part 370. In 2016, the FDIC estimated that part 370 would result in compliance costs of $386 million for 38 FDIC-insured institutions. After adjusting our calculated costs for original part 370 to account for the 36 institutions covered by the rule after the April 1, 2017 effective date, and after updating the data using December 31, 2018 call reports, the FDIC estimates that this final rule will reduce total compliance costs between $2.1 million and $41.8 million with a baseline estimate of $20.9 million.

A. Benefits

The final rule offers covered institutions that became covered institutions on the effective date the option to extend their April 1, 2020, compliance date by up to one year. The option of extending the implementation period enables covered institutions that elect to extend their compliance date greater flexibility to comply with part 370 in a manner that would be less burdensome. Feedback the FDIC has received from covered institutions suggests that they would benefit from this change. It is difficult to quantify how much covered institutions would benefit from this compliance date extension option because the FDIC does not know how many institutions will elect to use it or the progress they may have already made towards compliance.

Similarly, streamlining the exception request process is expected to reduce the costs to covered institutions for obtaining exceptions from the rule's requirements. The FDIC does not know how many covered institutions will request such relief, so the benefits of this portion of the rule are difficult to quantify.

As discussed previously, original part 370 did not provide for an adjustment period for a covered institution to comply with part 370 after a merger has occurred. The final rule amends part 370 to give covered institutions involved in a merger transaction a twenty-four month grace period for compliance violations. This additional relief for merger activity would grant covered institutions greater flexibility to comply with part 370 in a manner that is less burdensome, thereby potentially reducing compliance costs. It is difficult to estimate the benefits this amendment would provide covered institutions because it is difficult to estimate the volume of future merger activity or the extent to which additional efforts would be needed to integrate deposit account recordkeeping or IT system capabilities.

The final rule addresses recordkeeping concerns for several types of accounts and reduces the associated recordkeeping burdens. These include accounts where electronic evidence of an account relationship exists, certain trust accounts, certain accounts with transactional features that are eligible for pass-through deposit insurance, mortgage servicing accounts, and others. These amendments would likely benefit covered institutions by reducing their total compliance costs without unduly increasing the risk of untimely deposit insurance payments; however, it is difficult to quantify these benefits because the FDIC does not currently have access to data on the number of such accounts held by covered institutions.

The final rule also improves the clarity of certain part 370 provisions and makes corrections. This is expected to benefit covered institutions by reducing uncertainty regarding compliance with part 370. The benefits to covered institutions of these amendments is difficult to quantify because the FDIC does not have access to data that would shed light on the extent to which compliance costs by covered institutions were increased as a result of uncertainty.

The reductions in recordkeeping requirements associated with the final rule would likely reduce the current estimated compliance burdens associated with part 370. It is difficult to estimate the benefits each covered institution is likely to incur as a result of the final rule because the estimation depends upon the progress each covered institution has already made toward compliance, and the likelihood that a covered institution would avail itself of the benefits offered by the amendments, among other things. Additionally, it is difficult to estimate the benefits each covered institution would be likely to enjoy as a result of the final rule because the FDIC does not currently have access to data on the number of accounts held by covered institutions for which these benefits would accrue.

For all the reasons described in this section, quantitative estimates of the reduction in recordkeeping burden under the final rule are subject to uncertainty. That being said, an analysis of deposit account information at

covered institutions suggested that the final rule could affect an estimated one percent to 20 percent of accounts on average for covered institutions.[30] The realized effect would vary depending upon the types of accounts that a covered institution holds. The more accounts a covered institution has, the greater the reduction in recordkeeping requirements these amendments would likely provide. To conservatively estimate the expected benefits of the final rule, the FDIC assumed that the reduced recordkeeping requirements would affect between one percent and 20 percent of all deposit accounts at covered institutions. Therefore, the final rule is estimated to reduce the compliance burden of part 370 to between 41,803 and 836,028 hours for all covered institutions, which equates to an estimated reduction in compliance costs of between $2.1 million and $41.8 million.

B. Costs

The final rule is unlikely to impose significant costs on covered institutions. It offers covered institutions that became covered institutions on the effective date the option to extend their April 1, 2020, compliance date by up to one year. Extending the time to comply with part 370 would increase the risk that a covered institution would not have fully implemented the capabilities that part 370 calls for should the covered institution fail during that time. An inability to make timely deposit insurance determinations for deposit accounts at a covered institution in the event of failure could increase the potential for disruptions to check clearing processes, direct debit arrangements, or other payment system functions. However, the FDIC does not believe that the incremental costs or risks of extending the initial compliance date for up to one additional year are large. Also, the FDIC presumes that covered institutions have made some progress toward compliance in the past two to three years, likely mitigating the issues that would be associated with recordkeeping deficiencies in the event that a covered institution were to fail. Finally, to the extent that covered institutions have made some progress toward compliance with part 370, the final rule may pose some costs associated with requisite changes to part 370 compliance efforts. However, the FDIC believes that these costs are likely to be small. The FDIC estimates that covered institutions requesting exception from certain part 370 requirements will expend 65 labor hours doing so on average, at a cost of $7,790.

[30] The FDIC analyzed the dollar volume of retirement, mortgage servicing, and trust accounts as reported on the December 31, 2018, Call Report for covered institutions. Additionally, the FDIC analyzed pre-paid card account data from The Nilson Report's, Top 50 U.S. Prepaid Card Issuers July 2015, Issue 1067 to determine an estimated range of deposit accounts at covered institutions that might be affected by the rule.

V. Alternatives Considered

The FDIC considered several alternatives while developing this final rule. The FDIC first considered leaving part 370 unchanged. The FDIC rejected this alternative because the final rule would benefit covered institutions by reducing compliance burdens or clarifying some of the requirements while still supporting a prompt deposit insurance determination process in the event of failure. The FDIC considered providing a one-year extension to all covered institutions that were covered institutions as of the effective date of part 370, but opted instead for the elective extension as the burden of obtaining the extension is minimal and is outweighed by the value of earlier compliance and the information regarding compliance status to be gained by the adopted approach. The FDIC considered limiting the availability of the alternative recordkeeping requirements for deposits resulting from credit balances on accounts for debt owed to the covered institution to overpayments on credit card accounts, but rejected this approach as the same difficulties that justified this alternative could arise in connection with other debts to the covered institution. The FDIC considered not requiring covered institutions to deliver notification letters to the FDIC prior to relying on exceptions granted to other covered institutions, but rejected this approach due to the FDIC's need to be aware of which covered institutions are relying on previously granted exceptions.

VI. Regulatory Analysis and Procedures

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 information collection related to this final rule is entitled ''Recordkeeping for Timely Deposit Insurance Determination'' The information collection requirements contained in this final rule have been submitted by the FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR 1320).

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; facsimile to (202) 395–6974; or email to *oira_submission@omb.eop.gov,* Attention, FDIC Desk Officer.

Proposed Information Collection

Title of Information Collection: Recordkeeping for Timely Deposit Insurance Determination.

Frequency: On occasion.

Affected Public: Insured depository institutions having two million or more deposit accounts and their depositors.[31]

Current Action: The final rule is estimated to reduce recordkeeping and reporting requirements by 418,056 hours or $20.9 million dollars. The final rule reduces compliance burdens for covered institutions associated with recordkeeping and reporting in the following ways:

- Removing the certification requirement covered institutions must make with respect to deposit accounts with transactional features that would be eligible for pass-through deposit insurance coverage;
- Enabling covered institutions to maintain deposit account records for certain trust accounts in accordance with the alternative recordkeeping requirements set forth in § 370.4(b)(2) rather than the general recordkeeping requirements set forth in § 370.4(a);
- Offering a different recordkeeping/reporting method for deposits created as a result of credit balances on accounts for debt owed to a covered institution;
- Enabling covered institutions to file joint requests for exception pursuant to § 370.8(b); and
- Deeming certain exceptions granted if based on substantially similar facts

[31] Covered institutions will, as necessary, contact their depositors to obtain accurate and complete account information for deposit insurance determinations. For the purposes of this analysis, the FDIC assumes that depositors will voluntarily respond.

and the same circumstances as a request previously granted by the FDIC.

An analysis of deposit account information at covered institutions suggested that the final rule could affect an estimated one to 20 percent of accounts on average, for covered institutions.[32] The realized effect would vary depending upon the types of accounts that a covered institution offers. The more deposit accounts a covered institution has, the greater the reduction in recordkeeping requirements these proposed amendments would provide. To conservatively estimate the expected benefits of the final rule, the FDIC assumed that between one and 20 percent of all deposit accounts at covered institutions would be affected.

For the purposes of the Paperwork Reduction Act, the FDIC estimates that approximately 10 percent of nonretirement accounts consist of the type of accounts for which the final rule reduces compliance burden. The number of accounts affects only one of eight components of the burden model for original part 370 adopted in 2016: Legacy Data Clean-up. This component consists of two portions: (1) Automated clean-up, and (2) manual clean-up. The number of accounts affects only the manual portion associated with correcting bank records, and thus the final rule would affect only that estimate.

Using this adjusted burden as a baseline for the burden reduction of the final rule, we estimate that the final rule would reduce the implementation burden by 418,056 hours. The final rule would not otherwise change the annual ongoing burden, but the FDIC estimates that the provisions for requesting relief or exceptions would require 65 labor hours per request.

For original part 370, the FDIC estimated that manual data clean-up would involve a 60 percent ratio of internal to external labor, and that this labor would cost $65 per hour and $85 per hour, respectively. The FDIC assumed that 5 percent of deposit accounts had erroneous account information and that manual labor would correct 10 accounts per hour of effort. The FDIC also assumed that for every hour of manual labor used by covered institutions, depositors would also exert one hour toward correcting account information at a national average wage rate of $27 per hour. From this, the FDIC estimated a total implementation cost of manual data clean-up of $207.4 million.

As with the burden hours, the FDIC adjusted the original burden model to account for updated data and included IDIs that were actually covered by the rule as a new baseline. After this adjustment, the FDIC estimates that the cost of manual data clean-up decreased by $20.9 million because of the final rule over three years.

Methodology

FDIC engaged the services of an independent consulting firm. Working with the FDIC, the consultant used its extensive knowledge and experience with IT systems at financial institutions to develop a model to provide cost estimates for the following activities:

- Implementing the deposit insurance calculation
- Legacy data clean-up
- Data extraction
- Data aggregation
- Data standardization
- Data quality control and compliance
- Data reporting
- Ongoing operations

Cost estimates for these activities were derived from a projection of the types of workers needed for each task, an estimate of the amount of labor hours required, an estimate of the industry average labor cost (including benefits) for each worker needed, and an estimate of worker productivity. The analysis assumed that manual data clean-up would be needed for 5 percent of deposit accounts, 10 accounts per hour would be resolved, and internal labor would be used for 60 percent of the clean-up. This analysis also projected higher costs for IDIs based on the following factors:

- Higher number of deposit accounts
- Higher number of distinct core servicing platforms
- Higher number of depository legal entities or separate organizational units
- Broader geographic dispersal of accounts and customers
- Use of sweep accounts
- Greater degree of complexity in business lines, accounts, and operations.

Approximately half of part 370's estimated total costs are attributable to legacy data clean-up. The legacy data clean-up cost estimates are sensitive to both the number of deposit accounts and the number of deposit IT systems. More than 90 percent of the legacy data clean-up costs are associated with manually collecting account information from customers and entering it into the covered institutions' IT systems. Data aggregation, which is sensitive to the number of deposit IT systems, makes up about 13 percent of the rule's estimated costs.

For original part 370, the FDIC estimated total costs of $478 million, with $386 million of those costs to 38 covered financial institutions and the remainder borne by the FDIC and account holders.[33] For this final rule, the FDIC updated the list of covered institutions to 36 and the types of accounts covered. The FDIC also updated the data in the model to December 31, 2018.

Implementation Burden:[34]

	Number of respondents[35]	*Estimated annual frequency*	*Estimated average hours per response*[36]	*Estimated total burden hours*
Original Part 370:				
Lowest Complexity Institutions	12	1	31,054	372,648
Middle Complexity Institutions	13	1	46,342	602,446
Highest Complexity Institutions	13	1	325,494	4,231,422

[32] The FDIC analyzed the dollar volume of retirement, mortgage servicing, and trust accounts as reported on the December 31, 2018, Call Reports for covered institutions.

[33] See 81 FR 87734 for further discussion of the cost estimation model.

[34] Implementation costs and hours are spread over a three-year period.

[35] None of the respondents required to comply with the rule are small entities as defined by the Small Business Administration (*i.e.,* entities with less than $550 million in total assets).

[36] Weighted average rounded to the nearest hour. For PRA purposes, covered institutions are presented in roughly equal-sized low, medium and high complexity tranches ranked by their PRA implementation hours.

[37] This section incorporates changes to the baseline estimate of rule burden based on changes in the number of covered institutions as well as changes to the data inputs for the burden model. In 2016, the FDIC estimated 38 banks would be covered. As of April 1, 2017, the effective date of the rule, only 32 banks were covered by the rule. Four additional banks became covered by the rule in later quarters for a total of 36 covered banks. This section uses bank-level data from December 31, 2018, updating the original burden estimate based on December 31, 2016, data.

	Number of respondents[35]	Estimated annual frequency	Estimated average hours per response[36]	Estimated total burden hours
Original Part 370 Total	38		137,014	5,206,516
Updated Data and Coverage:[37]				
Lowest Complexity Institutions	12	1	30,304	363,648
Middle Complexity Institutions	12	1	58,113	697,356
Highest Complexity Institutions	12	1	355,132	4,261,584
Updated Data and Coverage Total	36	1	147,850	5,322,588
Change from Updated Data	*−2*			*116,072*
Final Rule:				
Lowest Complexity Institutions	12	1	28,304	339,648
Middle Complexity Institutions	12	1	53,643	643,716
Highest Complexity Institutions	12	1	326,764	3,921,168
Final Rule Total	*36*	*1*	*136,237*	*4,904,532*
Change due to Final Rule	***0***			***(418,056)***

Ongoing Burden:

	Number of respondents	Estimated annual frequency	Estimated average hours per response	Estimated total annual burden hours
Original Part 370:				
Lowest Complexity Institutions	12	1	493.1	5,917
Middle Complexity Institutions	13	1	516.7	6,718
Highest Complexity Institutions	13	1	566.6	7,365
Original Part 370 Total	*38*		*526*	*20,000*
Updated Data and Coverage:				
Lowest Complexity Institutions	12	1	487	5,844
Middle Complexity Institutions	12	1	488	5,856
Highest Complexity Institutions	12	1	558	6,696
Updated Data and Coverage Total	*36*		*511*	*18,396*
Change due to Updated Data and Coverage	*−2*			*(1,604)*
Final Rule without Exceptions:				
Lowest Complexity Institutions	12	1	487	5,844
Middle Complexity Institutions	12	1	488	5,856
Highest Complexity Institutions	12	1	558	6,696
Change due to Final Rule, excl. Requests for Exceptions or Release	*36*		*511*	*18,396*
Exceptions or Release:				
Requests for Release[38]	*1*	*1*	*5*	*5*
Requests for Exception	*1*	*1*	*60*	*60*
Change due to Final Rule	***0***			***65***

The implementation costs for all covered institutions are estimated to total $362.4 million and require approximately 4.9 million labor hours over three years. This represents a decline of $20.9 million and 418,056 labor hours over three years for covered institutions due to the final rule. The implementation costs cover (1) making the deposit insurance calculation, (2) legacy data cleanup, (3) data extraction, (4) data aggregation, (5) data standardization, (6) data quality control and compliance, and (7) data reporting.

During the three-year implementation, the estimated PRA burden for individual covered institutions was between 11,946 and 762,185 burden hours, and these monetized burden hours range from $1.6 million to $97.2 million. This represents a decline for covered institutions of 269 to 61,803 burden hours and $13,456 to $1.0 million, respectively.

The estimated ongoing burden on individual covered institutions for reporting, testing, maintenance, and other periodic items is estimated to range between 433 and 661 labor hours, and these ongoing burden hours are monetized to be between $64,973 and $99,222 annually. There is an additional ongoing burden of 65 hours and $7,790 for each request for relief.

The previous tables presented the total estimated compliance burdens for part 370 as revised by the final rule. This burden is spread over a three-year implementation period. As mentioned

[38] Part 370 allows for banks to request exceptions from rule's requirements or extensions of time to implement part 370 capabilities. The FDIC cannot estimate how many banks will request such exceptions or extensions.

previously, the compliance date for the regulation is April 1, 2020, and the final rule gives covered institutions the option to extend their April 1, 2020, compliance date by up to one year (to a date no later than April 1, 2021) upon notification to the FDIC. The FDIC does not know how many institutions will utilize the optional extension. The FDIC assumes that implementation costs were distributed evenly over three years. Therefore, the FDIC estimates the revised, annual implementation burdens to be:

Implementation Burden:

	Number of respondents[39]	*Annual frequency*	*Average hours per response*[40]	*Total annual burden hours*
Original Part 370:				
Lowest Complexity Institutions	12	1	5,176	62,108
Middle Complexity Institutions	13	1	7,724	100,408
Highest Complexity Institutions	13	1	54,249	705,237
Original Part 370 Total	*38*		22,836	867,753
Updated Data and Coverage:[41]				
Lowest Complexity Institutions	12	1	5,051	60,612
Middle Complexity Institutions	12	1	9,685	116,220
Highest Complexity Institutions	12	1	59,189	710,268
Updated Data and Coverage Total	*36*	*1*	*24,642*	*887,100*
Change due to Updated Data	*−2*			*19,347*
Final Rule less 10% Excepted Accounts:				
Lowest Complexity Institutions	12	1	4,717	56,604
Middle Complexity Institutions	12	1	8,941	107,292
Highest Complexity Institutions	12	1	54,461	653,532
Final rule Total less Exceptions	*36*		*22,706*	*817,428*
Change due to Final rule	***0***		***(1,936)***	***(69,672)***

ESTIMATED MONETIZED COSTS BY COMPONENT

Components	*Original part 370*	*Updated data and coverage*	*Final rule*	Change in cost from final rule
	Component cost **	Component cost **	Component cost **	
Legacy Data Cleanup	$226,482,333	$227,449,750	$206,547,385	($20,902,365)
Data Aggregation	64,015,373	62,707,618	62,707,618	0
Data Standardization	36,573,894	35,811,558	35,811,558	0
Data Extraction	25,397,761	25,073,291	25,073,291	0
Quality Control & Compliance	18,403,006	18,024,478	18,024,478	0
Insurance Calculation	9,500,400	8,584,000	8,548,000	0
Reporting	5,971,800	5,661,000	5,661,000	0
Implementation Costs	367,936,888	383,311,695	362,409,330	(20,902,365)
Ongoing Operations	2,999,963	2,758,899	2,758,899	0
Total Cost	389,344,530	386,070,594	365,168,229	0
Change from Updating Data		(3,273,936)		
Change from Final Rule			(20,902,365)	

[39] None of the respondents required to comply with the rule are small entities as defined by the Small Business Administration (*i.e.,* entities with less than $550 million in total assets).

[40] Weighted average rounded to the nearest hour. For PRA purposes, covered institutions are presented in roughly equal-sized low, medium and high complexity tranches ranked by their PRA implementation hours.

[41] This section incorporates changes to the baseline estimate of rule burden based on changes in the number of covered institutions as well as changes to the data inputs for the burden model. For original part 370, the FDIC used data as of December 31, 2016, and estimated 38 banks would be covered. As of April 1, 2017, the effective date of the rule, only 32 banks were covered by the rule, and the identities of covered banks had changed. Four additional banks became covered by the rule in later quarters for a total of 36 covered banks. The updated calculations use data for the covered banks from December 31, 2018.

The estimated annual burden for the ''Recordkeeping for Timely Deposit Insurance Determination'' information collection (OMB Control Number 3064–0202) is as follows:

Implementation burden:[42]

Estimated number of respondents: 36 covered institutions and their depositors.

Estimated time per response:[43] 136,237 hours (average).

Low complexity: 11,946–41,406 hours.

Medium complexity: 41,947–74,980 hours.

High complexity: 75,404–762,185 hours.

Estimated total implementation burden: 4.9 million hours.

Ongoing Burden:

Estimated number of respondents: 36 covered institutions and their depositors.

Estimated time per response: 511 hours (average) per year.

Low complexity: 433–530 hours.

Medium complexity: 434–530 hours.

High complexity: 485–661 hours.

Estimated total ongoing annual burden: 18,396 hours per year.

Description of collection: Part 370 requires a covered institution to (1) maintain complete and accurate data on each depositor's ownership interest by right and capacity for all of the covered institution's deposit accounts, except as provided, and (2) configure its IT system to be capable of calculating the insured and uninsured amount in each deposit account by ownership right and capacity, which would be used by the FDIC to make deposit insurance determinations in the event of the covered institution's failure. These requirements also must be supported by policies and procedures and will involve ongoing burden for testing, reporting to the FDIC, and general maintenance of recordkeeping and IT systems' functionality. Estimates of both initial implementation and ongoing burden are provided.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires an agency, in connection with a final rule, to prepare and make available a final regulatory flexibility analysis that describes the impact of a final rule on small entities.[44] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million who are independently owned and operated or owned by a holding company with less than $550 million in total assets.[45] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised institutions.

The FDIC insures 5,486 institutions, of which 4,047 are considered small entities for the purposes of RFA.[46]

This final rule will affect all insured depository institutions that have two million or more deposit accounts. The FDIC does not currently insure any institutions with two million or more deposit accounts that have $550 million or less in total consolidated assets.[47] Since this rule does not affect any institutions that are defined as small entities for the purposes of the RFA, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. The Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[48] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[49]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or 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.[50] As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

D. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[51] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, 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 IDIs 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.[52]

In accordance with these provisions, the FDIC has considered the final rule's benefits and any administrative burdens that the final rule would place on covered institutions and their customers in determining the effective date and administrative compliance requirements of the final rule. Section IV, Expected Effects details the expected benefits of the final rule and the administrative burdens that the final rule would place on depository institutions and their customers. The final rule imposes additional reporting and other requirements IDIs, and accordingly, shall take effect on October 1, 2019, which is the first day of a calendar quarter which begins on or after the date

[42] Implementation costs and hours are spread over a three-year period.

[43] For PRA purposes, covered institutions are presented in roughly equal-sized low, medium and high complexity tranches ranked by their PRA implementation hours.

[44] 5 U.S.C. 601 *et seq.*

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

[46] Call Report data, September 30, 2018, the latest date for which bank holding company data is available.

[47] FDIC Call Report data, December 31, 2018.

[48] 5 U.S.C. 801 *et seq.*

[49] 5 U.S.C. 801(a)(3).

[50] 5 U.S.C. 804(2).

[51] 12 U.S.C. 4802(a).

[52] 12 U.S.C. 4802(b).

on which the regulations are published in final form, consistent with RCDRIA.

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

The FDIC has determined that the final rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

F. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [53] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language.

List of Subjects in 12 CFR Part 370

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

Authority and Issuance

■ For the reasons set forth in the preamble, the Federal Insurance Deposit Corporation revises 12 CFR part 370 to read as follows:

PART 370—RECORDKEEPING FOR TIMELY DEPOSIT INSURANCE DETERMINATION

Sec.

Authority: 12 U.S.C. 1817(a)(9), 1819 (Tenth), 1821(f)(1), 1822(c), 1823(c)(4).

§ 370.1 Purpose and scope.

Unless otherwise provided in this part, each ''covered institution'' (defined in § 370.2(c)) is required to implement the information technology system and recordkeeping capabilities needed to calculate the amount of deposit insurance coverage available for each deposit account in the event of its failure. Doing so will improve the FDIC's ability to fulfill its statutory mandates to pay deposit insurance as soon as possible after a covered institution's failure and to resolve a covered institution at the least cost to the Deposit Insurance Fund.

§ 370.2 Definitions.

For purposes of this part:

(a) *Account holder* means the person or entity who has opened a deposit account with a covered institution and with whom the covered institution has a direct legal and contractual relationship with respect to the deposit.

(b) [Reserved]

(c) *Covered institution* means:

(1) An insured depository institution which, based on its Reports of Condition and Income filed with the appropriate federal banking agency, has 2 million or more deposit accounts during the two consecutive quarters preceding the effective date of this part or thereafter; or

(2) Any other insured depository institution that delivers written notice to the FDIC that it will voluntarily comply with the requirements set forth in this part.

(d) *Compliance date* means, except as otherwise provided in § 370.6(b):

(1) April 1, 2020, for any insured depository institution that was a covered institution as of April 1, 2017;

(2) The date that is three years after the date on which an insured depository institution becomes a covered institution; or

(3) The date on which an insured depository institution that elects to be a covered institution under § 370.2(c)(2) files its first certification of compliance and deposit insurance coverage summary report pursuant to § 370.10(a).

(e) *Deposit* has the same meaning as provided under section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)).

(f) *Deposit account records* has the same meaning as provided in 12 CFR 330.1(e).

(g) *Ownership rights and capacities* are set forth in 12 CFR part 330.

(h) *Payment instrument* means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of funds, or monetary value (other than currency).

(i) *Standard maximum deposit insurance amount* (or SMDIA) has the same meaning as provided pursuant to section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) and 12 CFR 330.1(o).

(j) *Transactional features* with respect to a deposit account means that the account holder or the beneficial owner of deposits can make a transfer from the deposit account to a party other than the account holder, beneficial owner of deposits, or the covered institution itself, by method that may result in such transfer being reflected in the end-of-day ledger balance for such deposit account on a day that is later than the day that such transfer is initiated, even if initiated prior to the institution's normal cutoff time for such transaction. A deposit account also has transactional features if preauthorized or automatic instructions provide for transfer of deposits in the deposit account to another deposit account at the same institution, if such other deposit account itself has transactional features.

(k) *Unique identifier* means an alpha-numeric code associated with an individual or entity that is used consistently and continuously by a covered institution to monitor the covered institution's relationship with that individual or entity.

§ 370.3 Information technology system requirements.

(a) A covered institution must configure its information technology system to be capable of performing the functions set forth in paragraph (b) of this section within 24 hours after the appointment of the FDIC as receiver. To the extent that a covered institution does not maintain its deposit account records in the manner prescribed under § 370.4(a) but instead in the manner prescribed under § 370.4(b), (c) or (d), the covered institution's information technology system must be able to perform the functions set forth in paragraph (b) of this section upon input by the FDIC of additional information collected after failure of the covered institution.

(b) Each covered institution's information technology system must be capable of:

(1) Accurately calculating the deposit insurance coverage for each deposit account in accordance with 12 CFR part 330;

(2) Generating and retaining output records in the data format and layout specified in appendix B to this part;

(3) Restricting access to some or all of the deposits in a deposit account until the FDIC has made its deposit insurance determination for that deposit account using the covered institution's information technology system; and

(4) Debiting from each deposit account the amount that is uninsured as

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

calculated pursuant to paragraph (b)(1) of this section.

§ 370.4 Recordkeeping requirements.

(a) *General recordkeeping requirements.* Except as otherwise provided in paragraphs (b), (c), and (d) of this section, a covered institution must maintain in its deposit account records for each account the information necessary for its information technology system to meet the requirements set forth in § 370.3. The information must include:

(1) The unique identifier of each:

(i) Account holder;

(ii) Beneficial owner of a deposit, if the account holder is not the beneficial owner; and

(iii) Grantor and each beneficiary, if the deposit account is held in connection with an informal revocable trust that is insured pursuant to 12 CFR 330.10 (*e.g.,* payable-on-death accounts, in-trust-for accounts, and *Totten* Trust accounts).

(2) The applicable ownership right and capacity code listed and described in appendix A to this part.

(b) *Alternative recordkeeping requirements.* As permitted under this paragraph, a covered institution may maintain in its deposit account records less information than is required under paragraph (a) of this section.

(1) For each deposit account for which a covered institution's deposit account records disclose the existence of a relationship which might provide a basis for additional deposit insurance in accordance with 12 CFR 330.5 or 330.7 and for which the covered institution does not maintain information that would be needed for its information technology system to meet the requirements set forth in § 370.3, the covered institution must maintain, at a minimum, the following in its deposit account records:

(i) The unique identifier of the account holder; and

(ii) The corresponding ''pending reason'' code listed in data field 2 of the pending file format set forth in appendix B to this part (and need not maintain a ''right and capacity'' code).

(2) For each formal revocable trust account that is insured as described in 12 CFR 330.10 and for each irrevocable trust account that is insured as described in either 12 CFR 330.12 or 12 CFR 330.13, and for which the covered institution does not maintain the information that would be needed for its information technology system to meet the requirements set forth in § 370.3, the covered institution must, at a minimum, maintain in its deposit account records:

(i) The unique identifier of the account holder;

(ii) The unique identifier of a grantor if the deposit account has transactional features (unless the account is insured as described in 12 CFR 330.12, in which case the unique identifier of a grantor need not be maintained for purposes of this part); and

(iii) The corresponding ''right and capacity'' code listed in data field 4 of the pending file format set forth in appendix B to this part if it can be identified, otherwise the corresponding ''pending reason'' code from data field 2 of the pending file format set forth in appendix B.

(c) *Recordkeeping requirements for official items.* A covered institution must maintain in its deposit account records the information needed for its information technology system to meet the requirements set forth in § 370.3 with respect to accounts held in the name of the covered institution from which withdrawals are made to honor a payment instrument issued by the covered institution, such as a certified check, loan disbursement check, interest check, traveler's check, expense check, official check, cashier's check, money order, or similar payment instrument. To the extent that the covered institution does not have such information, it need only maintain in its deposit account records for those accounts the corresponding ''pending reason'' code listed in data field 2 of the pending file format set forth in appendix B to this part (and need not maintain a ''right and capacity'' code).

(d) *Recordkeeping requirements for deposits resulting from credit balances on an account for debt owed to the covered institution.* A covered institution is not required to meet the recordkeeping requirements of paragraph (a) or (b) of this section with respect to deposit liabilities reflected as credit balances on an account for debt owed to the covered institution if its information technology system is capable of:

(1) Immediately upon failure, restricting access to all of the deposits in every borrower's deposit account(s) at the covered institution in accordance with § 370.3(b)(3); and

(2) Producing a file in the format provided in appendix C to this part for:

(i) Credit balances on open-end credit accounts (revolving credit lines) such as credit card accounts and home equity lines of credit within a time frame that will allow the covered institution's information technology system to meet the requirements set forth in § 370.3(b)(1), (2), and (4) within 24 hours after failure; and

(ii) Credit balances on closed-end loan accounts that can be used by the covered institution's information technology system to meet the requirements set forth in § 370.3(b)(1), (2) and (4).

§ 370.5 Actions required for certain deposit accounts with transactional features.

(a) For each deposit account with transactional features for which the covered institution maintains its deposit account records in accordance with § 370.4(b)(1), a covered institution must take steps reasonably calculated to ensure that the account holder will provide to the FDIC the information needed for the covered institution's information technology system to perform the functions set forth in § 370.3(b). At a minimum, ''steps reasonably calculated'' shall include:

(1) A good faith effort to enter into contractual arrangements with the account holder that obligate the account holder to deliver information needed for deposit insurance calculation to the FDIC in a format compatible with the covered institution's information technology system within a timeframe sufficient to allow the covered institution's information technology system to perform the functions set forth in § 370.3(b) within 24 hours after the appointment of the FDIC as receiver in order for the account holder to have access to deposits on the next business day after failure; and

(2) Regardless of whether the covered institution and the account holder enter into contractual arrangements as set forth in paragraph (a)(1) of this section, the covered institution providing the account holder with:

(i) A written disclosure specifying the information and format requirements of its information technology system and stating that the account holder may not have access to deposits in its deposit account before delivery of information in a format that is compatible with the covered institution's information technology system; and

(ii) An opportunity to validate the capability to deliver the required information in the appropriate format so that a timely calculation of deposit insurance coverage can be made.

(b) A covered institution need not take the steps required pursuant to paragraph (a) of this section with respect to:

(1) Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors;

(2) Accounts maintained by real estate brokers, real estate agents, or title

companies in which funds from multiple clients are deposited and held for a short period of time in connection with a real estate transaction;

(3) Accounts established by an attorney or law firm on behalf of clients, commonly known as an *Interest on Lawyers Trust Accounts,* or functionally equivalent accounts;

(4) Accounts held in connection with an employee benefit plan (as defined in 12 CFR 330.14); and

(5) An account maintained by an account holder for the benefit of others, to the extent that the deposits in the account are held for the benefit of:

(i) A formal revocable trust that would be insured as described in 12 CFR 330.10;

(ii) An irrevocable trust that would be insured as described in 12 CFR 330.12; or

(iii) An irrevocable trust that would be insured as described in 12 CFR 330.13.

§ 370.6 Implementation.

(a) *Initial compliance.* A covered institution must satisfy the information technology system and recordkeeping requirements set forth in this part before the compliance date.

(b) *Extension.* (1) A covered institution may submit a request to the FDIC for an extension of its compliance date. The request shall state the amount of additional time needed to meet the requirements of this part, the reason(s) for which such additional time is needed, and the total number and dollar value of accounts for which deposit insurance coverage could not be calculated using the covered institution's information technology system were the covered institution to fail as of the date of the request. The FDIC's grant of a covered institution's request for extension may be conditional or time-limited.

(2) An insured depository institution that became a covered institution on April 1, 2017, may extend its compliance date for up to one year upon written notice to the FDIC prior to April 1, 2020. Such notice shall state the total number of, and dollar amount of deposits in, deposit accounts for which the covered institution's information technology system cannot calculate deposit insurance coverage as of April 1, 2020.

§ 370.7 Accelerated implementation.

(a) On a case-by-case basis, the FDIC may accelerate, upon notice, the implementation time frame for all or part of the requirements of this part for a covered institution that:

(1) Has a composite rating of 3, 4, or 5 under the Uniform Financial Institution's Rating System (*CAMELS* rating), or in the case of an insured branch of a foreign bank, an equivalent rating;

(2) Is undercapitalized, as defined under the prompt corrective action provisions of 12 CFR part 324; or

(3) Is determined by the appropriate federal banking agency or the FDIC in consultation with the appropriate federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the covered institution by its appropriate federal banking agency in its most recent report of examination.

(b) In implementing this section, the FDIC must consult with the covered institution's appropriate federal banking agency and consider the complexity of the covered institution's deposit system and operations, extent of the covered institution's asset quality difficulties, volatility of the institution's funding sources, expected near-term changes in the covered institution's capital levels, and other relevant factors appropriate for the FDIC to consider in its role as insurer of the covered institution.

§ 370.8 Relief.

(a) *Exemption.* A covered institution may submit a request in the form of a letter to the FDIC for an exemption from this part if it demonstrates that it does not take deposits from any account holder which, when aggregated, would exceed the SMDIA for any owner of the funds on deposit and will not in the future.

(b) *Exception.* (1) One or more covered institutions may submit a request in the form of a letter to the FDIC for exception from one or more of the requirements set forth in this part if circumstances exist that would make it impracticable or overly burdensome to meet those requirements. The request letter must:

(i) Identify the covered institution(s) requesting the exception;

(ii) Specify the requirement(s) of this part from which exception is sought;

(iii) Describe the deposit accounts the request concerns and state the number of, and dollar amount of deposits in, such deposit accounts for each covered institution requesting the exception;

(iv) Demonstrate the need for exception for each covered institution requesting the exception; and

(v) Explain the impact of the exception on the ability of each covered institution's information technology system to quickly and accurately calculate deposit insurance for the related deposit accounts.

(2) The FDIC shall publish a notice of its response to each exception request in the **Federal Register**.

(3) By following the procedure set forth in this paragraph, a covered institution may rely upon another covered institution's exception request which the FDIC has previously granted. The covered institution must notify the FDIC that it will invoke relief from certain part 370 requirements by submitting a notification letter to the FDIC demonstrating that the covered institution has substantially similar facts and circumstances as those of the covered institution that has already received the FDIC's approval. The covered institution's notification letter must also include the information required under paragraph (b)(1) of this section and cite the applicable notice published pursuant to paragraph (b)(2) of this section. The covered institution's notification for exception shall be deemed granted subject to the same conditions set forth in the FDIC's published notice unless the FDIC informs the covered institution to the contrary within 120 days after receipt of a complete notification for exception.

(c) *Release from this part.* A covered institution may submit a request in the form of a letter to the FDIC for release from this part if, based on its Reports of Condition and Income filed with the appropriate federal banking agency, it has less than two million deposit accounts during any three consecutive quarters after becoming a covered institution.

(d) *Release from 12 CFR 360.9 requirements.* A covered institution is released from the provisional hold and standard data format requirements of 12 CFR 360.9 upon submitting to the FDIC the compliance certification required under § 370.10(a). A covered institution released from 12 CFR 360.9 under this paragraph (d) shall remain released for so long as it is a covered institution.

(e) *FDIC approval of a request.* The FDIC will consider all requests submitted in writing by a covered institution on a case-by-case basis in light of the objectives of this part, and the FDIC's grant of any request made by a covered institution pursuant to this section may be conditional or time-limited.

§ 370.9 Communication with the FDIC.

(a) *Point of contact.* Not later than ten business days after either the effective date of this part or becoming a covered institution, a covered institution must notify the FDIC of the person(s) responsible for implementing the recordkeeping and information

technology system capabilities required by this part.

(b) *Address.* Point-of-contact information, reports and requests made under this part shall be submitted in writing to: Office of the Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429–0002.

§ 370.10 Compliance.

(a) *Certification and report. A* covered institution shall submit to the FDIC a certification of compliance and a deposit insurance coverage summary report on or before its compliance date and annually thereafter.

(1) The certification must:

(i) Confirm that the covered institution has implemented all required capabilities and tested its information technology system during the preceding twelve months;

(ii) Confirm that such testing indicates that the covered institution is in compliance with this part; and

(iii) Be signed by the covered institution's chief executive officer or chief operating officer and made to the best of his or her knowledge and belief after due inquiry.

(2) The deposit insurance coverage summary report must include:

(i) A description of any material change to the covered institution's information technology system or deposit taking operations since the prior annual certification;

(ii) The number of deposit accounts, number of different account holders, and dollar amount of deposits by ownership right and capacity code (as listed and described in Appendix A);

(iii) The total number of fully-insured deposit accounts and the total dollar amount of deposits in all such accounts;

(iv) The total number of deposit accounts with uninsured deposits and the total dollar amount of uninsured amounts in all of those accounts; and

(v) By deposit account type, the total number of, and dollar amount of deposits in, deposit accounts for which the covered institution's information technology system cannot calculate deposit insurance coverage using information currently maintained in the covered institution's deposit account records.

(3) If a covered institution experiences a significant change in its deposit taking operations, the FDIC may require that it submit a certification of compliance and a deposit insurance coverage summary report more frequently than annually.

(b) *FDIC Testing.* (1) The FDIC will conduct periodic tests of a covered institution's compliance with this part. These tests will begin no sooner than the last day of the first calendar quarter following the compliance date and would occur no more frequently than on a three-year cycle thereafter, unless there is a material change to the covered institution's information technology system, deposit-taking operations, or financial condition following the compliance date, in which case the FDIC may conduct such tests at any time thereafter.

(2) A covered institution shall provide the appropriate assistance to the FDIC as the FDIC tests the covered institution's ability to satisfy the requirements set forth in this part.

(c) *Effect of pending requests.* A covered institution that has submitted a request pursuant to § 370.6(b) or § 370.8(a) through (c) will not be considered to be in violation of this part as to the requirements that are the subject of the request while awaiting the FDIC's response to such request.

(d) *Effect of changes to law.* A covered institution will not be considered to be in violation of this part as a result of a change in law that alters the availability or calculation of deposit insurance for such period as specified by the FDIC following the effective date of such change.

(e) *Effect of merger.* An instance of non-compliance occurring as the direct result of a merger transaction shall be deemed not to constitute a violation of this part for a period of 24 months following the effective date of the merger transaction.

Appendix A to Part 370: *Ownership Right and Capacity Codes*

A covered institution must use the codes defined below when assigning ownership right and capacity codes.

Code	Illustrative description
SGL	Single Account (12 CFR 330.6): An account owned by one person with no testamentary or ''payable-on-death'' beneficiaries. It includes individual accounts, sole proprietorship accounts, single-name accounts containing community property funds, and accounts of a decedent and accounts held by executors or administrators of a decedent's estate.
JNT	Joint Account (12 CFR 330.9): An account owned by two or more persons with no testamentary or ''payable-on-death'' beneficiaries (other than surviving co-owners) An account does not qualify as a joint account unless: (1) All co-owners are living persons; (2) each co-owner has personally signed a deposit account signature card (except that the signature requirement does not apply to certificates of deposit, to any deposit obligation evidenced by a negotiable instrument, or to any account maintained on behalf of the co-owners by an agent or custodian); and (3) each co-owner possesses withdrawal rights on the same basis.
REV	Revocable Trust Account (12 CFR 330.10): An account owned by one or more persons that evidences an intention that, upon the death of the owner(s), the funds shall belong to one or more beneficiaries. There are two types of revocable trust accounts: (1) Payable-on-Death Account (Informal Revocable Trust Account): An account owned by one or more persons with one or more testamentary or ''payable-on-death'' beneficiaries. (2) Revocable Living Trust Account (Formal Revocable Trust Account): An account in the name of a formal revocable ''living trust'' with one or more grantors and one or more testamentary beneficiaries.
IRR	Irrevocable Trust Account (12 CFR 330.13): An account in the name of an irrevocable trust (unless the trustee is an insured depository institution, in which case the applicable code is DIT).
CRA	Certain Other Retirement Accounts (12 CFR 330.14 (b)–(c)) to the extent that participants under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan, including an individual retirement account described in section 408(a) of the Internal Revenue Code (26 U.S.C. 408(a)), an account of a deferred compensation plan described in section 457 of the Internal Revenue Code (26 U.S.C. 457), an account of an individual account plan as defined in section 3(34) of the Employee Retirement Income Security Act (29 U.S.C. 1002), a plan described in section 401(d) of the Internal Revenue Code (26 U.S.C. 401(d)).
EBP	Employee Benefit Plan Account (12 CFR 330.14): An account of an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act (29 U.S.C. 1002), including any plan described in section 401(d) of the Internal Revenue Code (26 U.S.C. 401(d)), but not including any account classified as a Certain Retirement Account.

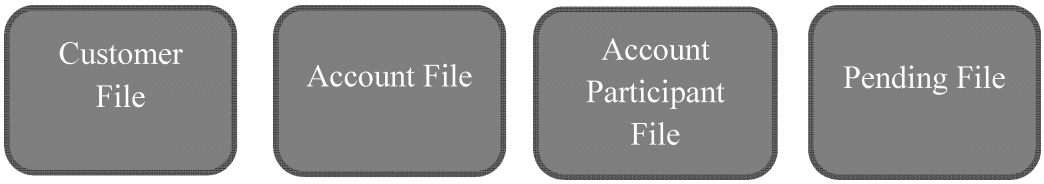
Code	Illustrative description
BUS	Business/Organization Account (12 CFR 330.11): An account of an organization engaged in an 'independent activity' (as defined in § 330.1(g)), but not an account of a sole proprietorship. This category includes: a. Corporation Account: An account owned by a corporation. b. Partnership Account: An account owned by a partnership. c. Unincorporated Association Account: An account owned by an unincorporated association (*i.e.,* an account owned by an association of two or more persons formed for some religious, educational, charitable, social, or other noncommercial purpose).
GOV1–GOV2–GOV3	Government Account (12 CFR 330.15): An account of a governmental entity.
GOV1	All time and savings deposit accounts of the United States and all time and savings deposit accounts of a state, county, municipality, or political subdivision depositing funds in an insured depository institution in the state comprising the public unit or wherein the public unit is located (including any insured depository institution having a branch in said state)
GOV2	All demand deposit accounts of the United States and all demand deposit accounts of a state, county, municipality, or political subdivision depositing funds in an insured depository institution in the state comprising the public unit or wherein the public unit is located (including any insured depository institution having a branch in said state)
GOV3	All deposits, regardless of whether they are time, savings or demand deposit accounts of a state, county, municipality or political subdivision depositing funds in an insured depository institution outside of the state comprising the public unit or wherein the public unit is located.
MSA	Mortgage Servicing Account (12 CFR 330.7(d)): An account held by a mortgage servicer, funded by payments by mortgagors of principal and interest.
PBA	Public Bond Accounts (12 CFR 330.15(c)): An account consisting of funds held by an officer, agent or employee of a public unit for the purpose of discharging a debt owed to the holders of notes or bonds issued by the public unit.
DIT	IDI as trustee of irrevocable trust accounts (12 CFR 330.12): ''Trust funds'' (as defined in § 330.1(q)) account held by an insured depository institution as trustee of an irrevocable trust.
ANC	Annuity Contract Accounts (12 CFR 330.8): Funds held by an insurance company or other corporation in a deposit account for the sole purpose of funding life insurance or annuity contracts and any benefits incidental to such contracts.
BIA	Custodian accounts for American Indians (12 CFR 330.7(e)): Funds deposited by the Bureau of Indian Affairs of the United States Department of the Interior (the ''BIA'') on behalf of American Indians pursuant to 25 U.S.C. 162(a), or by any other disbursing agent of the United States on behalf of American Indians pursuant to similar authority, in an insured depository institution.
DOE	IDI Accounts under Department of Energy Program: Funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.

Appendix B to Part 370: *Output Files Structure*

These output files will include the data necessary for the FDIC to determine deposit insurance coverage in a resolution. A covered institution's information technology system must have the capability to prepare and maintain the files detailed below. These files must be prepared in successive iterations as the FDIC receives additional data from external sources necessary to complete the deposit insurance determinations, and, as it updates pending determinations. The files will be comprised of the following four tables. The unique identifier and government identification are required in all four tables so those tables can be linked where necessary.

A null value, as indicated in the table below, is allowed for fields that are not immediately needed to calculate deposit insurance. To ensure timely calculations for depositor liquidity purposes, the information with null-value designations can be obtained after the initial deposit insurance calculation. As due diligence for recordkeeping progresses throughout the years of ongoing compliance, the FDIC expects that the banks will continue efforts to capture the null-value designations and populate the output file to alleviate the burden at failure. If a null value is allowed in a field, the record should not be placed in the pending file.

These files must be prepared in successive iterations as the covered institution receives additional data from external sources necessary to complete any pending deposit insurance calculations. The unique identifier is required in all four files to link the customer information. All files are pipe delimited. Do not pad leading and trailing spacing or zeros for the data fields.



Customer File. Customer File will be used by the FDIC to identify the customers. One record represents one unique customer.

The data elements will include:

Field name	Description	Format	Null value allowed?
1. CS_Unique_ID	This field is the unique identifier that is the primary key for the depositor data record. It will be generated by the covered institution and there shall not be duplicates.	Variable Character.	No.

Field name	Description	Format	Null value allowed?
2. CS_Govt_ID	This field shall contain the ID number that identifies the entity based on a government issued ID or corporate filling. Populate as follows: —For a United States individual—SSN or TIN —For a foreign national individual—where a SSN or TIN does not exist, a foreign passport or other legal identification number (e.g., Alien Card) —For a Non-Individual—the Tax identification Number (TIN), or other register entity number	Variable Character.	No.
3. CS_Govt_ID_Type	The valid customer identification types are: —SSN—Social Security Number —TIN—Tax Identification Number —DL—Driver's License, issued by a State or Territory of the United States —ML—Military ID —PPT—Valid Passport —AID—Alien Identification Card —OTH—Other	Character (3)	No.
4. CS_Type	The customer type field indicates the type of entity the customer is at the covered institution. The valid values are:. —IND—Individual —BUS—Business —TRT—Trust —NFP—Non-Profit —GOV—Government — OTH—Other	Character (3)	Yes.
5. CS_First_Name	Customer first name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	No.
6. CS_Middle_Name	Customer middle name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	Yes.
7. CS_Last_Name	Customer last name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	No.
8. CS_Name_Suffix	Customer suffix	Variable Character.	Yes.
9. CS_Entity_Name	The registered name of the entity. Do not use this field if the customer is an individual.	Variable Character.	Yes.
10. CS_Street_Add_Ln1	Street address line 1. The current account statement mailing address of record.	Variable Character.	Yes.
11. CS_Street_Add_Ln2	Street address line 2. If available, the second address line	Variable Character.	Yes.
12. CS_Street_Add_Ln3	Street address line 3. If available, the third address line	Variable Character.	Yes.
13. CS_City	The city associated with the mailing address	Variable Character.	Yes.
14. CS_State	The state for United States addresses or state/province/county for international addresses. —For United States addresses use a two-character state code (official United States Postal Service abbreviations) associated with the mailing address. —For international address follow that country state code.	Variable Character.	Yes.
15. CS_ZIP	The Zip/Postal Code associated with the customer's mailing address. —For United States zip codes, use the United States Postal Service ZIP+4 standard —For international zip codes follow that standard format of that country.	Variable Character.	Yes.
16. CS_Country	The country associated with the mailing address. Provide the country name or the standard International Organization for Standardization (ISO) country code.	Variable Character.	Yes.
17. CS_Telephone	Customer telephone number. The telephone number on record for the customer, including the country code if not within the United States.	Variable Character.	Yes.
18. CS_Email	The email address on record for the customer	Variable Character.	Yes.
19. CS_Outstanding_Debt_Flag	This field indicates whether the customer has outstanding debt with covered institution. This field may be used by the FDIC to determine offsets. Enter ''Y'' if customer has outstanding debt with covered institutions, enter ''N'' otherwise.	Character (1)	Yes.
20. CS_Security_Pledge_Flag	This field shall only be used for Government customers. This field indicates whether the covered institution has pledged securities to the government entity, to cover any shortfall in deposit insurance. Enter ''Y'' if the government entity has outstanding security pledge with covered institutions, enter ''N'' otherwise.	Character (1)	No.

Account File. The Account File contains the deposit ownership rights and capacities information, allocated balances, insured amounts, and uninsured amounts. The balances are in U.S. dollars. The Account file is linked to the Customer File by the CS_Unique_ID.

The data elements will include:

Field name	Description	Format	Null value allowed?
1. CS_Unique_ID	This field is the unique identifier that is the primary key for the depositor data record. It will be generated by the covered institution and there cannot be duplicates.	Variable Character.	No.
2. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account. The account identifier may be composed of more than one physical data element to uniquely identify a deposit account.	Variable Character.	No.
3. DP_Right_Capacity	Account ownership categories —SGL—Single accounts. —JNT—Joint accounts. —REV—Revocable trust accounts. —IRR—Irrevocable trust accounts. —CRA—Certain retirement accounts. —EBP—Employee benefit plan accounts. —BUS—Business/Organization accounts. —GOV1, GOV2, GOV3—Government accounts (public unit accounts). —MSA—Mortgage servicing accounts for principal and interest payments. —DIT—Accounts held by a depository institution as the trustee of an irrevocable trust. —ANC—Annuity contract accounts. —PBA—Public bond accounts. —BIA—Custodian accounts for American Indians. —DOE—Accounts of an IDI pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.	Character (4) ...	No.
4. DP_Prod_Cat	Product category or classification —DDA—Demand Deposit Accounts —NOW—Negotiable Order of Withdrawal —MMA—Money Market Deposit Accounts —SAV—Other savings accounts —CDS—Time Deposit accounts and Certificate of Deposit accounts, including any accounts with specified maturity dates that may or may not be renewable.	Character (3) ...	Yes. For credit card accounts with a credit balance that create a deposit liability, use a NULL value for this field.
5. DP_Allocated_Amt	The current balance in the account at the end of business on the effective date of the file, allocated to a specific owner in that insurance category. For JNT accounts, this is a calculated field that represents the allocated amount to each owner in JNT category. For REV accounts, this is a calculated field that represents the allocated amount to each owner-beneficiary in REV category. For other accounts with only one owner, this is the account current balance. This balance shall not be reduced by float or holds. For CDs and time deposits, the balance shall reflect the principal balance plus any interest paid and available for withdrawal not already included in the principal (do not include accrued interest).	Decimal (14,2)	No.
6. DP_Acc_Int	Accrued interest allocated similarly as data field #5 DP_Allocated_Amt. The amount of interest that has been earned but not yet paid to the account as of the date of the file.	Decimal (14,2)	No.
7. DP_Total_PI	Total amount adding #5 DP_Allocated_Amt and #6 DP_Acc_Int	Decimal (14,2)	No.
8. DP_Hold_Amount	Hold amount on the account The available balance of the account is reduced by the hold amount. It has no effect on current balance (ledger balance).	Decimal (14,2)	No.
9. DP_Insured_Amount	The insured amount of the account	Decimal (14,2)	No.
10. DP_Uninsured_Amount	The uninsured amount of the account	Decimal (14,2)	No.
11. DP_Prepaid_Account_Flag	This field indicates a prepaid account with covered institution. Enter ''Y'' if account is a prepaid account with covered institutions, enter ''N'' otherwise.	Character (1) ...	No.
12. DP_PT_Account_Flag	This field indicates a pass-through account with covered institution. Enter ''Y'' if account is a pass-through with covered institutions, enter ''N'' otherwise.	Character (1) ...	No.
13. DP_PT_Trans_Flag	This field indicates whether the fiduciary account has sub-accounts that have transactional features. Enter ''Y'' if account has transactional features, enter ''N'' otherwise.	Character (1) ...	No.

Account Participant File. The Account Participant File will be used by the FDIC to identify account participants, to include the official custodian, beneficiary, bond holder, mortgagor, or employee benefit plan participant, for each account and account holder. One record represents one unique account participant. The Account Participant File is linked to the Account File by CS_Unique_ID and DP_Acct_Identifier.

The data elements will include:

Field name	Description	Format	Null value allowed?
1. CS_Unique_ID	This field is the unique identifier that is the primary key for the depositor data record. It will be generated by the covered institution and there shall not be duplicates.	Variable Character.	No.
2. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account. The account identifier may be composed of more than one physical data element to uniquely identify a deposit account.	Variable Character.	No.
3. DP_Right_Capacity	Account ownership categories —SGL—Single accounts. —JNT—Joint accounts. —REV—Revocable trust accounts. —IRR—Irrevocable trust accounts. —CRA—Certain retirement accounts. —EBP—Employee benefit plan accounts. —BUS—Business/Organization accounts. —GOV1, GOV2, GOV3—Government accounts (public unit accounts). —MSA—Mortgage servicing accounts for principal and interest payments. —DIT—Accounts held by a depository institution as the trustee of an irrevocable trust. —ANC—Annuity contract accounts. —PBA—Public bond accounts. —BIA—Custodian accounts for American Indians. —DOE—Accounts of an IDI pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.	Character (4) ...	No.
4. DP_Prod_Category	Product category or classification —DDA—Demand Deposit Accounts. —NOW—Negotiable Order of Withdrawal. —MMA—Money Market Deposit Accounts. —SAV—Other savings accounts. —CDS—Time Deposit accounts and Certificate of Deposit accounts, including any accounts with specified maturity dates that may or may not be renewable.	Character (3) ...	Yes.
5. AP_Allocated_Amount	Amount of funds attributable to the account participant as an account holder (*e.g.,* Public account holder of a public bond account) or the amount of funds entitled to the beneficiary for the purpose of insurance determination (*e.g.,* Revocable Trust).	Decimal (14,2)	No.
6. AP_Participant_ID	This field is the unique identifier for the Account Participant. It will be generated by the covered institution and there shall not be duplicates. If the account participant is an existing bank customer, this field is the same as CS_Unique_ID field.	Variable Character.	No.
7. AP_Govt_ID	This field shall contain the ID number that identifies the entity based on a government issued ID or corporate filing. Populate as follows: —For a United States individual—Legal identification number (*e.g.,* SSN, TIN, Driver's License, or Passport Number). —For a foreign national individual—where a SSN or TIN does not exist, a foreign passport or other legal identification number (*e.g.,* Alien Card). —For a Non-Individual—the Tax identification Number (TIN), or other register entity number.	Variable Character.	No.
8. AP_Govt_ID_Type	The valid customer identification types are: —SSN—Social Security Number. —TIN—Tax Identification Number. —DL—Driver's License, issued by a State or Territory of the United States. —ML—Military ID. —PPT—Valid Passport. —AID—Alien Identification Card. —OTH—Other.	Character (3) ...	No.
9. AP_First_Name	Customer first name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	No.
10. AP_Middle_Name	Customer middle name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	Yes.
11. AP_Last_Name	Customer last name. Use only for the name of individuals and the primary contact for entity.	Variable Character.	No.
12. AP_Entity_Name	The registered name of the entity. Do not use this field if the participant is an individual.	Variable Character.	Yes.
13. AP_Participant_Type	This field is used as the participant type identifier. The field will list the ''beneficial owner'' type: —OC—Official Custodian. —BEN—Beneficiary. —BHR—Bond Holder. —MOR—Mortgagor. —EPP—Employee Benefit Plan Participant.	Character (3) ...	Yes.

Pending File. The Pending File contains the information needed for the FDIC to contact the owner or agent requesting additional information to complete the deposit insurance calculation. Each record represents a deposit account. The data elements will include:

Field name	Description	Format	Null value allowed?
1. CS_Unique_ID	This field is the unique identifier that is the primary key for the depositor data record. It will be generated by the covered institution and there cannot be duplicates.	Variable Character	No.
2. Pending_Reason	Reason code for the account to be included in Pending file For deposit account records maintained by the bank, use the following codes. —A—agency or custodian. —B—beneficiary. —OI—official item. —RAC—right and capacity code. For alternative recordkeeping requirements, use the following codes. —ARB—depository organization for brokered deposits (Brokered deposit has the same meaning as provided in 12 CFR 337.6(a)(2)). —ARBN—non-depository organization for brokered deposits (Brokered deposit has the same meaning as provided in 12 CFR 337.6(a)(2)). —ARCRA—certain retirement accounts. —AREBP—employee benefit plan accounts. —ARM—mortgage servicing for principal and interest payments. —ARO—other deposits. —ARTR—trust accounts. The FDIC needs these codes to initiate the collection of needed information.	Character (5)	No.
3. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account The account identifier may be composed of more than one physical data element to uniquely identify a deposit account.	Variable Character	No.
4. DP_Right_Capacity	Account ownership categories —SGL—Single accounts. —JNT—Joint accounts. —REV—Revocable trust accounts. —IRR—Irrevocable trust accounts. —CRA—Certain retirement accounts. —EBP—Employee benefit plan accounts. —BUS—Business/Organization accounts. —GOV1, GOV2, GOV3—Government accounts (public unit accounts). —MSA—Mortgage servicing accounts for principal and interest payments. —DIT—Accounts held by a depository institution as the trustee of an irrevocable trust. —ANC—Annuity contract accounts. —PBA—Public bond accounts. —BIA—Custodian accounts for American Indians. —DOE—Accounts of an IDI pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.	Character (4)	Yes.
5. DP_Prod_Category	Product category or classification —DDA—Demand Deposit Accounts. —NOW—Negotiable Order of Withdrawal. —MMA—Money Market Deposit Accounts. —SAV—Other savings accounts. —CDS—Time Deposit accounts and Certificate of Deposit accounts, including any accounts with specified maturity dates that may or may not be renewable.	Character (3)	Yes.
6. DP_Cur_Bal	Current balance—The current balance in the account at the end of business on the effective date of the file. This balance shall not be reduced by float or holds. For CDs and time deposits, the balance shall reflect the principal balance plus any interest paid and available for withdrawal not already included in the principal (do not include accrued interest).	Decimal (14,2)	No.
7. DP_Acc_Int	Accrued interest The amount of interest that has been earned but not yet paid to the account as of the date of the file.	Decimal (14,2)	No.
8. DP_Total_PI	Total of principal and accrued interest	Decimal (14,2)	No.
9. DP_Hold_Amount	Hold amount on the account The available balance of the account is reduced by the hold amount. It has no impact on current balance (ledger balance).	Decimal (14,2)	No.
10. DP_Prepaid_Account_Flag	This field indicates a prepaid account with covered institution. Enter ''Y'' if account is a prepaid account, enter ''N'' otherwise.	Character (1)	No.
11. CS_Govt_ID	This field shall contain the ID number that identifies the entity based on a government issued ID or corporate filing. Populate as follows: —For a United States individual SSN or TIN. —For a foreign national individual—where a SSN or TIN does not exist, a foreign passport or other legal identification number (e.g., Alien Card). —For a Non-Individual—the Tax identification Number (TIN), or other register entity number.	Variable Character	No.
12. CS_Govt_ID_Type	The valid customer identification types:	Character (3)	No.

Field name	Description	Format	Null value allowed?
	—SSN—Social Security Number. —TIN—Tax Identification Number. —DL—Driver's License, issued by a State or Territory of the United States. —ML—Military ID. —PPT—Valid Passport. —AID—Alien Identification Card. —OTH—Other.		
13. CS_First_Name	Customer first name. Use only for the name of individuals and the primary contact for entity.	Variable Character	No.
14. CS_Middle_Name	Customer middle name. Use only for the name of individuals and the primary contact for entity.	Variable Character	Yes.
15. CS_Last_Name	Customer last name. Use only for the name of individuals and the primary contact for entity.	Variable Character	No.
16. CS_Name_Suffix	Customer suffix	Variable Character	Yes.
17. CS_Entity_Name	The registered name of the entity. Do not use this field if the customer is an individual.	Variable Character	Yes.
18. CS_Street_Add_Ln1	Street address line 1. The current account statement mailing address of record.	Variable Character	No.
19. CS_Street_Add_Ln2	Street address line 2. If available, the second address line	Variable Character	Yes.
20. CS_Street_Add_Ln3	Street address line 3. If available, the third address line	Variable Character	Yes.
21. CS_City	The city associated with the mailing address	Variable Character	Yes.
22. CS_State	The state for United States addresses or state/province/county for international addresses. —For United States addresses use a two-character state code (official United States Postal Service abbreviations) associated with the mailing address. —For international address follow that country state code.	Variable Character	Yes.
23. CS_ZIP	The Zip/Postal Code associated with the customer's mailing address —For United States zip codes, use the United States Postal Service ZIP+4 standard. —For international zip codes follow the standard format of that country.	Variable Character	Yes.
24. CS_Country	The country associated with the mailing address. Provide the country name or the standard International Organization for Standardization (ISO) country code.	Variable Character	Yes.
25. CS_Telephone	Customer telephone number. The telephone number on record for the customer, including the country code if not within the United States.	Variable Character	Yes.
26. CS_Email	The email address on record for the customer	Variable Character	Yes.
27. CS_Outstanding_Debt_Flag	This field indicates whether the customer has outstanding debt with covered institution. This field may be used to determine offsets. Enter ''Y'' if customer has outstanding debt with covered institutions, enter ''N'' otherwise.	Character (1)	Yes.
28. CS_Security_Pledge_Flag	This field indicates whether the CI has pledged securities to the government entity, to cover any shortfall in deposit insurance. Enter ''Y'' if the government entity has outstanding security pledge with covered institutions, enter ''N'' otherwise. This field shall only be used for Government customers.	Character (1)	No.
29. DP_PT_Account_Flag	This field indicates a pass-through account with covered institution. Enter ''Y'' if account is a pass-through with covered institutions, enter ''N'' otherwise.	Character (1)	No.
30. PT_Parent_Customer_ID	This field contains the unique identifier of the parent customer ID who has the fiduciary responsibility at the covered institution.	Variable Character	No.
31. DP_PT_Trans_Flag	This field indicates whether the fiduciary account has sub-accounts that have transactional features. Enter ''Y'' if account has transactional features, enter ''N'' otherwise.	Character (1)	No.

Appendix C to Part 370: *Credit Balance Processing File Structure*

A covered institution's IT system should be able to produce a file in the format below that can be used to calculate deposit insurance coverage for deposits resulting from credit balances on accounts for debt owed to the covered institution (''credit balances''). This file format is derived from the ''Broker Submission File Format'' found in the FDIC's ''Deposit Broker's Processing Guide,'' supplemented by the ''Addendum to the Deposit Broker's Processing Guide'' used for Part 370 alternative recordkeeping entity processing. The file format below identifies fields that are not applicable for processing credit balances. These fields should be null while also maintaining the pipe delimiters. Additional information regarding the FDIC's Deposit Broker's Processing Guide for part 370 covered institutions may be found at *https://www.fdic.gov/deposit/deposits/brokers/part-370-appendix.html*

Field name	Description	Null value allowed? (Y/N)
01 Broker Number	Not applicable	Y.
02 Account Number	Account number of account holding pending payments or other items for refunds of credit balances.	N.
03 Customer Account Number.	Assigned customer account number	N.
04 CUSIP	Not applicable	Y.
05 Tax ID	Taxpayer identification number of the account holder	N.
06 Tax ID Code	Code indicates corporate (TIN) or personal tax identification number (SSN)	N.

Field name	Description	Null value allowed? (Y/N)
07 Name	Full name of credit balance owner	N.
08 Name 2	Name 2	Y.
09 Address 1	Address line 1 as it appears on the credit balance owner's statement	N.
10 Address 2	Address line 2 as it appears on the credit balance owner's statement	Y.
11 Address 3	Address line 3 as it appears on the credit balance owner's statement	Y.
12 City	Address city as it appears on the credit balance owner's statement	N.
13 State	State postal abbreviation as it appears on the credit balance owner's statement	Y.
14 Zip/Postal	The zip/postal code associated with the credit balance owner's address at it appears on the credit balance owner's statement. For United States zip codes, use the United States Postal Service ZIP+4 standard. For international zip codes follow that standard format of that country.	N.
15 Country	Country code as it appears on the credit balance owner's statement	N.
16 Province	Province as it appears on the credit balance owner's statement	Y.
17 IRA Code	Not applicable	Y.
18 Credit Balance	Credit balance of the account as of the institution failure date	N.
19 Sub-broker Indicator	Not applicable	Y.
20 Deposit Account Ownership Category.	Account ownership right and capacity	N.
21 Transactional Flag	Not applicable	Y.
22 Retained Interest	Not applicable	Y.
23 Amount of Overfunding	Not applicable	Y.
24 Account Participant Full Name.	Not applicable	Y.
25 Account Participant Type	Not applicable	Y.
26 Amount of Account Participant's Non-contingent Interests.	Not applicable	Y.
27 Amount of Account Participant's Contingent Interests.	Not applicable	Y.
28 Account Participant's Government-Issued ID.	Not applicable	Y.
29 Account Participant's Government-Issued ID Type.	Not applicable	Y.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

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

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–15535 Filed 7–29–19; 8:45 am]

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FEDERAL REGISTER

Vol. 84 Tuesday,
No. 146 July 30, 2019

Part III

The President

Executive Order 13882—Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Mali

Federal Register
Vol. 84, No. 146
Tuesday, July 30, 2019

Presidential Documents

Title 3—

The President

Executive Order 13882 of July 26, 2019

Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Mali

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.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), the United Nations Participation Act of 1945 (22 U.S.C. 287c) (UNPA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 2374 of September 5, 2017, and UNSCR 2432 of August 30, 2018.

I, DONALD J. TRUMP, President of the United States of America, find that the situation in Mali, including repeated violations of ceasefire arrangements made pursuant to the 2015 Agreement on Peace and Reconciliation in Mali; the expansion of terrorist activities into southern and central Mali; the intensification of drug trafficking and trafficking in persons, human rights abuses, and hostage-taking; and the intensification of attacks against civilians, the Malian defense and security forces, the United Nations Multidimensional Integrated Stabilizations Mission in Mali (MINUSMA), and international security presences, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to be responsible for or complicit in, or to have directly or indirectly engaged in, any of the following in or in relation to Mali:

(A) actions or policies that threaten the peace, security, or stability of Mali;

(B) actions or policies that undermine democratic processes or institutions in Mali;

(C) a hostile act in violation of, or an act that obstructs, including by prolonged delay, or threatens the implementation of, the 2015 Agreement on Peace and Reconciliation in Mali;

(D) planning, directing, sponsoring, or conducting attacks against local, regional, or state institutions, the Malian defense and security forces, any international security presences, MINUSMA peacekeepers, other United Nations or associated personnel, or any other peacekeeping operations;

(E) obstructing the delivery or distribution of, or access to, humanitarian assistance;

(F) planning, directing, or committing an act that violates international humanitarian law or that constitutes a serious human rights abuse or violation, including an act involving the targeting of civilians through

the commission of an act of violence, abduction or enforced disappearance, forced displacement, or an attack on a school, hospital, religious site, or location where civilians are seeking refuge;

(G) the use or recruitment of children by armed groups or armed forces in the context of the armed conflict in Mali;

(H) the illicit production or trafficking of narcotics or their precursors originating or transiting through Mali;

(I) trafficking in persons, smuggling migrants, or trafficking or smuggling arms or illicitly acquired cultural property; or

(J) any transaction or series of transactions involving bribery or other corruption, such as the misappropriation of Malian public assets or expropriation of private assets for personal gain or political purposes;

(ii) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, any person whose property and interests in property are blocked pursuant to this order; or

(iii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

Sec. 2. The unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1 of this order would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended, except where the Secretary of State determines that the person's entry is in the national interest of the United States, including when the Secretary so determines based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

Sec. 3. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including promulgating rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to implement this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All agencies of the United States Government shall take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 40l(c) of the NEA (50 U.S.C. 164l(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

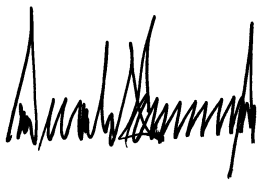
Sec. 10. (a) Nothing in this order shall be construed to impair or otherwise affect:

(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.



THE WHITE HOUSE,
July 26, 2019.

[FR Doc. 2019–16383
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