FEDERAL REGISTER

Vol. 84 Wednesday,

No. 171 September 4, 2019

Pages 46419–46652

OFFICE OF THE FEDERAL REGISTER

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1650 and 1651

Additional Withdrawal Options

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (''FRTIB'') is amending its regulations to provide TSP participants with additional withdrawal options and flexibility.

DATES: This rule is effective September 15, 2019.

FOR FURTHER INFORMATION CONTACT: Austen Townsend, (202) 864–8647.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The TSP Modernization Act of 2017 (the ''Act''), Public Law 115–84 (131 Stat. 1272), signed into law on November 17, 2017, permits the TSP to offer participants additional withdrawal options and flexibility. In addition, the Act eliminates the requirement that a TSP participant who has reached age 70½ and is separated from federal service make a full withdrawal election with respect to his or her TSP account.

On June 10, 2019, the FRTIB published a proposed rule with request for comments in the **Federal Register** (84 FR 26769). The FRTIB received one or more comments from eighteen individuals. As described in more detail below, the comments received relate to changes that are prohibited by FERSA or other laws or unduly burdensome to implement from an administrative perspective; therefore, the FRTIB is publishing the proposed rule as final without change.

Six individuals requested the ability to convert a traditional balance to a Roth balance within the TSP. The FRTIB has, in the past, considered allowing in-plan Roth conversions and ultimately concluded that the tax complexities involved and, in particular, the potential irreversible financial pitfalls for participants, weighed against doing so. Revisiting this decision was outside the scope of implementing the changes permitted by the Act.

Two commentators expressed concern about the amount of paperwork required by the spousal consent rules applicable to married Federal Employees' Retirement System (FERS) and uniformed services participants, particularly with respect to changes to installment payments. Spousal consent is statutorily required by 5 U.S.C. 8435(a)(1)(B) any time a married FERS or uniformed services participant (1) elects a TSP withdrawal in any form other than a joint life annuity with a 50 percent survivor benefit, level payments, and no cash refund; or (2) changes a withdrawal election, which includes a change to the amount or frequency of previously elected installment payments. Allowing a participant to make changes to the amount or frequency of his or her installment payments without spousal consent would undermine the protection the spousal consent rule is designed to provide by allowing a participant to effectively drain his or her account balance via a small number of large installment payments without his or her spouse's knowledge.

Two individuals requested that, in addition to allowing withdrawals from a traditional balance only or Roth balance only, a participant be allowed to elect to withdraw amounts from his or her tax-exempt balance only. A participant's tax-exempt balance does not constitute a separate contract under 26 U.S.C. 72(d) and, therefore, the FRTIB is prohibited by the Internal Revenue Code from offering this option.

Two commentators suggested that participants be allowed to make fund-specific withdrawals from their TSP accounts, an option that the FRTIB did consider. Because the volume of withdrawal transactions processed by the TSP is so large, its withdrawal election form processing is highly automated. As a result, the complexity involved in updating withdrawal election forms and the associated programming to permit fund-specific withdrawals renders this option impracticable at this time.

One commentator asked that post-separation withdrawals be exempt from the 10 percent additional early distribution tax regardless of the participant's age. The Internal Revenue Code governs when this penalty will apply. Under 26 U.S.C. 72(t)(1), the 10 percent additional early distribution generally applies to any post-separation withdrawal taken by a TSP participant before he or she reaches age 59½.

Finally, one individual expressed frustration that the changes do not permit a participant to make a single withdrawal election from his or her traditional balance and Roth balance in a percentage other than pro rata. The FRTIB considered allowing this but determined that doing so was unfeasible from an administrative perspective. A participant will still be able to accomplish the end goal by making two separate withdrawal elections—one from his or her traditional balance only and one from his or her Roth balance only.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate,

or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted 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 before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1651

Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR Chapter VI as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

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

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

■ 2. Amend § 1650.1 in paragraph (b) by adding in alphabetical order definitions for ''Required beginning date'' and ''Required minimum distribution'' to read as follows:

§ 1650.1 Definitions.

* * * * *

(b) * * *

Required beginning date means April 1 of the year following the year in which the participant reaches 70 ½ years of age or separates from Government service, whichever is later.

Required minimum distribution means the amount required to be distributed to a participant beginning on the required beginning date and every year thereafter pursuant to Internal Revenue Code section 401(a)(9) and the regulations promulgated thereunder, as applicable.

■ 3. Amend § 1650.2 by revising paragraphs (a), (b), (f), (g), and (h) to read as follows:

§ 1650.2 Eligibility and general rules for a TSP withdrawal.

(a) A participant who is separated from Government service can elect to withdraw all or a portion of his or her account balance by one or a combination of the withdrawal methods described in subpart B of this part.

(b) A post-employment withdrawal will not be paid unless TSP records indicate that the participant is separated from Government service. The TSP will, when possible, cancel a pending post-employment withdrawal election upon receiving information from an employing agency that a participant is no longer separated.

* * * * *

(f) A participant can elect to have any portion of a single or installment payment that is not transferred to an eligible employer plan, traditional IRA, or Roth IRA deposited directly, by electronic funds transfer (EFT), into a savings or checking account at a financial institution in the United States.

(g) If a participant has a civilian TSP account and a uniformed services TSP account, the rules in this part apply to each account separately. For example, the participant is eligible to make four age-based in-service withdrawals from the civilian account and four age-based in-service withdrawals from the uniformed services account per calendar year. A separate withdrawal request must be made for each account.

(h) A participant may elect to have his or her withdrawal distributed from the participant's traditional balance only, Roth balance only, or pro rata from the participant's traditional and Roth balances. Any distribution from the traditional balance will be prorated between the tax-deferred balance and any tax-exempt balance. Any distribution from the Roth balance will be prorated between contributions in the Roth balance and earnings in the Roth balance. In addition, all withdrawals will be distributed pro rata from all TSP Funds in which the participant's account is invested. All prorated amounts will be based on the balances in each TSP Fund or source of contributions on the day the withdrawal is processed.

■ 4. Amend § 1650.11 by revising paragraphs (a) and (c) and adding paragraph (d) to read as follows:

§ 1650.11 Withdrawal elections.

(a) Subject to the restrictions in this subpart, participants may elect to withdraw all or a portion of their TSP accounts in a single payment, a series of installment payments, a life annuity, or any combination of these options.

* * * * *

(c) Provided that the participant has not submitted a post-employment withdrawal election prior to the date the automatic payment is processed, if a participant's vested account balance is less than $200 when he or she separates from Government service, the TSP will automatically pay the balance in a single payment to the participant at his or her TSP address of record. The participant will not be eligible for any other payment option or be allowed to remain in the TSP.

(d) Only one post-employment withdrawal election per account will be processed in any 30-calendar-day period.

■ 5. Revise § 1650.12 to read as follows:

§ 1650.12 Single payment.

Provided that, in the case of a partial withdrawal, the amount elected is not less than $1,000, a participant can elect to withdraw all or a portion of his or her account balance in a single payment.

■ 6. Revise § 1650.13 to read as follows:

§ 1650.13 Installment payments.

(a) A participant can elect to withdraw all or a portion of the account balance in a series of substantially equal installment payments, to be paid on a monthly, quarterly, or annual basis in one of the following manners:

(1) *A specific dollar amount.* The amount elected must be at least $25 per installment; if the amount elected is less than $25 per installment, the request will be rejected. Payments will be made in the amount requested each installment period.

(2) *An installment payment amount calculated based on life expectancy.* Payments based on life expectancy are determined using the factors set forth in the Internal Revenue Service life expectancy tables codified at 26 CFR 1.401(a)(9)–9, Q&A 1 and 2. The installment payment amount is calculated by dividing the account balance by the factor from the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments are to begin. This amount is then divided by the number of installment payments to be made per calendar year to yield the installment payment amount. In subsequent years, the installment payment amount is recalculated each January by dividing the prior December 31 account balance by the factor in the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments will be

made. There is no minimum amount for an installment payment calculated based on this method.

(b) A participant receiving installment payments calculated based upon life expectancy can make one election, at any time, to change to a fixed dollar installment payment. A participant can change the amount of his or her fixed payments at any time as described in § 1650.17(c). A participant who is receiving installment payments based on a fixed dollar amount, however, cannot elect to change to an amount calculated based on life expectancy.

(c) If a participant elects to receive installments pro rata from his or her traditional and Roth balances, installment payments will be made until the participant's entire account balance is expended, unless the participant elects to change or stop installment payments as described in in § 1650.17(c). If a participant elects to receive installment payments from his or her traditional balance only or Roth balance only, installment payments will automatically continue from the non-elected balance once the elected balance has been expended, unless the participant elects to change or stop installment payments as described in § 1650.17(c).

(d) A participant receiving installment payments, regardless of the calculation method, can elect at any time to receive the remainder or part of his or her account balance in a single payment.

(e) A participant may only have one installment payment series in place at a time.

(f) A participant receiving installment payments may change the investment of his or her account balance among the TSP investment funds as provided in 5 CFR part 1601.

(g) Upon receiving information from an employing agency that a participant receiving installment payments is no longer separated, the TSP will cancel all pending and future installment payments.

■ 7. Amend § 1650.14 by:
■ a. Revising paragraphs (a) and (b);
■ b. Removing paragraph (c);
■ c. Redesignating paragraphs (d) through (l) as paragraphs (c) through (k); and
■ d. Revising newly redesignated paragraphs (c), (d), and (h).

The revisions read as follows:

§ 1650.14 Annuities.

(a) A participant electing a post-employment withdrawal can use all or a portion of his or her total account balance, traditional balance only, or Roth balance only to purchase a life annuity.

(b) If a participant has a traditional balance and a Roth balance and elects to use all or a portion of his or her total account balance to purchase a life annuity, the TSP must purchase two separate annuity contracts for the participant: One from the portion of the withdrawal distributed from his or her traditional balance and one from the portion of the withdrawal distributed from his or her Roth balance.

(c) A participant cannot elect to purchase an annuity contract with less than $3,500.

(d) Unless an amount must be paid directly to the participant to satisfy any applicable minimum distribution requirement of the Internal Revenue Code, the TSP will purchase the annuity contract(s) from the TSP's annuity vendor using the participant's entire account balance or the portion specified. In the event that a minimum distribution is required by section 401(a)(9) of the Internal Revenue Code before the date of the first annuity payment, the TSP will compute that amount prior to purchasing the annuity contract(s), and pay it directly to the participant.

* * * * *

(h) For each withdrawal election in which the participant elects to purchase an annuity with some or all of the amount withdrawn, if the TSP must purchase two annuity contracts, the type of annuity, the annuity features, and the joint annuitant (if applicable) selected by the participant will apply to both annuities purchased. For each withdrawal election, a participant cannot elect more than one type of annuity by which to receive a withdrawal, or portion thereof, from any one account.

§ 1650.15 [Removed]

■ 8. Remove § 1650.15.

■ 9. Revise § 1650.16 to read as follows:

§ 1650.16 Required minimum distributions.

(a) A separated participant must receive required minimum distributions from his or her account commencing no later than the required beginning date and, for each year thereafter, no later than December 31.

(b) A separated participant may elect to withdraw from his or her account or to begin receiving payments before the required beginning date, but is not required to do so.

(c) In the event that a separated participant does not withdraw from his or her account an amount sufficient to satisfy his or her required minimum distribution for the year, the TSP will automatically distribute the necessary amount on or before the applicable date described in paragraph (a) of this section.

(d) The TSP will disburse required minimum distributions described in paragraph (c) of this section pro rata from the participant's traditional balance and the participant's Roth balance.

(e) The rules set forth in paragraphs (a) through (d) of this section shall apply to a separated participant who reclaims an account balance that was declared abandoned.

■ 10. Amend § 1650.17 by revising paragraphs (a) and (c) to read as follows:

§ 1650.17 Changes and cancellation of a withdrawal request.

(a) *Before processing.* A pending withdrawal request can be cancelled if the cancellation is received and can be processed before the TSP processes the withdrawal request. However, the TSP processes withdrawal requests each business day and those that are entered into the record keeping system by 12:00 noon eastern time will ordinarily be processed that night; those entered after 12:00 noon eastern time will be processed the next business day. Consequently, a cancellation request must be received and entered into the system before the cut-off for the day the withdrawal request is submitted for processing in order to be effective to cancel the withdrawal.

* * * * *

(c) *Change in installment payments.* If a participant is receiving a series of installment payments, with appropriate supporting documentation as required by the TSP record keeper, the participant can change at any time: The payment amount or frequency (including stopping installment payments), the address to which the payments are mailed, the amount of federal tax withholding, whether or not a payment will be transferred (if permitted) and the portion to be transferred, the method by which direct payments to the participant are being sent (EFT or check), the identity of the financial institution to which payments are transferred or sent by EFT, or the identity of the EFT account.

■ 11. Revise § 1650.21 to read as follows:

§ 1650.21 Information provided by employing agency or service.

When a TSP participant separates from Government service, his or her employing agency or service must report the separation and the date of separation to the TSP record keeper. Until the TSP record keeper receives this information from the employing agency or service, it

will not pay a post-employment withdrawal.

■ 12. Revise § 1650.23 to read as follows:

§ 1650.23 Accounts of less than $200.

Upon receiving information from the employing agency that a participant has been separated for more than 31 days and that any outstanding loans have been closed, provided the participant has not made a withdrawal election before the distribution is processed, if the account balance is $5.00 or more but less than $200, the TSP record keeper will automatically distribute the entire amount of his or her account balance. The TSP will not pay this amount by EFT. The participant may not elect to leave this amount in the TSP, nor will the TSP transfer any automatically distributed amount to an eligible employer plan, traditional IRA, or Roth IRA. However, the participant may elect to roll over this payment into an eligible employer plan, traditional IRA, or Roth IRA to the extent the roll over is permitted by the Internal Revenue Code.

■ 13. Revise § 1650.24 to read as follows:

§ 1650.24 How to obtain a post-employment withdrawal.

To request a post-employment withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly completed paper TSP post-employment withdrawal request form.

■ 14. Amend § 1650.25 by revising paragraph (a) to read as follows:

§ 1650.25 Transfers from the TSP.

(a) The TSP will, at the participant's election, transfer all or any portion of an eligible rollover distribution (as defined by section 402(c)(4) of the Internal Revenue Code) directly to an eligible employer plan or an IRA.

* * * * *

■ 15. Amend § 1650.31 by revising paragraphs (a) and (c) and removing paragraph (d).

The revisions read as follows:

§ 1650.31 Age-based withdrawals.

(a) A participant who has reached age 59½ and who has not separated from Government service is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. Unless the withdrawal request is for the entire vested account balance, the entire vested traditional balance, or the entire vested Roth balance, the amount of an age-based withdrawal request must be at least $1,000.

* * * * *

(c) A participant is permitted four age-based withdrawals per calendar year for an account. Only one age-based withdrawal election per account will be processed in any 30-calendar-day-period.

■ 16. Revise § 1650.33 to read as follows:

§ 1650.33 Contributing to the TSP after an in-service withdrawal.

(a) *Age-Based In-Service Withdrawals.* A participant's TSP contribution election will not be affected by an age-based in-service withdrawal; therefore, his or her TSP contributions will continue without interruption.

(b) *Financial Hardship In-Service Withdrawals.* (1) A participant who obtains a financial hardship in-service withdrawal prior to September 15, 2019, may not contribute to the TSP until the earlier of:

(i) The end of the six-month period after the withdrawal is processed, or

(ii) September 15, 2019.

(2) Therefore, the participant's employing agency will discontinue his or her contributions (and any applicable Agency Matching Contributions) for the applicable period after the agency is notified by the TSP; in the case of a FERS or BRS participant, Agency Automatic (1%) Contributions will continue. A participant whose TSP contributions are discontinued by his or her agency after a financial hardship withdrawal can resume contributions any time after expiration of the applicable period by submitting a new TSP contribution election. Contributions will not resume automatically.

(3) A participant's TSP contribution election will not be affected by a financial hardship in-service withdrawal obtained on or after September 15, 2019; therefore, his or her TSP contributions will continue without interruption.

■ 17. Revise § 1650.41 to read as follows:

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly-completed paper TSP age-based withdrawal request form.

■ 18. Amend § 1650.42 by revising paragraph (a) to read as follows:

§ 1650.42 How to obtain a hardship withdrawal.

(a) To request a financial hardship withdrawal, a participant must use the TSP website to initiate a request or submit to the TSP record keeper a properly-completed paper TSP hardship withdrawal request form.

* * * * *

■ 19. Revise § 1650.61 to read as follows:

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

(a) The spousal rights described in this section apply to total post-employment withdrawals when the married participant's vested TSP account balance exceeds $3,500, to partial post-employment withdrawals without regard to the amount of the participant's account balance, and to any change in the amount or frequency of an existing installment payment series, including a change from payments calculated based on life expectancy to payments based on a fixed-dollar amount.

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal request is processed by the TSP, the spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal or makes a change to the amount or frequency of an existing installment payment series. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a total post-employment withdrawal.

(1) The participant may make a different total withdrawal election only if his or her spouse consents to that election and waives the right to this annuity.

(2) A participant's spouse must consent to any partial withdrawal election (other than an election to purchase this type of an annuity with such amount) and waive his or her right to this annuity with respect the amount withdrawn.

(3) A spouse must consent to any change in the amount or frequency of an existing installment payment series and waive his or her right to this annuity with respect to the applicable amount. Spousal consent is not required to stop installment payments.

(4) Unless the TSP granted the participant an exception under this

subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP, to show that the spouse has consented to a different total or partial withdrawal election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

(5) The spouse's consent and waiver is irrevocable for the applicable withdrawal or installment payment change once the TSP record keeper has received it.

■ 20. Amend § 1650.62 by revising paragraphs (b) and (c) to read as follows:

§ 1650.62 Spousal rights applicable to in-service withdrawals.

* * * * *

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP, the spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal. If the TSP granted the participant an exception to the notice requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the spouse at the most recent address provided by the participant.

(c) Unless the participant was granted an exception under this subpart to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP, before obtaining an in-service withdrawal, a participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount. To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent and waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

PART 1651—DEATH BENEFITS

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

Authority: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

■ 22. Amend § 1651.1 in paragraph (b) by adding in alphabetical order definitions for ''Required beginning date'' and ''Required minimum distribution'' to read as follows:

§ 1651.1 Definitions.

* * * * *

(b) * * *

Required beginning date means:

(1) The end of the calendar year immediately following the calendar year in which the participant died; or

(2) The end of the calendar year in which the participant would have attained age 70½, whichever is later.

Required minimum distribution means the amount required to be distributed to a beneficiary participant beginning on the required beginning date and every year thereafter pursuant to Internal Revenue Code section 401(a)(9) and the regulations promulgated thereunder, as applicable.

* * * * *

■ 23. Amend § 1651.19 by revising paragraph (c) to read as follows:

§ 1651.19 Beneficiary participant accounts.

* * * * *

(c) *Required minimum distributions.* (1) A beneficiary participant must receive required minimum distributions from his or her beneficiary participant account commencing no later than the required beginning date and, for each year thereafter, no later than December 31.

(2) A beneficiary participant may elect to withdraw from his or her account or to begin receiving payments before the required beginning date, but is not required to do so.

(3) In the event that a beneficiary participant does not withdraw from his or her beneficiary participant account an amount sufficient to satisfy his or her required minimum distribution for the year, the TSP will automatically distribute the necessary amount on or before the applicable date described in paragraph (c)(1) of this section.

(4) The TSP will disburse required minimum distributions described in paragraph (c)(3) of this section pro rata from the beneficiary participant's traditional balance and the beneficiary participant's Roth balance.

* * * * *

[FR Doc. 2019–19029 Filed 9–3–19; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 37

RIN 1601–AA91

Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Implementation of the REAL ID Act Modification for Freely Associated States Act

AGENCY: Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: This final rule implements the REAL ID Act Modification for Freely Associated States Act by amending the regulatory definition of ''temporary lawful status.'' With this change, citizens of the Freely Associated States residing in the United States are eligible for full-term REAL ID licenses and identification cards, provided they satisfy the other requirements of the REAL ID Act and regulations.

DATES: Effective September 4, 2019.

FOR FURTHER INFORMATION CONTACT: Steve Yonkers, Director, Identity and Credentialing/REAL ID Program, U.S. Department of Homeland Security Office of Policy, Strategy, and Plans, Washington, DC 20528, (202) 447–3274.

SUPPLEMENTARY INFORMATION:

I. Background

The REAL ID Act of 2005 [1] and its implementing Department of Homeland Security (DHS) regulations [2] authorize REAL ID compliant states to issue temporary or limited-term REAL ID compliant driver's licenses and identification cards to certain nonimmigrant aliens who satisfy other REAL ID eligibility requirements. These temporary driver's licenses or identification cards cannot be issued with a validity period longer than the alien's authorized period of stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.[3]

[1] Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109–13, 119 Stat. 231, 302, Div. B (codified at 49 U.S.C. 30301 note).

[2] 6 CFR part 37.

[3] REAL ID Act § 202(c)(2)(c)(ii); 6 CFR 37.21(b)(1).

Under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (collectively referred to as the Freely Associated States, or FAS), citizens of the Freely Associated States are eligible to be admitted to the United States as nonimmigrants without a visa, and live and work in the United States indefinitely.[4] Because FAS citizens are authorized to have an indefinite period of authorized stay in the United States (known as ''duration of status'' or ''D/S'')—but FAS citizens are not U.S. citizens—States that issue temporary driver's licenses or identification cards to FAS citizens generally subject those FAS citizens' driver's licenses or identification cards to the one-year temporary license limitation. FAS citizens who present a USCIS Form I–766 Employment Authorization Document (EAD) to establish identity may obtain a REAL ID compliant driver's license or identification card with a validity period as long as the validity period of the EAD, which in the case of FAS citizens is up to five years.

The REAL ID Act Modification for Freely Associated States Act, Public Law 115–323, signed into law on December 17, 2018, addresses this issue by amending the REAL ID Act to authorize states to issue to FAS citizens residing indefinitely in the United States full-term REAL ID driver's licenses or identification cards.[5] This final rule updates the REAL ID regulations to reflect this statutory change by amending the regulatory definition of ''temporary lawful status'' to specifically exclude individuals admitted as nonimmigrants under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. With this change, citizens of the Freely Associated States residing in the United States are eligible for full-term REAL ID driver's licenses and identification cards, provided they satisfy the other requirements of the REAL ID Act and regulations.

II. The REAL ID Act Modification for Freely Associated States Act

The REAL ID Act prohibits federal agencies from accepting a State-issued driver's license or identification card for any official purpose unless the license or card is issued by a State that meets the requirements set forth in the REAL ID Act.[6] Under Section 201(3) of the REAL ID Act, official purpose as defined in the REAL ID Act includes accessing federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purpose as determined by the Secretary of Homeland Security. Section 202(c) of the REAL ID Act requires an applicant for a driver's license or identification card to present, and for the State to verify, documentation and information evidencing the applicant's identity, date of birth, social security number or verification that the person is not eligible for a social security number, address of principal residence, and U.S. citizenship or lawful status. *Id.* Certain aliens including those who are in a valid nonimmigrant status, who have pending applications for asylum, who have pending or approved applications for temporary protected status, who have approved deferred action status, or who have pending applications for adjustment to permanent residence or conditional permanent residence, may only receive a temporary REAL ID driver's license or identification card. *Id.* Temporary driver's licenses or identification cards can be valid either until the expiration of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. *Id.*

The Compacts of Free Association permit citizens of the Freely Associated States to be admitted as nonimmigrants to the United States without a visa and to live and work in the United States indefinitely. Because the Compacts of Free Association do not establish a specific time period for admission or duration of stay in the United States, under current regulations FAS citizens residing in the United States can be eligible for a temporary REAL ID driver's license or identification card that is valid only for one year, although as described above, the validity period can be as long as an EAD validity period of up to five years. According to the legislative history accompanying the REAL ID Act Modification for Freely Associated States Act, the inability to acquire full-term licenses impacts certain opportunities for FAS citizens including opportunities for jobs, housing, transportation, and education, notwithstanding the fact that these individuals may reside in the United States for lengthy periods.[7]

To address this issue, the REAL ID Act Modification for Freely Associated States Act amends the REAL ID Act to authorize States to issue REAL ID driver's licenses or identification cards to citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau who are admitted to the United States as nonimmigrants under the Compacts of Free Association, for the maximum period of validity authorized by Section 202(d) of the REAL ID Act, which is up to eight years. This final rule updates the REAL ID regulation to reflect this statutory change. Specifically, this final rule amends the definition of ''temporary lawful status'' at 6 CFR 37.3 to specifically exclude individuals admitted as nonimmigrants under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.[8] As a result, these individuals are no longer subject to 6 CFR 37.21, prescribing requirements for temporary or limited-term licenses and identification cards for those with temporary lawful status. Therefore, these individuals are eligible to receive full-term REAL ID licenses and identification cards, provided they satisfy the other REAL ID requirements including requirements to present documentation establishing identity, date of birth, social security number, address of principal residence, and lawful status.[9]

[4] *See* Public Law 108–188 (48 U.S.C. 1921 note) (Republic of the Marshall Islands and Federated States of Micronesia); Public Law 99–658 (48 U.S.C. 1931 and 1931 note) (Palau).

[5] The REAL ID Act Modification for Freely Associated States Act, Public Law 115–323, sec. 2(b). In addition to authorizing states to issue FAS citizens full-term REAL ID licenses and identification cards, the Act amended the REAL ID definition of ''state'' by striking the reference to the ''Trust Territory of the Pacific Islands'' which no longer exists. As DHS regulations already correctly do not include the Trust Territory of the Pacific Islands in the definition of ''State,'' no change to the regulations is necessary to reflect that amendment. *See* 6 CFR 37.3.

[6] The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109–13, 119 Stat. 231, 302, Div. B (codified at 49 U.S.C. 30301 note).

[7] H.R. Rep. No. 115–945, at 2 (2018).

[8] It is not necessary to amend the definition of ''lawful status'' in 6 CFR 37.3, because that definition already includes an alien ''who has a valid nonimmigrant status in the United States,'' which includes (but is not limited to) nonimmigrants admitted under the Compacts of Free Association.

[9] *See* 6 CFR 37.11. Note that an FAS passport with Form I–94, but no visa, is not acceptable evidence of identity under the REAL ID regulations. *Id.* at § 37.11(c)(1). The immigration document available to FAS nonimmigrants admitted under the Compacts of Free Association that is acceptable evidence of identity for REAL ID Act purposes is the unexpired employment authorization document (EAD). *Id.* at § 37.11(c)(1)(v).

III. Regulatory Analyses

A. Administrative Procedure Act

The Administrative Procedure Act (APA) provides that an agency may dispense with notice and comment rulemaking procedures when an agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C. 553(b)(B). DHS finds that notice and comment rulemaking in this instance is impracticable, unnecessary, and contrary to the public interest. The amendment to the REAL ID regulation made by this final rule implements the REAL ID Act Modification for Freely Associated States Act by authorizing States to issue full-term REAL ID licenses or identification to FAS citizens. The amendment conforms the regulations to the statute and does not alter other REAL ID requirements necessary for citizens of the Freely Associated States to obtain REAL ID driver's licenses or identification cards, including requirements to present documentation establishing identity, date of birth, social security number, address of principal residence, and lawful status. FAS citizens seeking to obtain a full-term driver's license or identification card must still satisfy these and other REAL ID requirements. Additionally, because the bill was signed into law, citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau residing in the United States will likely seek to start immediately obtaining full-term State driver's licenses and identification cards. Based on the above, DHS finds that notice and comment rulemaking in this instance would be impracticable, unnecessary, and contrary to the public interest.

For the same reasons, DHS also finds good cause to make this rule effective immediately upon publication in the **Federal Register**. *See* 5 U.S.C. 553(d)(3).

B. Executive Orders 12866, 13563, and 13771

Executive Order 12866 defines ''significant regulatory action'' as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs directs agencies to reduce regulation and control regulatory costs and provides that for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.

This rule does not constitute a ''significant regulatory action'' under Executive Order 12866, as supplemented by Executive Order 13563, and therefore does not require review by the Office of Management and Budget (OMB). As this rule is not a significant regulatory action it is not subject to the requirements of Executive Order 13771.

As previously discussed, citizens of the FAS residing in the United States are eligible for a temporary driver's license under the REAL ID Act. This rule will allow citizens of the FAS residing in the United States to be eligible for full-term REAL ID licenses and identification cards. These full-term licenses could last up to eight years.

FAS citizens should benefit from this rule. The inability to acquire full-term licenses impacts certain opportunities for FAS citizens including opportunities for jobs, housing, transportation, and education, notwithstanding the fact that these individuals may reside in the United States for lengthy periods.[10]

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires Federal agencies to consider the potential impact of regulations on small businesses, small government jurisdictions, and small organizations during the development of their rules. This final rule, however, makes changes for which notice and comment are not necessary. Accordingly, DHS is not required to prepare a regulatory flexibility analysis. *See* 5 U.S.C. 603, 604.

D. Paperwork Reduction Act

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

[10] H.R. Rep. No. 115–945, at 2 (2018).

E. Executive Order 12132 (Federalism)

A rule has implications for federalism under Executive Order 13132, ''Federalism,'' if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have these implications for federalism.

F. Unfunded Mandates Reform Act

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

G. Executive Order 13175 (Tribal Consultation)

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.

H. Executive Order 13211 (Energy Impact Analysis)

DHS has analyzed this rule under Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply Distribution, or Use.'' DHS has determined that it is not a ''significant energy action'' under that Order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 6 CFR Part 37

Document security, driver's licenses, identification cards, incorporation by reference, motor vehicle administrations, physical security.

The Amendments

For the reasons set forth above, the Department of Homeland Security amends 6 CFR part 37 as follows:

PART 37—REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS

■ 1. The authority citation for part 37 continues to read as follows:

Authority: 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

■ 2. In § 37.3, revise the definition of ''Temporary lawful status'' to read as follows:

§ 37.3 Definitions.

* * * * *

Temporary lawful status: A person in temporary lawful status is a person who: Has a valid nonimmigrant status in the United States (other than a person admitted as a nonimmigrant under the Compacts of Free Association between the United States and the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau); has a pending application for asylum in the United States; has a pending or approved application for temporary protected status (TPS) in the United States; has approved deferred action status; or has a pending application for LPR or conditional permanent resident status.

* * * * *

David Pekoske,

Senior Official Performing the Duties of the Deputy Secretary.

[FR Doc. 2019–19023 Filed 9–3–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0187; Product Identifier 2018–NM–172–AD; Amendment 39–19715; AD 2019–16–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2005–20–01, which applied to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2005–20–01 required repetitive inspections of the vertical stiffeners at left buttock line (LBL) and right buttock line (RBL) 6.15 for cracks; and replacement of both stiffeners with new, improved stiffeners if any stiffener is found cracked. This new AD requires, depending on airplane configuration, replacing the vertical stiffeners at LBL and RBL 6.15 on the rear spar of the wing center section, installing angle and bonding jumpers, installing brackets, applying sealant, and applying paint. This AD was prompted by reports of cracks found in the left and right side keel beam upper chords when replacing vertical stiffeners. This AD was also prompted by possible degradation of the fault current bonding path that could introduce an ignition source in the fuel tank in the event of a fault current being imparted onto the fuel tank structure. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 9, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 9, 2019.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0187.

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–2019–0187; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *Peter.Jarzomb@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2005–20–01, Amendment 39–14294 (70 FR 56358, September 27, 2005) (''AD 2005–20–01''). AD 2005–20–01 applied to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on April 1, 2019 (84 FR 12143). The NPRM was prompted by reports of cracks found in the left and right side keel beam upper chords when replacing vertical stiffeners. In addition, the FAA has determined that the replacement stiffener installation degraded the fault current bonding path that could introduce an ignition source in the fuel tank in the event of fault current being imparted onto the fuel tank structure. The NPRM proposed to require, depending on airplane configuration, replacing the vertical stiffeners at LBL and RBL 6.15 on the rear spar of the wing center section, installing angle and bonding jumpers, installing brackets, applying sealant, and applying paint. The FAA is issuing this AD to address cracks in vertical stiffeners at LBL and RBL 6.15, which could result in damage to the keel beam structure and consequently reduce the capability of the airplane to sustain flight loads. The FAA is also issuing this AD to address a potential ignition source in the fuel tank due to insufficient bonding, which could lead to a fuel tank explosion and subsequent loss of the airplane.

Comments

The FAA gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment. The FAA received one comment that was outside the scope of this rulemaking.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01219SE does not affect compliance with the proposed actions.

The FAA concurs with the commenter. The FAA has redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product''

alternative method of compliance (AMOC) approval request is not necessary to comply with the requirement of 14 CFR 39.17.

Request To Correct Service Information Reference

Boeing requested that the ''Actions Since AD 2005–20–01 was Issued'' section of the NPRM be revised so that the reference to ''Boeing Alert Service Bulletin 737–57A1339 RB'' is changed to ''Boeing Alert Requirements Bulletin 737–57A1339 RB''. The commenter pointed out that the ''RB'' designation is for a Boeing requirements bulletin and not a Boeing service bulletin. The commenter also noted that this change would be consistent with how this service information is referred to in the ''Differences Between This Proposed AD and the Service Information'' section of the NPRM.

The FAA agrees with commenter's request for the reason provided by the commenter. Since the ''Actions Since AD 2005–20–01 was Issued'' section of the preamble does not reappear in this final rule, no change to this final rule is necessary.

Request for Clarification of Credit for Previous Actions

Boeing requested that the introductory text of paragraph (k) of the proposed AD, ''Credit for Previous Actions,'' be revised to clarify that the unsafe condition caused by possible degradation of the fault current bonding path must be corrected in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018. The commenter stated that it wanted to emphasize that credit is only provided for stiffeners replaced using the service information specified in paragraphs (k)(1) and (2) of the proposed AD and that doing the procedures in the service information specified in paragraph (k)(1) or (2) of the proposed AD does not resolve the unsafe electrical bonding condition.

The FAA agrees with the commenter's statement that the unsafe electrical bonding condition can only be addressed by doing the actions described in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018. However, the FAA disagrees with the commenter's request to revise the proposed credit provision. After further review of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018, and clarification from the commenter regarding the request, the FAA has determined that credit for previously accomplished actions is not needed in this AD because the effectivity of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018, addresses airplanes on which actions have already been done using the procedures described in earlier revisions of the service information. Therefore the FAA has removed the credit provision from this AD, and has redesignated the subsequent paragraphs accordingly.

Request To Clarify Unsafe Condition

Boeing requested that the **SUMMARY** section of the NPRM be revised to clarify the unsafe condition regarding the electrical fault current bonding path. The commenter specifically requested that the sentence ''In addition, we have determined that the replacement stiffener installation degraded the fault current bonding path and could introduce an ignition source in the fuel tank in the event of an electrical hot short or lightning strike,'' to ''In addition, we have determined that the replacement stiffener installation degraded the fault current bonding path and could introduce an ignition source in the fuel tank in the event of a fault current being imparted onto the fuel tank structure.'' The commenter also requested that this change be made to the ''Actions Since AD 2005–20–01 was Issued'' section of the NPRM.

The commenter explained that an ignition source threat can originate from a fault current that develops from a short circuit internal to auxiliary hydraulic pumps installed on or attached to the aft spar. Furthermore, the commenter noted that electrical hot shorts (normally associated with clamped wire bundles, which are attached to fuel tank walls via cushioned clamps and brackets) and lightning strike ignition threats are not applicable to the installation defined in Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018.

The FAA agrees with the commenter's request for the reasons provided by the commenter. The FAA has revised the **SUMMARY** section of this final rule to include the sentence ''In addition, the FAA has determined that the replacement stiffener installation degraded the fault current bonding path that could introduce an ignition source in the fuel tank in the event of a fault current being imparted onto the fuel tank structure.'' As previously stated, the ''Actions Since AD 2005–20–01'' section does not reappear in this final rule, so no further change is necessary in that regard.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously, and minor editorial changes. The FAA has determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018. This service information describes procedures for replacing the vertical stiffeners at LBL and RBL 6.15 on the rear spar of the wing center section with new, improved stiffeners, installing angle and bonding jumpers, installing brackets, applying sealant, and applying paint.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 171 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Stiffener replacement, angle and bonding jumper installation, bracket installation, and sealant and paint application.	Up to 257 work-hours × $85 per hour = Up to $21,845.	$14,730	Up to $36,575	Up to $6,254,325.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–20–01, Amendment 39–14294 (70 FR 56358, September 27, 2005), and adding the following new AD:

2019–16–12 The Boeing Company: Amendment 39–19715; Docket No. FAA–2019–0187; Product Identifier 2018–NM–172–AD.

(a) Effective Date

This AD is effective October 9, 2019.

(b) Affected ADs

This AD replaces AD 2005–20–01, Amendment 39–14294 (70 FR 56358, September 27, 2005) (''AD 2005–20–01''). This AD terminates certain requirements of AD 2018–10–12, Amendment 39–19288 (83 FR 23775, May 23, 2018) (''AD 2018–10–12'').

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracks in the aft vertical stiffeners at left buttock line (LBL) and right buttock line (RBL) 6.15 on the rear spar of the wing center section and of cracks found in the left and right side keel upper chords when replacing vertical stiffeners. This AD was also prompted by possible degradation of the fault current bonding path due to the replacement vertical stiffener installation. The FAA is issuing this AD to address cracks in vertical stiffeners at LBL and RBL 6.15, which could result in damage to the keel beam structure and consequently reduce the capability of the airplane to sustain flight loads. The FAA is also issuing this AD to address a potential ignition source in the fuel tank due to insufficient bonding, which could lead to a fuel tank explosion and subsequent loss of the airplane.

(f) Compliance

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

(g) Required Actions for Groups 1 and 3 Through 8 Airplanes

For airplanes identified as Groups 1 and 3 through 8 in Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018: Except as specified by paragraph (j) of this AD, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018, do all applicable actions, identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018. Depending on the airplane configuration, applicable actions include replacing the vertical stiffeners at LBL and RBL 6.15 on the rear spar of the wing center section, installing angle and bonding jumpers, installing brackets, applying sealant, and applying paint.

(h) Required Actions for Group 2 Airplanes

For airplanes identified as Group 2 in Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018: Within 120 days after the effective date of this AD, do actions to correct the unsafe condition, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Terminating Action for Repetitive Inspections of Aft Vertical Stiffener Required by AD 2018–10–12

Accomplishment of the stiffener replacement required by paragraph (g) of this AD terminates only the repetitive inspections of the aft vertical stiffeners required by

paragraph (h) of AD 2018–10–12 for that airplane only. All other requirements of paragraph (h) of AD 2018–10–12 remain in effect.

(j) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018, uses the phrase ''the Revision 2 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(l) Related Information

For more information about this AD, contact Peter Jarzomb, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5234; fax: 562–627–5210; email: *Peter.Jarzomb@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–57A1269, Revision 2, dated October 11, 2018.

(ii) [Reserved]

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

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

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

Issued in Des Moines, Washington, on August 15, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–19012 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0643; Product Identifier 2019–SW–013–AD; Amendment 39–19719; AD 2019–10–51]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is publishing a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH Helicopters (Airbus) Model MBB–BK 117 C–2 helicopters. Emergency AD 2019–10–51 was sent previously to all known U.S. owners and operators of these helicopters. This AD requires, for certain helicopters, inspecting the fuselage frame and providing certain information to the FAA. This AD also prohibits installing certain components as part of Supplemental Type Certificate (STC) SR00592DE on any helicopter. This AD was prompted by reports of fatigue cracks in the fuselage frame. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 19, 2019 to all persons except those persons to whom it was made immediately effective by Emergency AD 2019–10–51, issued on May 16, 2019, which contained the requirements of this amendment.

The Director of the Federal Register approved the incorporation by reference of a certain publication identified in this AD as of September 19, 2019.

The FAA must receive comments on this AD by October 21, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Air Methods Corporation, 5500 South Quebec Street, Suite 300, Greenwood Village, CO 80111; telephone 303–792–7557 or at *http://www.unitedrotorcraft.com/.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0643.

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–2019–0643; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cynthia Bradley, Aviation Safety Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 East 68th Ave., Room 214, Denver, CO 80249; telephone (303) 342–1082; email *cynthia.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On May 16, 2019, the FAA issued Emergency AD 2019–10–51, which requires for certain serial-numbered helicopters, inspecting the fuselage frame before further flight and providing certain information to the FAA within 10 hours time-in-service (TIS) after the required inspections. This AD also prohibits installing certain components as part of STC SR00592DE on any helicopter. Emergency AD 2019–10–51 was sent previously to all known U.S. owners and operators of these helicopters. This action was prompted by reports of fatigue cracks in the fuselage frame, through the left-hand door frame webs and frame cap at station 4135. These cracks occurred on certain serial numbered helicopters with STC SR00592DE installed. The cracks initiated under the doubler that reinforces the door frame where recessed medical wall fittings are attached. In one case, the crack under the doubler propagated through the inboard frame cap and onto the inboard web. This condition, if not corrected, could result in excessive vibration, an in-flight breakup, and subsequent loss of control of the helicopter. Although the exact cause of this unsafe condition is still being investigated, the FAA has determined that the cracks are a result of the recessed medical wall rack installation.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Air Methods Alert Service Bulletin ASB19–03, Revision IR, dated May 6, 2019 (ASB). The ASB requires removing the recessed medical wall rack and describes procedures for inspecting the door frame at the forward medical wall rack doubler for cracks. If cracks are discovered, the ASB specifies that the aircraft is grounded until repairs are made. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is issuing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of this same type design.

AD Requirements

This AD requires the following for certain serial-numbered helicopters:

• Before further flight, removing the recessed medical wall rack, inspecting the fuselage frame box beam structure for cracks and loose rivets, and making repairs if necessary or reinstalling the inboard web of the box beam and the cabin interior panels with the medical wall rack to remain removed and

• Within 10 hours TIS after the required inspections, providing the inspection results, photographs of inspected areas, total helicopter hours TIS since installation of STC SR00592DE, and the helicopter serial number to the FAA.

This AD also prohibits installing on any helicopter recessed medical wall assembly part number (P/N) 778–1400–001, wall mount fittings P/N 900–9959–001, aft medical wall doubler P/N 900–9989, and medical wall long doubler P/N 900–6021 at stations 4135 and 4963.19 as part of STC SR00592DE.

Differences Between This AD and the Service Information

This AD requires the inspections before further flight, whereas the ASB specifies within 10 flight hours. This AD requires a single inspection before further flight, whereas the ASB specifies repetitive inspections every 200 hours TIS following the initial inspection. This AD does not require contacting Air Methods for disposition on the discovery of cracks, whereas the ASB does.

Interim Action

The FAA considers this AD interim action. The inspection reports that are required by this AD will enable the FAA to obtain better insight into the cause of the cracking and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA might consider further rulemaking. Also, the FAA is currently considering requiring repetitive inspections of the frame. However, the planned compliance time for those inspections would allow enough time to provide notice and opportunity for prior public comment on the merits of the repetitive inspections.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

An unsafe condition exists that required the immediate adoption of Emergency AD 2019–10–51, issued on May 16, 2019, to all known U.S. owners and operators of these helicopters. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule because an unsafe condition existed which required corrective actions before further flight. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reason stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0643 and Product Identifier 2019–SW–013–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

The FAA will post all comments received, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this final rule.

Costs of Compliance

The FAA estimates that this AD affects 10 helicopters of U.S. registry and estimates the following costs to comply with this AD. Labor costs are estimated at $85 per work-hour. Removing the recessed medical wall rack takes about 0.25 work-hour, inspecting for cracks and loose rivets takes about 8 work-hours, and reporting the required information takes about 1 work-hour for an estimated cost of $786 per helicopter and $7,860 for the affected U.S. fleet. Thirty-three blind rivets at about $1.50 each are required to reinstall the inboard web if there are

no cracks for a total cost of $50. Loose fitting/doubler rivets cost about $1.50 each. The FAA has no way of estimating the cost to repair any cracked structure.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2019–10–51 Airbus Helicopters Deutschland GmbH: Amendment 39–19719; Docket No. FAA–2019–0643; Product Identifier 2019–SW–013–AD.

(a) Effective Date

This AD is effective September 19, 2019 to all persons except those persons to whom it was made immediately effective by Emergency AD 2019–10–51, issued on May 16, 2019, which contained the requirements of this amendment.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) of America Code: 5311, Fuselage main frame.

(e) Unsafe Condition

This AD was prompted by reports of fatigue cracks in a fuselage frame. The FAA is issuing this AD to correct the unsafe condition on these helicopters.

(f) Compliance

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

(g) Required Actions

(1) For helicopters with serial numbers 9069, 9185, 9255, 9377, 9389, 9403, 9411, 9457, 9529, or 9637, before further flight:

(i) Remove the recessed medical wall rack in accordance with Part 1, paragraphs 4.1. through 4.3., of Air Methods Alert Service Bulletin ASB19–03, Revision IR, dated May 6, 2019 (ASB).

(ii) Inspect the fuselage frame box beam structure for cracks and loose rivets at station 4135 in accordance with Part 2, paragraphs 5.1 through 5.4., of the ASB, except you are not required to contact Air Methods for disposition if cracks are found. Instead, if there is a crack, repair using a method approved by the Manager, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 East 68th Ave., Room 214, Denver, CO 80249; telephone (303) 342–1081; email: 9 *Denver-Aircraft-Cert@faa.gov*. Replace any loose rivets.

(iii) If there are no cracks, reinstall the inboard web of the box beam and the cabin interior panels in accordance with Part 2, paragraphs 5.5. and 5.6. of the ASB. Do not reinstall the recessed medical wall rack.

(2) For helicopters with serial numbers 9069, 9185, 9255, 9377, 9389, 9403, 9411, 9457, 9529, or 9637, within 10 hours time-in-service (TIS) after the required inspections, provide the inspection results, photographs of inspected areas, total helicopter hours TIS since installation of Supplemental Type Certificate (STC) SR00592DE, and helicopter serial number to the attention of the person identified in paragraph (j) of this AD. This information is required even if there are no cracks.

(3) For all helicopters, after the effective date of this AD, do not install on any helicopter recessed medical wall assembly part number (P/N) 778–1400–001, wall mount fittings P/N 900–9959–001, aft medical wall doubler P/N 900–9989, and medical wall long doubler P/N 900–6021 at stations 4135 and 4963.19 as part of STC SR00592DE.

(h) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Denver ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures

found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD and notify the Denver ACO Branch of the request by email at: *9-Denver-Aircraft-Cert@faa.gov.*

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

(j) Related Information

For more information about this AD, contact Cynthia Bradley, Aviation Safety Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 East 68th Ave., Room 214, Denver, CO 80249; telephone (303) 342–1082; email *cynthia.bradley@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Air Methods Alert Service Bulletin ASB19–03, Revision IR, dated May 6, 2019.

(ii) [Reserved]

(3) For Air Methods service information identified in this AD, contact Air Methods Corporation, 5500 South Quebec Street, Suite 300, Greenwood Village, CO 80111; telephone 303–792–7557 or at *http://www.unitedrotorcraft.com/.*

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

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

Issued in Fort Worth, Texas, on August 19, 2019.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2019–18708 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0608; Product Identifier 2019–NM–084–AD; Amendment 39–19713; AD 2019–16–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting an airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This AD requires a one-time inspection of the horizontal stabilizer pivot pin assemblies for misalignment and incorrect gapping, and applicable on-condition actions. This AD was prompted by a report of possible misalignment of the horizontal stabilizer pivot pin lock ring, outer pivot pin, and outboard spacer at final assembly. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 19, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 19, 2019.

The FAA must receive comments on this AD by October 21, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0608.

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–2019–0608; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3529; email: *Greg.Rutar@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has received a report indicating possible misalignment of the horizontal stabilizer pivot pin lock ring, outer pivot pin, and outboard spacer at final assembly. One operator reported a left side pivot pin assembly that did not have a visible gap between the outboard nut and trap fitting. The pivot pin outboard spacer was not set correctly flush against the horizontal stabilizer pivot bearing and outboard washer due to a misaligned pivot pin lock ring. It was determined that only certain airplanes were possibly delivered with this condition. This condition, if not addressed, could result in decreased lateral load capacity, the loss of pivot pin retention parts, and consequent loss of the horizontal stabilizer and loss of control of the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019. This service information describes procedures for a one-time detailed inspection of the horizontal stabilizer pivot pin assemblies for misalignment and incorrect gapping, and applicable on-condition actions. On-condition actions include replacing any incorrectly installed horizontal stabilizer pivot pin assembly. This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires accomplishment of the actions identified in Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019, described previously, except for any differences identified as exceptions in the regulatory text of this AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0608.

FAA's Justification and Determination of the Effective Date

There are currently no domestic operators of this product. Therefore, the FAA finds that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0608 and Product Identifier 2019–NM–084–AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

The FAA will post all comments received, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this final rule.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product
Inspection	2 work-hours × $85 per hour = $170	$0	$170

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Action	Labor cost	Parts cost	Cost per product
Replacement	12 work-hours × $85 per hour = $1,020	Negligible	$1,020

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2019–16–10 The Boeing Company: Amendment 39–19713; Docket No. FAA–2019–0608; Product Identifier 2019–NM–084–AD.

(a) Effective Date

This AD is effective September 19, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by a report of possible misalignment of the horizontal stabilizer pivot pin lock ring, outer pivot pin, and outboard spacer at final assembly. The FAA is issuing this AD to address incorrect installation of the horizontal stabilizer pivot pin assemblies, which could result in decreased lateral load capacity, the loss of pivot pin retention parts, and consequent loss of the horizontal stabilizer and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB550009–00, dated April 2, 2019, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019.

(h) Exception to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019, uses the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB550009–00 RB,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

For more information about this AD, contact Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3529; email: *Greg.Rutar@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB550009–00 RB, Issue 001, dated April 2, 2019.

(ii) [Reserved]

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

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

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

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

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–19013 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0322; Product Identifier 2019–NM–039–AD; Amendment 39–19712; AD 2019–16–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model DHC–8–400 series airplanes. This AD was prompted by reports of cracked elevator power control unit (PCU) brackets on the horizontal stabilizer rear spar and cracking on the elevator front spar. This AD requires one-time inspections for cracks and damage of the elevator PCU brackets and surrounding area, horizontal stabilizer rear spar, and elevator front spar, and related investigative and corrective actions if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 9, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 9, 2019.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Ltd., Q-

Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd@dehavilland.com;* internet: *https://dehavilland.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0322.

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–2019–0322; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on May 14, 2019 (84 FR 21268). The NPRM was prompted by reports of cracked elevator PCU brackets on the horizontal stabilizer rear spar and cracking on the elevator front spar. The NPRM proposed to require one-time inspections for cracks and damage of the elevator PCU brackets and surrounding area, horizontal stabilizer rear spar, and elevator front spar, and related investigative and corrective actions if necessary.

The FAA is issuing this AD to address failure of an elevator PCU bracket or fracture of the front spar into two segments; either structural failure may cause a jam in one elevator or a loss of airplane pitch control if both elevators are affected.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–34, dated December 17, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model DHC–8–400 series airplanes. The MCAI states:

> There have been five in-service reports of cracked elevator power control unit (PCU) brackets on the horizontal stabilizer rear spar, and two reports of cracking on the elevator front spar. In one case, the PCU bracket cracking led to detachment of the bracket during pushback. An investigation found that the force-fight loads induced by elevator PCUs not rigged to the required tolerance is the common factor in cracking of both the elevator PCU bracket and of the elevator front spar. A secondary contributor to the elevator PCU bracket cracking is the bracket flange preload that may be induced during production installation. Failure of an elevator PCU bracket or progression of the elevator front spar cracking into two segments may cause the affected elevator to jam. Failure of an elevator bracket on both elevators, or progression of elevator front spar cracking into two segments on both elevators, could cause a loss of aeroplane pitch control.
>
> This [Canadian] AD mandates a one-time inspection of the elevator PCU brackets, the horizontal stabilizer rear spar and elevator front spar with reporting of inspection findings. Any brackets found cracked are to be replaced with new brackets with improved strength. For any spar found cracked, obtain instructions to repair the spar from Bombardier and repair the spar accordingly. Additional corrective action may be considered depending on the results of the inspections findings.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0322.

Comments

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

Request To Remove Certain Service Information Procedures

Horizon Air requested that the FAA change the language in the introductory text of paragraph (g) of the proposed AD from mandating ''the Accomplishment Instructions'' in the service information to mandating only the section that corrects the unsafe condition. Horizon Air stated that the Accomplishment Instructions, Part A, ''Job Set-up,'' and Part C, ''Close Out,'' do not directly correct the unsafe condition. Horizon Air stated that incorporating these two sections as a requirement in the AD restricts an operator's ability to accomplish other maintenance in conjunction with the required actions to correct the unsafe condition.

The FAA agrees with the commenter's request to exclude the ''Job Set-up'' and ''Close Out'' sections of Bombardier Service Bulletin 84–55–09, dated June 7, 2018. The FAA has revised the introductory text of paragraph (g) of this AD to require accomplishment of Section 3.B, Part A, of the Accomplishment Instructions of Bombardier Service Bulletin 84–55–09, dated June 7, 2018, and the FAA has revised paragraph (g)(1) of this AD to require accomplishment of Section 3.B, Part B, of the Accomplishment Instructions of Bombardier Service Bulletin 84–55–09, dated June 7, 2018.

Request To Revise Company Name and Email Address

Horizon Air requested that the FAA update the contact information for reporting in the introductory text of paragraph (h) of the proposed AD. Horizon Air pointed out that De Havilland Aircraft of Canada Ltd is now the design approval holder (DAH) for the Q400 aircraft.

The FAA agrees with the commenter's request. The FAA has updated the address information accordingly in this final rule.

As a note, there is a difference between the commercial designation and the model designation on the U.S. type certificate data sheet (TCDS). ''Q400'' is the commercial designation, while Bombardier, Inc., Model DHC–8–400 is the designation on the TCDS. The FAA uses the model designation on the TCDS to define the applicability in ADs and, as a result, have not changed the applicability of this AD. The FAA is in the process of changing the TCDS to reflect the name change for these models. The FAA will use the name identified in the current TCDS so as not to delay issuance of the final rule. Once the TCDS has been changed, the FAA will use the new name in subsequent ADs.

Conclusion

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

• Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 84–55–09, dated June 7, 2018. This service information describes procedures for one-time detailed visual and fluorescent penetrant inspections for cracks and damage of the elevator PCU brackets (including the surrounding area), horizontal stabilizer rear spar, and elevator front spar, and related investigative and corrective actions if necessary. The related investigative action is an eddy current inspection for cracking of certain mating holes of the horizontal stabilizer rear spar. Corrective actions include replacement of the elevator PCU brackets and repair of the horizontal stabilizer rear spar and elevator front spar.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 54 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
13 work-hours × $85 per hour = $1,105	$0	$1,105	$59,670

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $4,590, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
18 work-hours × $85 per hour = $1,530	$0	$1,530

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2019–16–09 Bombardier, Inc.: Amendment 39–19712; Docket No. FAA–2019–0322; Product Identifier 2019–NM–039–AD.

(a) Effective Date

This AD is effective October 8, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model DHC–8–400, -401, and -402 airplanes, certificated in any category, serial numbers 4001 through 4580 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracked elevator power control unit (PCU) brackets on the horizontal stabilizer rear spar and cracking on the elevator front spar. The FAA is issuing this AD to address this condition, which, if not detected and corrected, may cause failure of an elevator PCU bracket or fracture the front spar into two segments; either structural failure may cause a jam in one elevator or a loss of airplane pitch control if both elevators are affected.

(f) Compliance

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

(g) Inspections

No earlier than 7,500 total accumulated flight hours, but before accumulating 8,000 flight hours after the effective date of this AD: Perform detailed visual and fluorescent penetrant inspections for cracks and damage of the elevator PCU brackets, horizontal stabilizer rear spar, and elevator front spar, in accordance with Section 3.B, Part A, of the Accomplishment Instructions of Bombardier Service Bulletin 84–55–09, dated June 7, 2018.

(1) If any crack is detected on any elevator PCU bracket, and no crack or damage is found on either spar: Before further flight, replace the elevator PCU bracket with a new bracket, and do all related investigative and corrective actions, in accordance with Section 3.B, Part B, of the Accomplishment Instructions of Bombardier Service Bulletin 84–55–09, dated June 7, 2018.

(2) If any crack or damage is detected on any horizontal stabilizer rear spar or elevator front spar: Before further flight, repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(h) Reporting

At the applicable time specified in paragraph (h)(1) or (2) of this AD: Report the results of the inspections required by paragraph (g) of this AD to the De Havilland CMDB Focal by fax 1–416–375–4538 or email at *cmdb.request@dehavilland.com,* in accordance with the instructions of Bombardier Service Bulletin 84–55–09, dated June 7, 2018. If operators have reported findings as part of obtaining any corrective actions approved by Bombardier, Inc.'s TCCA DAO, operators are not required to report those findings as specified in this paragraph.

(1) If the inspections were done on or after the effective date of this AD: Submit the report within 30 days after the inspections.

(2) If the inspections were done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–34, dated December 17, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0322.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–55–09, dated June 7, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Ltd., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd@dehavilland.com;* internet: *https://dehavilland.com.*

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

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

Issued in Des Moines, Washington, on August 15, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–18965 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

RIN 2120–AA66

Establishment of Class E Airspace; Endicott, NY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule published in the **Federal Register** on July 23, 2019, establishing Class E airspace for Tri-Cities Airport, Endicott, NY, by correcting the airport's name in the legal description. The 'dash' was inadvertently omitted from the airport name in the body of the legal description.

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

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (84 FR 35290, July 23, 2019) for Doc. No. FAA–2019–0347, establishing Class E airspace extending upward from 700 feet or more above the surface at Tri-Cities Airport, Endicott, NY. Subsequent to publication, the FAA found that the dash was omitted from Tri-Cities Airport in the body of the legal description. This action corrects the error.

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

Availability and Summary of Documents for Incorporation by Reference

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

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, in the Federal Register of July 23, 2019 (84 FR 35290) FR Doc. 2019–15525, the establishment of Class E Airspace for Tri-Cities, Endicott, NY is corrected as follows:

§ 71.1 [Amended]

AEA NY E5 Endicott, NY [Corrected]

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

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

Issued in College Park, Georgia, on August 26, 2019.

Shawn Reddinger,

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

[FR Doc. 2019–18969 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM19–18–000; Order No. 862]

Formal Requirements for Filings in Proceedings Before the Commission

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission or FERC) amends its regulations concerning the process for delivering filings and submissions to the Commission. Specifically, the Commission's regulations are revised to require that filings and submissions to be delivered to the Commission, other than by the United States Postal Service (USPS), are instead to be sent to the Commission's off-site security screening facility. The regulations still permit USPS mail to be sent directly to the Commission's headquarters.

DATES: This rule is effective November 4, 2019.

FOR FURTHER INFORMATION CONTACT: Christopher Cook, Office of the Secretary, 888 First Street NE, Washington, DC 20426, (202) 502–8102, *christopher.cook@ferc.gov*.

Mark Hershfield, Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502–8597, *mark.hershfield@ferc.gov./*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Federal Energy Regulatory Commission (Commission or FERC) amends its regulations concerning the process for submitting hardcopy filings and submissions [1] to the Commission.[2] Specifically, this final rule revises 18 CFR 385.2001(a) to require that deliveries of filings and submissions other than by the United States Postal Service (USPS) are to be sent to an off-site facility for security screening and processing.[3] The regulations still permit USPS mail to be sent directly to the Commission's headquarters.

II. Background

2. The Government Accounting Office (GAO) has issued a report indicating that, since the fall of 2001, the rate of incidents involving threats via the mail has increased ''due in part to hoaxes and concerns about leakages from mail that had previously been routinely handled.'' [4] More recently, in October 2018, package bombs sent to politicians and newsrooms prompted many organizations to assess mail screening and security procedures to reduce vulnerabilities.[5] The GAO report concluded that ''[m]ail continues to be a potential venue'' for threats and that ''[p]reparation involves having the procedures, plans, and training in place.'' [6] Further, the U.S. Department of Homeland Security (DHS) recommends that deliveries submitted to agencies should be ''received, screened, sorted,

[1] While the current version of 18 CFR 385.2001 addresses filings submitted to the Commission, the revisions herein clarify that the subsection applies to other forms of correspondence sent to the Commission.

[2] *See* 18 CFR 385.2001.

[3] Non-USPS carriers include, for example, FedEx, DHL, and United Parcel Service.

[4] *See* U.S. Government Accountability Office, *Mail Security: Incidents at DOD Mail Facilities Exposed Problems That Require Further Actions* (Sept. 2006), at 5, *https://www.gao.gov/assets/260/251532.pdf* [GAO Report].

[5] *See* Gregory Korte, John Bacon, and Jorge L. Ortiz, *Suspicious Packages Prompt Nationwide Security Response, USA Today* (Oct. 24, 2018), *https://www.usatoday.com/story/news/nation/2018/10/24/suspicious-packages-mail-security-response-obama-clinton-holder-soros-cnn/1751077002/* (Last visited July 17, 2019).

[6] GAO Report at 41; *see also* 41 CFR 102–192.70(a) (providing that agencies should have a mail security policy that applies to their mail management programs).

and prepared for delivery'' at an offsite facility.[7]

3. The Commission has reviewed its protocols on hardcopy/hand-delivered submissions to the agency. The Commission's regulations currently provide that filers should send hard-copy submissions directly to the Commission's principal office, which is located at 888 First Street NE, Washington, DC 20426.[8] Upon review, the Commission has determined that sending hard-copy/hand-delivered submissions to an off-site facility for security screening and processing, prior to being delivered to the Commission's principal office, would better protect the safety of the Commission, its employees, and the public.

III. Discussion

4. The purpose of this final rule is to protect the general public and Commission employees from potential security risks related to hardcopy/hand-delivered submissions. Revising the Commission's procedures to have hardcopy/hand-delivered submissions delivered to an off-site facility for security screening, before delivery to the Commission, acknowledges the findings in the GAO Report and comports with the recommendation from DHS.[9]

5. Accordingly, this final rule amends the Commission's regulations to provide that members of the public are required to send hardcopy submissions, other than those sent through USPS, to an off-site facility at 12225 Wilkins Avenue, Rockville, Maryland 20852. Hand-deliveries can be provided to the off-site facility in-person (by the filing entity or its designee) during the hours of 7:00 a.m. to 3:30 p.m.[10] The off-site facility will sort, screen, and prepare the filings and submissions for delivery to the Commission. Filings and submissions sent though USPS can continue to be mailed to the Commission's principal office in Washington, DC because USPS has existing ''security, screening, and control processes'' that comply with DHS best practices.[11]

6. The revisions adopted here will not affect the public's ability to make timely filings. As an initial matter, this final rule does *not* change the process for submitting electronic filings with the Commission. Unless a hardcopy filing or submission is required, the public is strongly encouraged to submit filings and submissions electronically, through the Commission's eFiling application, at *https://www.ferc.gov/*.[12] For deliveries and documents sent through means other than USPS, those filings and submissions will be considered ''received'' by the off-site facility. The off-site facility will log all deliveries when received and will provide the Commission with the log so that the documents may be stamped appropriately and recorded by the Commission as received on that date, consistent with the date and time on the log.

7. The Commission's principal office for business and its headquarters address will remain 888 First Street NE, Washington, DC 20426.[13] After this rule becomes effective, however, Commission staff at headquarters will no longer accept deliveries and hardcopy filings sent through carriers other than USPS. As noted above, for security reasons, deliveries to the Commission's headquarters other than by USPS will be rejected. Such filings and submissions would not be considered received until re-submitted in accordance with the revisions adopted herein.

IV. Information Collection Statement

8. The Office of Management and Budget (OMB) approves certain information collection requirements imposed by agency rule.[14] However, this final rule does not contain any additional information collection requirements. Therefore, compliance with OMB's regulations is not required.

V. Environmental Analysis

9. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[15]

10. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for procedural, ministerial, or internal administrative actions.[16] Accordingly, this rulemaking is exempt from the requirement to draft such documents under that provision.

VI. Regulatory Flexibility Act

11. The Regulatory Flexibility Act of 1980 (RFA)[17] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. This final rule concerns a modification of current Commission regulations and practices. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is therefore not required.

VII. Document Availability

12. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

13. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

14. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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[7] *See* U.S. Department of Homeland Security, Best Practices for Managing Mail Screening and Handling Processes: A Guide for the Public and Private Sectors, at 17 (Sept. 2012) *https://www.dhs.gov/sites/default/files/publications/isc-mail-handling-screening-nonfouo-sept-2012-508.pdf.* [DHS Best Practices].

[8] *See* 18 CFR 385.2001(a).

[9] *See* DHS Best Practices at 17.

[10] The current regulations provide that all filings should be made to the Commission's headquarters. Filings that are directed to the regional offices should continue to be submitted in accordance with current procedures or as directed.

[11] DHS Best Practices at 11; *see also* Alex Dobuzinskis, *Screening for Poisons, Explosives in Mail a Daily Reality After U.S. Threats, Reuters* (Oct. 3, 2018) (USPS ''has developed a comprehensive approach to protecting the mail system by utilizing a targeted strategy of specialized technology, screening protocols and employee training.'').

[12] *See* 18 CFR 385.2001(a)(1)(iii). Other agencies have also urged the public to use electronic filing. *See* 17 CFR 232.14 (providing that the Securities and Exchange Commission will not accept paper filings for certain submission unless an exemption is provided).

[13] 42 U.S.C. 7171(h) (providing that ''[t]he principal office of the Commission shall be in or near the District of Columbia, where its general sessions shall be held . . .'').

[14] 5 CFR 1320.12.

[15] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897, FERC Stats. & Regs. ¶ 30,783 (Dec. 17, 1987).

[16] 18 CFR 380.4(a)(1).

[17] 5 U.S.C. 601–12.

VIII. Effective Date

15. The Commission is issuing this rule as a final rule without a period for public comment. Under 5 U.S.C. 553(b)(3)(A), notice-and-comment rulemaking procedures are unnecessary for ''rules of agency organization, procedure, or practice.'' This rule is therefore exempt from notice-and-comment rulemaking procedures, because it concerns the Commission's mail procedures and practices. In particular, the rule is directed at improving the safety of the Commission, its employees, and the public, not toward a determination of the rights or interests of affected parties. The rule will not significantly affect regulated entities or the general public.

16. This rule is effective November 4, 2019.

List of subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power. Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Issued: August 28, 2019.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends part 385, chapter I, title 18, Code of Federal Regulations, as follows:

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 2. In § 385.2001, the section heading and paragraphs (a)(1)(i) and (ii) are revised to read as follows:

§ 385.2001 Filings and Other Submissions.

(a) * * *

(1) * * *

(i) Mailing the document through the United States Postal Service to the Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426;

(ii) Delivering the document by any source other than United States Postal Service to the Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852; or

* * * * *

[FR Doc. 2019–18950 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9839]

RIN 1545–BN33

Partnership Representative Under the Centralized Partnership Audit Regime and Election To Apply the Centralized Partnership Audit Regime; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to Treasury Decision 9839, which was published in the **Federal Register** for Thursday, August 9, 2018. Treasury Decision 9839 contains final regulations regarding the designation and authority of the partnership representative under the centralized partnership audit regime, which was enacted into law on November 2, 2015 by section 1101 of the Bipartisan Budget Act of 2015 (BBA).

DATES: These regulations are effective September 4, 2019 and applicable August 9, 2018.

FOR FURTHER INFORMATION CONTACT: Joy E. Gerdy Zogby of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–4927 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9839) that are the subject of this correction are under section 1101 of the Internal Revenue Code.

Need for Correction

As published August 9, 2018 (83 FR 39331), the final regulation and removal of temporary regulations (TD 9839; FR Doc. 2018–17002) contained errors that may prove misleading and therefore need to be corrected.

List of Subjects in 26 CFR Part 301

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

Correction of Publication

Accordingly, 26 CFR part 301 is corrected by making the following correcting amendments:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 2.** Section 301.6223–1 is amended by revising the fifth sentence of paragraph (e)(1) to read as follows:

§ 301.6223–1 Partnership representative.

* * * * *

(e) * * *

(1) * * * No later than 30 days after the IRS receives a written notification of revocation submitted at the time described in paragraph (e)(2)(i) of this section, the IRS will send written confirmation of receipt of the written notification to the partnership, the revoked partnership representative or, in the case of a revocation of only the appointment of a designated individual, to the revoked designated individual, and to the newly designated partnership representative. * * *

* * * * *

Martin V. Franks,

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

[FR Doc. 2019–19059 Filed 9–3–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 582

Nicaragua Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement Executive Order 13851 of November 27, 2018 (''Blocking Property of Certain Persons Contributing to the Situation in Nicaragua''). OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.

DATES: *Effective:* September 4, 2019.

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

Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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

Background

On November 27, 2018, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order 13851 (83 FR 61505, November 29, 2018) (E.O. 13851).

In E.O. 13851, the President determined that the situation in Nicaragua, including the violent response by the Government of Nicaragua to the protests that began on April 18, 2018, and the Ortega regime's systematic dismantling and undermining of democratic institutions and the rule of law, its use of indiscriminate violence and repressive tactics against civilians, and its corruption leading to the destabilization of Nicaragua's economy, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and declared a national emergency to deal with that threat.

OFAC is issuing the Nicaragua Sanctions Regulations, 31 CFR part 582 (the ''Regulations''), to implement E.O. 13851, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13851. A copy of E.O. 13851 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 582 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

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

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 582

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

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 582 to 31 CFR chapter V to read as follows:

PART 582—NICARAGUA SANCTIONS REGULATIONS

Subpart A—Relation of this Part to Other Laws and Regulations

Sec.

582.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

582.201 Prohibited transactions.
582.202 Effect of transfers violating the provisions of this part.
582.203 Holding of funds in interest-bearing accounts; investment and reinvestment. 582.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.
582.205 Exempt transactions.

Subpart C—General Definitions

582.300 Applicability of definitions.
582.301 Blocked account; blocked property.
582.302 Effective date.
582.303 Entity.
582.304 Financial, material, or technological support.
582.305 Information or informational materials.
582.306 Interest.
582.307 Licenses; general and specific.
582.308 OFAC.
582.309 Person.
582.310 Property; property interest.
582.311 Transfer.
582.312 United States.
582.313 United States person; U.S. person.
582.314 U.S. financial institution.

Subpart D—Interpretations

582.401 [Reserved]
582.402 Effect of amendment.
582.403 Termination and acquisition of an interest in blocked property.
582.404 Transactions ordinarily incident to a licensed transaction.
582.405 Setoffs prohibited.
582.406 Entities owned by one or more persons whose property and interests in property are blocked.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

582.501 General and specific licensing procedures.
582.502 [Reserved]
582.503 Exclusion from licenses.
582.504 Payments and transfers to blocked accounts in U.S. financial institutions.
582.505 Entries in certain accounts for normal service charges.
582.506 Provision of certain legal services.
582.507 Payments for legal services from funds originating outside the United States.
582.508 Emergency medical services.

Subpart F—Reports

582.601 Records and reports.

Subpart G—Penalties and Findings of Violation

582.701 Penalties and Findings of Violation.

Subpart H—Procedures

582.801 Procedures.
582.802 Delegation of certain authorities of the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

582.901 Paperwork Reduction Act notice.

Appendix A to Part 582—Executive Order 13851 of November 27, 2018

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13851, 83 FR 61505, November 29, 2018.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 582.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization

contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note 1 to § 582.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.

Subpart B—Prohibitions

§ 582.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13851 of November 27, 2018 are also prohibited pursuant to this part.

Note 1 to § 582.201: The names of persons designated pursuant to Executive Order 13851, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[NICARAGUA].'' The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 582.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 582.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–NICARAGUA]''.

Note 3 to § 582.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 582.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 582.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 582.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

(e) The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(f) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 582.201.

§ 582.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 582.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 582.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid

into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 582.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 582.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 582.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of tangible property blocked pursuant to § 582.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 582.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 582.205 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any information or informational materials, as defined in § 582.305, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730 through 774, or to the exportation of goods (including software) or technology for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 582.201 are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 582.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 582.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 582.201 held in the name of a person whose property and interests in property are blocked pursuant to § 582.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 582.301: *See* § 582.406 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 582.201.

§ 582.302 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and with respect to a person whose property and interests in property are otherwise blocked pursuant to § 582.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

§ 582.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 582.304 Financial, material, or technological support.

The term *financial, material, or technological support* means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 582.305 Information or informational materials.

(a)(1) The term *information or informational materials* includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 582.306 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 582.307 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac.*

Note 1 to § 582.307: *See* § 501.801 of this chapter on licensing procedures.

§ 582.308 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 582.309 Person.

The term *person* means an individual or entity.

§ 582.310 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 582.311 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 582.312 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 582.313 United States person; U.S. person.

The term *United States person* or *U.S. 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.

§ 582.314 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 582.401 [Reserved]

§ 582.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 582.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 582.201, such property shall no longer be deemed to be property blocked pursuant to § 582.201, unless there exists in the property another interest that is blocked pursuant to § 582.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 582.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 582.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 582.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 582.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 582.201 if effected after the effective date.

§ 582.406 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 582.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 582.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 582.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Nicaragua sanctions page on OFAC's website: *www.treasury.gov/ofac.*

§ 582.502 [Reserved]

§ 582.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 582.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 582.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note 1 to § 582.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 582.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 582.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 582.506 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 582.201 or any further Executive orders relating to the national emergency declared in Executive Order 13851 of November 27, 2018, is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 582.507, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, State, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 582.201 or any further Executive orders relating to the national

emergency declared in Executive Order 13851 of November 27, 2018, not otherwise authorized in this part, requires the issuance of a specific license.

(c) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this section. Additionally, U.S. persons who provide services authorized by this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 582.404.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 582.201 or any further Executive orders relating to the national emergency declared in Executive Order 13851 of November 27, 2018 is prohibited unless licensed pursuant to this part.

Note 1 to § 582.506: Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available on OFAC's website at: *www.treasury.gov/ofac.*

§ 582.507 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 582.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 582.201 or any further Executive orders relating to the national emergency declared in Executive Order 13851, of November 27, 2018 is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 582.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in this paragraph (a) authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 582.201, any other part of this chapter, or any Executive order has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) *Email (preferred method): OFAC.Regulations.Reports@treasury.gov;* or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

§ 582.508 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part or any further Executive orders relating to the national emergency declared in Executive Order 13851 of November 27, 2018 are authorized.

Subpart F—Reports

§ 582.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Findings of Violation

§ 582.701 Penalties and Findings of Violation.

(a) The penalties available under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), as adjusted annually pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note) or, in the case of criminal violations, as adjusted pursuant to 18 U.S.C. 3571, are applicable to violations of the provisions of this part.

(b) OFAC has the authority, pursuant to IEEPA, to issue Pre-Penalty Notices, Penalty Notices, and Findings of Violation; impose monetary penalties; engage in settlement discussions and enter into settlements; refer matters to the United States Department of Justice for administrative collection; and, in appropriate circumstances, refer matters to appropriate law enforcement agencies for criminal investigation and/or prosecution. For more information, see appendix A to part 501 of this chapter, which provides a general framework for the enforcement of all economic sanctions programs administered by OFAC, including enforcement-related definitions, types of responses to apparent violations, general factors affecting administrative actions, civil penalties for failure to comply with a requirement to furnish information or keep records, and other general civil penalties information.

Subpart H—Procedures

§ 582.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 582.802 Delegation of certain authorities by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13851 of November 27, 2018, and any further Executive orders relating to the national

emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 582.901 Paperwork Reduction Act notice.

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

Appendix A to Part 582—Executive Order 13851

Executive Order 13851 of November 27, 2018

Blocking Property of Certain Persons Contributing to the Situation in Nicaragua

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), 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,

I, DONALD J. TRUMP, President of the United States of America, find that the situation in Nicaragua, including the violent response by the Government of Nicaragua to the protests that began on April 18, 2018, and the Ortega regime's systematic dismantling and undermining of democratic institutions and the rule of law, its use of indiscriminate violence and repressive tactics against civilians, as well as its corruption leading to the destabilization of Nicaragua's economy, 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 determine and 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 or attempted to engage in, any of the following:

(A) Serious human rights abuse in Nicaragua;

(B) actions or policies that undermine democratic processes or institutions in Nicaragua;

(C) actions or policies that threaten the peace, security, or stability of Nicaragua;

(D) any transaction or series of transactions involving deceptive practices or corruption by, on behalf of, or otherwise related to the Government of Nicaragua or a current or former official of the Government of Nicaragua, such as the misappropriation of public assets or expropriation of private assets for personal gain or political purposes, corruption related to government contracts, or bribery;

(ii) to be a leader or official of an entity that has, or whose members have, engaged in any activity described in subsection (a)(i) of this section or of an entity whose property and interests in property are blocked pursuant to this order;

(iii) to be an official of the Government of Nicaragua or to have served as an official of the Government of Nicaragua at any time on or after January 10, 2007;

(iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of:

(A) Any activities described in subsection (a)(i) of this section; or

(B) any person whose property and interests in property are blocked pursuant to this order; or

(v) 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. 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 type 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:

(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;

(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; and

(d) the term ''Government of Nicaragua'' means the Government of Nicaragua, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Nicaragua, and any person owned or controlled by, or acting for or on behalf of, the Government of Nicaragua.

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 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 401(c) of the NEA (50 U.S.C. 1641(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.

Donald J. Trump,
THE WHITE HOUSE,
November 27, 2018.

Andrea Gacki,

Director, Office of Foreign Assets Control.

Approved:

Sigal P. Mandelker,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2019–19049 Filed 9–3–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 801, 815, 816, 837, 849, 852, and 871

RIN 2900–AQ20

VA Acquisition Regulation: Contracting by Negotiation; Service Contracting

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, VA will publish them in the **Federal Register**. In particular, this rulemaking revises VAAR concerning Contracting by Negotiation and Service Contracting, as well as affected parts covering the Department of Veterans Affairs Acquisition Regulation System, Types of Contracts, Termination of Contracts, Solicitation Provisions and Contract Clauses, and Loan Guaranty and Vocational Rehabilitation and Employment Programs.

DATES: This rule is effective on October 4, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 7, 2018, VA published a proposed rule in the **Federal Register** (83 FR 45384) which announced VA's intent to amend regulations for VAAR Case RIN 2900–AQ20—VA Acquisition Regulation: Contracting by Negotiation; Service Contracting. VA provided a 60-day comment period for the public to respond to the proposed rule and submit comments. The comment period for the proposed rule ended on November 6, 2018 and VA received three comments from one commenter. This rule adopts as a final rule, with changes, the proposed rule published in the **Federal Register** on September 7, 2018, with minor formatting and/or grammatical edits, as well as the non-substantive changes described below. VA reviewed and considered the comments raised by the one commenter in the development of this final rule. A discussion of the issues raised in the comments as well as the changes made to the rule as a result of those comments, and the technical non-substantive changes to the final rule are provided as follows:

In particular, this final rule revises the table at 801.106 to reflect the addition of new VAAR clause 852.237–73, Crime Control Act—Requirement for Background Checks and the corresponding new OMB control number 2900–0863. This final rule also removes 815.303, Responsibilities, and 815.304, Evaluation factors and significant subfactors, and moves them to the VAAM as they contain procedural guidance that is internal to the VA.

This rule adds a new section, 815.370, Only one offer. The inclusion of this policy gives the contracting officer the ability to re-solicit for an action if they only receive one offer and if the solicitation gave offerors less than 30 days to submit a proposal. This final rule removes subpart 815.4, Contract Pricing, as it contains procedural guidance that is internal to the VA and the content has been moved to the VAAM.

This final rule removes subpart 815.6, Unsolicited Proposals, as it contains procedural guidance. This rulemaking adds subpart 816.5 and section 816.506–70, Requirements—supplement for mortuary services, which prescribes clause 852.216–76, Requirements—Supplement for Mortuary Services, for all contracts for mortuary services.

Under part 837, this final rule removes section 837.103, Contracting officer responsibility, as this internal procedural guidance is more suitable for the VAAM. This rule also removes the title and text at section 837.110, Solicitation provisions and contract clauses, since FAR 52.237–2, Protection of Government Buildings, Equipment and Vegetation, and 852.228–71, Indemnification and Insurance, outline contractor liabilities and required insurance levels and provides sufficient coverage in this area.

This final rule amends section 837.110–70, Services provided to eligible beneficiaries, by retitling it ''VA solicitation provisions and contract clauses,'' by removing the prescription for the clause, 852.271–70, Non-Discrimination in Services Provided to Beneficiaries, and by adding the prescriptions for the new clauses 852.237–74, Non-Discrimination in Service Delivery, and 852.237–75, Key Personnel. This final rule removes subpart 837.2, Advisory and Assistance Services, since it duplicates coverage in FAR.

This rule amends section 837.403, Contract clause, to redesignate it as section 837.403–70, VA contract clauses, and adds prescriptions for three new clauses that address protection of children under contracts providing child care services as required by FAR 37.103(d): 852.237–71, Nonsmoking Policy for Children Services; 852.237–72, Crime Control Act—Reporting of Child Abuse; and 852.237–73, Crime Control Act—Requirement for Background Checks.

Under subpart 837.70, Mortuary Services, this rule adds section 837.7000, Scope, which cites the statutory basis for the mortuary service benefits covered. This final rule also removes sections 837.7002, List of qualified funeral directors; 837.7003, Funeral authorization; 837.7004, Administrative necessity; and 837.7005, Unclaimed remains—all other cases, because this material was based on internal VA guidance that has been rescinded.

This final rule adds subpart 849.5, Contract Termination Clauses, section 849.504, Termination of fixed-price contracts for default (no text), and section 849.504–70, Termination of mortuary services, to prescribe a new clause 852.249–70, Termination for Default—Supplement for Mortuary Services. Under subpart 852.2, this

regulatory action amends clause 852.215–70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors to add language to comply with the statute requiring any business concern determined by VA to have willfully and intentionally misrepresented a company's SDVOSB/VOSB status to be subject to debarment for a period of not less than five years.

This final rule amends 852.215–71, Evaluation Factor Commitments, by adding language requiring that any business concern determined by VA to have willfully and intentionally misrepresented a company's SDVOSB/VOSB status be subject to debarment for a period of not less than five years.

This final rule adds clause 852.215–72, Notice of Intent to Re-Solicit, which informs offerors that in the event that only one offer is received in response to a solicitation that allows offerors fewer than 30 days to submit their proposal, the Contracting Officer may cancel the solicitation and re-solicit for an additional period of at least 30 days in accordance with 815.370–2.

This rulemaking adds clause 852.216–76, Requirements—Supplement for Mortuary Services, for all requirements contracts for mortuary services. Under part 871, this rule revises section 871.212, to redesignate the first paragraph as (a); to remove the prescription of clause 852.271–70, Non-Discrimination in Services Provided to Beneficiaries; to renumber the remaining paragraphs as (1) through (4); and to add new paragraph (b) to refer the contracting officer to section 837.110–70(a) for the prescription of the new clause 852.237–74, Non-Discrimination in Service Delivery.

VA provided a 60-day comment period for the public to respond to the proposed rule. The comment period for the proposed rule ended on November 6, 2018 and VA received comments from one commenter. The issues raised in the comments as well as the changes made to the proposed rule on the basis of those comments are provided as follows:

The commenter believes VAAR 815.370–4(b) could be misread to suggest that, even when the exception applies, the contracting officer must still consider maximizing competition when only one offer has been received—which in many cases would mean considering whether to re-solicit the requirement. The commenter commends VA for its thoughtful development of this rule and of the agency's overarching goal of revising and streamlining the VAAR, stating that SDVOSBs and VOSBs, as well as VA contracting officers, will benefit from the clarity this rulemaking provides.

VA concurs with the commenter in that a set-aside or any of the other exemptions should not be subject to additional competition if the contracting officer determines the price is fair and reasonable. Therefore, we will retain the paragraph, but will modify the statement related to additional competition in the first part of the sentence. Paragraph (b) will read:

''(b) The applicability of an exception in paragraph (a) of this section does not eliminate the need for the contracting officer to ensure adequate time for competition is allotted or that the price is fair and reasonable.''

The commenter believes that the SDVOSB/VOSB evaluation preference at 15.304 should be applied in all instances a set-aside is not performed, even on a lowest price technically acceptable (LPTA) contract action. The commenter also recommends that when applying the full and partial credit for SDVOSBs and VOSBs under subsection (b) in a procurement where price is the only factor or that uses a lowest price technically acceptable source selection process as described in FAR 15.101–2, the contracting officer must deem the price offered by a verified SDVOSB to be 10% lower than its proposed price for evaluation purposes, and the price offered by a verified VOSB to be 5% lower than its proposed price for evaluation purposes.

VA appreciates the comment. However, the commenter recommends VA apply a price evaluation preference. VA does not possess statutory authority for a price evaluation preference. Therefore, no changes to the proposed rule will be made.

Beyond the contracting priority to be used when setting a contract or order aside, the commenter further believes that VA also must give an evaluation preference to SDVOSBs and VOSBs, with greater evaluation preference for SDVOSBs, then VOSBs, then all other small businesses consistent with Veterans First. In this regard, the commenter is recommending that VA should revise the proposed language at VAAR 815.304–71(a), which currently says that contracting officers shall insert VAAR 852.215–70, SDVOSB and VOSB Evaluation Factors, ''in competitively negotiated solicitations that are not set aside for SDVOSBs or VOSBs.'' 83 FR at 45379. The commenter recommends that this should be revised to exclude only SDVOSB set-asides.

VA appreciates the comment. It is VA policy that SDVOSBs have priority over VOSBs when contracting under the authority of 38 U.S.C. 8127(i). However, the intent of the evaluation preference is to provide additional preference to veteran-owned small businesses when a procurement is performed outside of the authority under 38 U.S.C. 8127. This is in recognition of the requirement in 38 U.S.C. 8128(a) that small business concerns ''owned and controlled by veterans'' have a priority over other small businesses. 38 U.S.C. 8128(a) does not make a distinction between SDVOSB or VOSB. Therefore, the proposed language will remain unchanged.

In addition, this final rule also includes two technical non-substantive changes to the proposed rule at section 815.370–4(a)(2) and (a)(3) which will be finalized in this final rule as described below. It updates language to comport with the FAR that was issued as FAR Class Deviations and does not significantly change the intent or meaning of the originally proposed language.

Technical Non-Substantive Changes to the Proposed Rule

Under section 815.370–4, Exceptions, in this final rule, two technical corrections are made to the proposed rule language—

1. At paragraph (a)(2), the exception is corrected to remove ''humanitarian or peacekeeping'' and to add the word ''cyber'' as one of the exceptions permitted for acquisitions to facilitate defense against or recovery from, and to add the phrase at the end of the sentence, ''or to support response to an emergency or major disaster.'' ''Humanitarian or peacekeeping'' is removed as VA supports emergencies or major disasters and recovery therefrom. This update comports with two FAR Class Deviations that adds new definitions for ''Emergency,'' and ''Major Disaster,'' as well as adds ''cyber'' to the list of actions to facilitate defense against or recovery from when referring to the updated ''micro-purchase threshold'' and ''simplified acquisition threshold'' amounts authorized by an existing FAR Class Deviation and for which a FAR case is in progress. Therefore, 815.370–4, Exceptions, paragraph (a)(2) would now read: ''(2) Acquisitions in support of emergency operations, or to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; or to support response to an emergency or major disaster;''.

2. Under paragraph (a)(3), the reference to ''VAAR 19'' is updated to reflect a more accurate citation of ''VAAR subpart 819.70.''

Under section 837.7001, Solicitations provisions and contract clauses, one technical change is made to the proposed rule language—

Under paragraph (b), the text is revised to remove a reference to ALT VI for the clause FAR 52.216–21, Requirements. Paragraph (b) now reads as follows: ''The contracting officer shall insert in addition to FAR 52.216–21, Requirements, the following VA clauses in all mortuary service solicitations and contracts:'' The rest of paragraph (b) and section 837.7001 remain unchanged as a result of this rulemaking.

Effect of Rulemaking

Title 48, Federal Acquisition Regulations System, Chapter 8, Department of Veterans Affairs, of the Code of Federal Regulations, as proposed to be revised by this rulemaking, would represent VA's implementation of its legal authority and publication of the Department of Veterans Affairs Acquisition Regulation (VAAR) for the cited applicable parts. Other than future amendments to this rule or governing statutes for the cited applicable parts, or as otherwise authorized by approved deviations or waivers in accordance with FAR subpart 1.4, Deviations from the FAR, and as implemented by VAAR subpart 801.4, Deviations from the FAR or VAAR, no contrary guidance or procedures would be authorized. All existing or subsequent VA guidance would be read to conform with the rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking as pertains to the cited applicable VAAR parts.

Executive Orders 12866, 13563 and 13771

Executive Orders (E.O.s) 12866 and 13563 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 12866, Regulatory Planning and Review defines ''significant regulatory action'' to mean any regulatory action that is likely to result in a rule that may: ''(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal Governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 Through Fiscal Year to Date. This final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. See also 5 CFR 1320.8(b)(3)(vi). This final rule amends one information collection requirement and imposes one new information collection requirement. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for its review.

Under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), a current collection of information, OMB No. 2900–0590, that will now be contained in part 837 at section 837.403–70 and in part 852 at section 852.237–70, was revised as set forth in the **SUPPLEMENTARY INFORMATION** portion of this final rule. The clause number that appears in the table at 801.106 is also revised accordingly.

Summary of collection of information:

This final rule contains provisions constituting an existing information collection at 48 CFR 837.403 and 852.237–7, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) and has been assigned OMB control number 2900–0590. This final rule revises 837.403 to renumber it as 837.403–70, to retitle it as ''VA contract clauses,'' and to renumber the clause as 852.237–70 while retaining the title, ''Indemnification and Medical Liability Insurance.''

Clause 852.237–70 is used in lieu of FAR clause 52.237–7, Indemnification and Medical Liability Insurance, in solicitations and contracts for the acquisition of non-personal health care services. It requires the apparent successful bidder/offeror, upon the request of the contracting officer, prior to contract award, to furnish evidence of insurability of the offeror and/or all health-care providers who will perform under the contract. In addition, the clause requires the contractor, prior to commencement of services under the contract, to provide Certificates of Insurance or insurance policies evidencing that the firm possesses the types and amounts of insurance required by the solicitation. This final rule modifies the collection to require the contractor to notify the contracting officer within five days of becoming aware of a change in insurance providers during the performance period of this contract for all health-care providers performing under this contract, and to provide to the contracting officer evidence of such insurance for any subcontractor at least five days before commencement of work by that subcontractor.

Description of need for information and proposed use of information:

The information is required in order to protect VA by ensuring that the firm to which award may be made and the individuals who may provide health care services under the contract are insurable and that, following award, the contractor and its employees will continue to possess the types and amounts of insurance required by the solicitation. It helps ensure that VA will not be held liable for any negligent acts of the contractor or its employees and ensures that VA and VA beneficiaries will be protected by adequate insurance coverage. The clause number is changed to 852.237–70 to conform to the FAR guidance for numbering of clauses. The burden imposed by this collection remains unchanged as follows:

Estimated number of respondents annually: 1,500.

Estimated frequency of responses: One response for each contract to be awarded.

Estimated average burden per collection: 30 minutes.

Estimate of the total annual hour burden of the collection of information: 750 hours.

Annual cost to all respondents: $15,000 (at $20 per hour, based on our belief that the majority of the labor effort would be clerical similar to GS–5).

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), a new collection of information is prescribed, under OMB No. 2900–0863, that is contained in Part 837 at section 837.403–70 (d) and Part 852 at clause 852.237–73, as set forth in the **SUPPLEMENTARY INFORMATION** portion of this final rule. The clause number and the OMB clearance number are added to the table at 801.106.

Summary of collection of information: Under the Crime Control Act of 1990 (42 U.S.C. 13041), each agency of the Federal Government, and every facility operated by the Federal Government, or operated under contract with the Federal Government, that hires, or contracts for hire, individuals involved with the provision of child care services to children under the age of 18 shall assure that all existing and newly-hired employees undergo a criminal history background check.

New VAAR clause 852.237–73, Crime Control Act—Requirement for Background Checks, is required in all solicitations, contracts, and orders that involve providing child care services to children under the age of 18, including social services, health and mental health care, child-(day) care, education (whether or not directly involved in teaching), and rehabilitative programs covered under the statute.

Description of need for information and use of information:

The contract clause requires the contractor to perform the background checks on behalf of VA to assure the safety of children under the age of 18 that are recipients of services under a VA program. It is intended to assure their safety by avoiding hiring individuals with a history of criminal acts and especially acts of child abuse. The following estimated annual burden has been revised and reduced from that in the proposed rule based on contract data from the last three fiscal years which reflect a pool of awarded contracts which include child care services to arrive at a revised estimated annual burden amount. In the proposed rule, the estimated number of respondents annually were based on health service contracts awarded, whereas in this final rule, the estimated number of respondents was calculated based on contracts awarded under NAICS codes associated with child care services. An average of 10 responses per contract is a reasonable estimate for an awarded child care services contract.

Estimated number of respondents annually: 150.

Estimated frequency of responses: 10 per contract awarded.

Estimated average burden per collection: 1 hour.

Estimate of the total annual hour burden of the collection of information: 1,500 hours.

Annual cost to all respondents: $74,550 ($49.70 rate including fringe benefits and assuming Bureau of Labor Statistics wage code 11–3011, Administrative Services Managers.)

This clause enables the VA to be in compliance with the Crime Control Act of 1990 and to protect children that are within its health care systems.

Notice regarding this information collection requirement was posted to the **Federal Register** via the preamble of Proposed Rule RIN 2900–AQ20 on September 7, 2018 (83 FR 45374) with comment period closing date of November 6, 2018. VA didn't receive any public comments related to this information collection. As a result, OMB issued a tentative control number 2900–0863 to this new information collection to be used for final rule publication. After the publication of this final rule, VA will resubmit this information collection (2900–0863) to OMB for its final approval.

Regulatory Flexibility Act

This final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The overall impact of the rule is of benefit to small businesses owned by Veterans or service-disabled Veterans as the VAAR is being updated to remove extraneous procedural information that applies only to VA's internal operating processes or procedures. VA estimates no cost impact to individual business will result from these rule updates. On this basis, the final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this regulatory action is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

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

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects

48 CFR Part 801

Administrative practice and procedure.

48 CFR Parts 815, 816, 837, and 849

Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 871

Government procurement, Loan programs—social programs, Loan programs—veterans, Reporting and recordkeeping requirements, Vocational rehabilitation.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on July 25, 2019, for publication.

Dated: August 14, 2019.

Consuela Benjamin,

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

For the reasons set out in the preamble, VA revises 48 CFR parts 801, 815, 816, 837, 849, 852 and 871 as follows:

PART 801—DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION SYSTEM

■ 1. The authority citation for part 801 continues to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121; 42 U.S.C. 1303; 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 801.1—Purpose, Authority, Issuance

■ 2. Revise the table in section 801.106 to read as follows:

801.106 OMB approval under the Paperwork Reduction Act.

* * * * *

48 CFR part or section where identified and described	Current OMB control No.	48 CFR part or section where identified and described	Current OMB No.
809.106–1	2900–0418	852.228–71	2900–0590
809.504(d)	2900–0418	852.232–70–852.232–71	2900–0422
813	2900–0393	852.236–72	2900–0422
832.202–4	2900–0688	852.236–79	2900–0208
836.606–71	2900–0208	852.236–80 (Alt. I)	2900–0422
852.207–70	2900–0590	852.236–88	2900–0422
852.209–70	2900–0418	852.237–70	2900–0590
852.211–70	2900–0587	852.237–73	2900–0863
852.211–72	2900–0586	852.246–76	2900–0589
		852.270–3	2900–0589

PART 815—CONTRACTING BY NEGOTIATION

■ 3. The authority citation for part 815 is revised to read as follows:

Authority: 38 U.S.C. 8127 and 8128; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 815.3—Source Selection

815.303 [Removed]

■ 4. Section 815.303 is removed.

815.304 [Removed]

■ 5. Section 815.304 is removed.

■ 6. Section 815.304–70 is revised to read as follows:

815.304–70 Evaluation factor commitments.

Contracting officers shall—

(a) Include the clause at 852.215–70, Service-Disabled Veteran-Owned Small Business and Veteran-Owned Small Business Evaluation Factors, in negotiated solicitations and contracts giving preference to offers received from VOSBs and additional preference to offers received from SDVOSBs;

(b) Use past performance in meeting SDVOSB subcontracting goals as a non-price evaluation factor in making award determination; and

(c) Use the proposed inclusion of SDVOSBs or VOSBs as subcontractors as an evaluation factor when competitively negotiating the award of contracts or task or delivery orders.

■ 7. Section 815.304–71 is revised to read as follows:

815.304–71 Solicitation provision and clause.

(a) The contracting officer shall insert the clause at 852.215–70, Service-Disabled Veteran-Owned Small Business and Veteran-Owned Small Business Evaluation Factors, in competitively negotiated solicitations and contracts that are not set aside for SDVOSBs or VOSBs.

(b) The contracting officer shall insert the clause at 852.215–71, Evaluation Factor Commitments, in solicitations and contracts that include VAAR clause 852.215–70, Service-Disabled Veteran-Owned Small Business and Veteran-Owned Small Business Evaluation Factors.

■ 8. Section 815.370 is added to read as follows:

815.370 Only one offer.

■ 9. Section 815.370–1 is added to read as follows:

815.370–1 Policy.

It is VA policy, if only one offer is received in response to a competitive solicitation, to—

(a) Take action to promote competition (see 815.370–2); and

(b) Ensure that the price is fair and reasonable (see 815.370–3) and comply with the statutory requirement for certified cost or pricing data (see FAR 15.403–4).

■ 10. Section 815.370–2 is added to read as follows:

815.370–2 Promote competition.

Except as provided in 815.370–4, if only one offer is received when competitive procedures were used and the solicitation allowed fewer than 30 days for receipt of proposals, the contracting officer should—

(a) Consult with the requiring activity as to whether the requirements document should be revised in order to promote more competition (see FAR 6.502(b) and 11.002); and

(b) Consider re-soliciting, allowing an additional period of at least 30 days for receipt of proposals.

■ 11. Section 815.370–3 is added to read as follows:

815.370–3 Fair and reasonable price.

(a) If there was ''reasonable expectation that two or more offerors, competing independently, would submit priced offers'' but only one offer is received, this circumstance does not constitute adequate price competition unless an official at a level above the contracting officer approves the determination that the price is reasonable (see FAR 15.403–1(c)(1)(ii)).

(b) Except as provided in 815.370–4(a), if only one offer is received when competitive procedures were used and the solicitation allowed at least 30 days for receipt of proposals (unless the 30-day requirement is not applicable in accordance with 815.370–4(a)(3)), the contracting officer shall—

(1) Determine through cost or price analysis that the offered price is fair and reasonable and that adequate price competition exists (with approval of the determination at a level above the contracting officer) or another exception to the requirement for certified cost or pricing data applies (see FAR 15.403–1(c) and 15.403–4). In these circumstances, no further cost or pricing data is required; or

(2)(i) Obtain from the offeror cost or pricing data necessary to determine a

fair and reasonable price and comply with the requirement for certified cost or pricing data at FAR 15.403–4. For acquisitions that exceed the cost or pricing data threshold, if no exception at FAR 15.403–1(b) applies, the cost or pricing data shall be certified; and

(ii) Enter into negotiations with the offeror as necessary to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

■ 12. Section 815.370–4 is added to read as follows:

815.370–4 Exceptions.

(a) The requirements at 815.370–2 do not apply to—

(1) Acquisitions at or below the simplified acquisition threshold;

(2) Acquisitions in support of emergency, humanitarian or peacekeeping operations, or to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; or to support response to an emergency or major disaster;

(3) Small business set-asides under FAR subpart 19.5, set-asides offered and accepted into the 8(a) Program under FAR subpart 19.8, or set-asides under the HUBZone Program (see FAR 19.1305(c)), the VA Small Business Program (see VAAR subpart 819.70), or the Women-Owned Small Business Program (see FAR 19.1505(d));

(4) Acquisitions of basic or applied research or development, as specified in FAR 35.016(a), that use a broad agency announcement; or

(5) Acquisitions of architect-engineer services (see FAR 36.601–2).

(b) The applicability of an exception in paragraph (a) of this section does not eliminate the need for the contracting officer to ensure adequate time for competition is allotted or that the price is fair and reasonable.

■ 13. Section 815.370–5 is added to read as follows:

815.370–5 Solicitation provision.

Use the provision at 852.215–72, Notice of Intent to Re-solicit, in competitive solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items that will be solicited for fewer than 30 days, unless an exception at 815.370–4 applies.

Subpart 815.4 [Removed and Reserved]

■ 14. Subpart 815.4, consisting of sections 815.404, 815.404–1, and 815.404–2, is removed and reserved.

Subpart 815.6 [Removed and Reserved]

■ 15. Subpart 815.6, consisting of sections 815.604, 815.606, and 815.606–1, is removed and reserved.

PART 816—TYPES OF CONTRACTS

■ 16. The authority citation for part 816 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 816.5—Indefinite-Delivery Contracts

■ 17. Section 816.506–70 is added to read as follows:

816.506–70 Requirements—supplement for mortuary services.

Insert the clause 852.216–76, Requirements—Supplement for Mortuary Services, in contracts for mortuary services containing FAR clause 52.216–21, Requirements. The contracting officer shall insert activities authorized to place orders in paragraph (e) of the clause.

PART 837—SERVICE CONTRACTING

■ 18. The authority citation for part 837 is revised to read as follows:

Authority: Pub. L. 101–647; 20 U.S.C. 7181–7183; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Subpart 837.1—Service Contracts—General

837.103 [Removed]

■ 19. Section 837.103 is removed.

837.110 [Removed]

■ 20. Section 837.110 is removed.

■ 21. Section 837.110–70 is revised to read as follows:

837.110–70 VA solicitation provisions and contract clauses.

(a) Contracting officers shall include the clause at 852.237–74, Non-Discrimination in Service Delivery, in all solicitations and contracts covering services provided to eligible beneficiaries.

(b) The contracting officer shall insert the clause at 852.237–75, Key Personnel, in solicitations and contracts when the contracting officer will require the contractor to designate contractor key personnel.

Subpart 837.2 [Removed and Reserved]

■ 22. Subpart 837.2, consisting of section 837.203, is removed and reserved.

Subpart 837.4—Nonpersonal Health Care Services

837.403 [Redesignated as 837.403–70 and Amended]

■ 23. Section 837.403 is redesignated as 837.403–70 and the newly redesignated section is revised to read as follows:

837.403–70 VA contract clauses.

(a) The contracting officer shall insert the clause at 852.237–70, Indemnification and Medical Liability Insurance, in lieu of FAR clause 52.237–7, in solicitations and contracts for nonpersonal health care services, including contracts awarded under the authority of 38 U.S.C. 7409, 38 U.S.C. 8151–8153, and part 873. The contracting officer may include the clause in bilateral purchase orders for nonpersonal health care services awarded under the procedures in FAR part 13 and part 813.

(b) The contracting officer shall insert the clause at 852.237–71, Nonsmoking Policy for Children's Services, in solicitations, contracts, and orders that involve health or daycare services that are provided to children under the age of 18 on a routine or regular basis pursuant to the Nonsmoking Policy for Children's Services (20 U.S.C. 6081–6084).

(c) The contracting officer shall insert the clause at 852.237–72, Crime Control Act—Reporting of Child Abuse, in solicitations, contracts, and orders that require performance on Federal land or in a federally operated (or contracted) facility and involve the professions/activities performed by persons specified in the Crime Control Act of 1990 (42 U.S.C. 13031) including, but not limited to, teachers, social workers, physicians, nurses, dentists, health care practitioners, optometrists, psychologists, emergency medical technicians, alcohol or drug treatment personnel, child care workers and administrators, emergency medical technicians and ambulance drivers.

(d) The contracting officer shall insert the clause at 852.237–73, Crime Control Act—Requirement for Background Checks, in solicitations, contracts, and orders that involve providing child care services to children under the age of 18, including social services, health and mental health care, child- (day) care, education (whether or not directly involved in teaching), and rehabilitative

programs covered under the Crime Control Act of 1990 (42 U.S.C. 13041).

Subpart 837.70—Mortuary Services

■ 24. Section 837.7000 is added to read as follows:

837.7000 Scope.

This subpart applies to mortuary (funeral and burial) services for beneficiaries of VA as provided in 38 U.S.C. 2302, 2303, and 2308 when it is determined that a contract would be the most efficient and effective method. Contract payment terms for use of the purchase card as a method of payment should also be considered.

■ 25. Section 837.7001 is revised to read as follows:

837.7001 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the basic or the alternate of the provision at 852.237–76, Award to Single Offeror, in solicitations and contracts for mortuary services as follows:

(1) Insert the provision in all sealed bid solicitations for mortuary services; and

(2) Insert the basic provision with its alternate I in all negotiated solicitations for mortuary services.

(b) The contracting officer shall insert in addition to FAR 52.216–21, Requirements, the following VA clauses in all mortuary service solicitations and contracts:

(1) 852.237–77, Area of Performance.

(2) 852.237–78, Performance and Delivery.

(3) 852.237–79, Subcontracting.

(4) 852.237–80, Health Department and Transport Permits.

(c) See also 816.506–70 and 849.504–70 for additional clauses for use in contracts for mortuary services.

837.7002 [Removed]

■ 26. Section 837.7002 is removed.

837.7003 [Removed]

■ 27. Section 837.7003 is removed.

837.7004 [Removed]

■ 28. Section 837.7004 is removed.

837.7005 [Removed]

■ 29. Section 837.7005 is removed.

PART 849—TERMINATION OF CONTRACTS

■ 30. The authority citation for part 849 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

■ 31. Subpart 849.5 is added to read as follows:

Subpart 849.5—Contract Termination Clauses

849.504 Termination of fixed-price contracts for default.

849.504–70 Termination of mortuary services.

Use the clause at 852.249–70, Termination for Default—Supplement for Mortuary Services, in all solicitations and contracts for mortuary services. This clause is to be used with FAR clause 52.249–8, Default (Fixed-Price Supply and Service).

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 32. The authority citation for part 852 is revised to read as follows:

Authority: Pub. L.101–647; 20 U.S.C. 7181–7183; 38 U.S.C. 8127–8128, and 8151–8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1303; 41 U.S.C 1702; and 48 CFR 1.301 through 1.304.

Subpart 852.2—Texts of Provisions and Clauses

■ 33. Section 852.215–70 is revised to read as follows:

852.215–70 Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors.

As prescribed in 815.304–71(a), insert the following clause:

Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors (OCT 2019)

(a) In an effort to achieve socioeconomic small business goals, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses (SDVOSBs) and veteran-owned small businesses (VOSBs) as subcontractors.

(b) Eligible service-disabled veteran-owned small businesses offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-Owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in the Vendor Information Pages (VIP) database.

(c) Non-Veteran offerors proposing to use SDVOSBs or VOSBs as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VIP database.

(d) Pursuant to 38 U.S.C. 8127(g), any business concern that is determined by VA to have willfully and intentionally misrepresented a company's SDVOSB/VOSB status is subject to debarment for a period of not less than five years. This includes the debarment of all principals in the business.

(End of clause)

■ 34. Section 852.15–71 is revised to read as follows:

852.215–71 Evaluation Factor Commitments.

As prescribed in 815.304–71(b), insert the following clause:

Evaluation Factor Commitments (OCT 2019)

(a) The offeror agrees, if awarded a contract, to use the service-disabled veteran-owned small businesses (SDVOSBs) or veteran-owned small businesses (VOSBs) proposed as subcontractors in accordance with 852.215–70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, or to substitute one or more SDVOSBs or VOSBs for subcontract work of the same or similar value.

(b) Pursuant to 38 U.S.C. 8127(g), any business concern that is determined by VA to have willfully and intentionally misrepresented a company's SDVOSB/VOSB status is subject to debarment for a period of not less than five years. This includes the debarment of all principals in the business.

(End of clause)

■ 35. Section 852.215–72 is added to read as follows:

852.215–72 Notice of Intent to Re-Solicit.

As prescribed at 815.370–5, use the following provision:

Notice of Intent to Re-Solicit (OCT 2019)

This solicitation provides offerors fewer than 30 days to submit proposals. In the event that only one offer is received in response to this solicitation, the Contracting Officer may cancel the solicitation and re-solicit for an additional period of at least 30 days in accordance with 815.370–2.

(End of provision)

■ 36. Section 852.216–71 is amended by revising the section heading and clause heading to read as follows:

852.216–71 Economic Price Adjustment of Contract Price(s) Based on a Price Index.

* * * * *

Economic Price Adjustment of Contract Price(s) Based on a Price Index (MAR 2018)

* * * * *

■ 37. Section 852.216–72 is amended by revising the section heading and clause heading to read as follows:

852.216–72 Proportional Economic Price Adjustment of Contract Price(s) Based on a Price Index.

* * * * *

Proportional Economic Price Adjustment of Contract Price(S) Based on a Price Index (MAR 2018)

* * * * *

■ 38. Section 852.216–73 is amended by revising the section heading and clause heading to read as follows:

852.216–73 Economic Price Adjustment—State Nursing Home Care for Veterans.

* * * * *

Economic Price Adjustment—State Nursing Home Care for Veterans (Mar 2018)

* * * * *

■ 39. Section 852.216–74 is amended by revising the section heading and clause heading to read as follows:

852.216–74 Economic Price Adjustment—Medicaid Labor Rates.

* * * * *

Economic Price Adjustment—Medicaid Labor Rates (Mar 2018)

* * * * *

■ 40. Section 852.216–75 is amended by revising the section heading and clause heading to read as follows:

852.216–75 Economic Price Adjustment–Fuel Surcharge.

* * * * *

Economic Price Adjustment—Fuel Surcharge (Mar 2018)

* * * * *

■ 41. Section 852.216–76 is added to read as follows:

852.216–76 Requirements—Supplement for Mortuary Services.

As prescribed in 816.506–70, insert the following clause:

Requirements—Supplement for Mortuary Services (Oct 2019)

(a) Except as provided in paragraphs (c) and (d) of this clause, the Government will order from the Contractor all of its requirements in the area of performance for the supplies and services listed in the schedule of this contract.

(b) Each order will be issued as a delivery order and will list—

(1) The supplies or services being ordered;

(2) The quantities to be furnished;

(3) Delivery or performance dates;

(4) Place of delivery or performance;

(5) Packing and shipping instructions;

(6) The address to send invoices; and

(7) The funds from which payment will be made.

(c) The Government may elect not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other reason.

(d) In an epidemic or other emergency, the contracting activity may obtain services beyond the capacity of the Contractor's facilities from other sources.

(e) Contracting Officers of the following activities may order services and supplies under this contract:

_____

_____

(End of clause)

■ 42. Section 852.228–71 is amended by revising the section heading and clause heading to read as follows:

852.228–71 Indemnification and Insurance.

* * * * *

Indemnification and Insurance (Mar 2018)

* * * * *

■ 43. Section 852.228–73 is amended by revising the section heading and clause heading to read as follows:

852.228–73 Indemnification of Contractor—Hazardous Research Projects.I

* * * * *

Indemnification of Contractor—Hazardous Research Projects (Mar 2018)

* * * * *

852.237–70 [Removed]

■ 44. Section 852.237–70 is removed.

852.237–7 [Redesignated as 852.237–70 and Amended]

■ 45. Section 852.237–7 is redesignated as section 852.237–70 and the newly redesignated section is revised to read as follows:

852.237–70 Indemnification and Medical Liability Insurance.

As prescribed in 837.403–70(a), insert the following clause:

Indemnification and Medical Liability Insurance (Oct 2019)

(a) It is expressly agreed and understood that this is a non-personal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered including, by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: [*Contracting Officer's Note: Insert the dollar amount value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests.*] However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health-care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer within 5 days of becoming aware of a change in insurance providers during the performance period of this contract for all health-care providers performing under this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Contracting Officer evidence of such insurance.

(End of clause)

■ 46. Section 852.237–71 is added to read as follows:

852.237–71 Nonsmoking Policy for Children's Services.

As prescribed in 837.403–70(b), insert the following clause:

Nonsmoking Policy for Children's Services (Oct 2019)

(a) Smoking in facilities where certain federally funded children's services are provided shall be prohibited. The Pro-Children Act of 2001 (20 U.S.C. 7181–7183) prohibits smoking within any indoor facility (or portion thereof), whether owned, leased, or contracted for, that is used for the routine or regular provision of health or day care services that are provided to children under the age of 18. The statutory prohibition also applies to indoor facilities that are constructed, operated, or maintained with Federal funds.

(b) By acceptance of this contract or order, the Contractor agrees to comply with the requirements of the Act. The Act also applies to all subcontracts awarded under this contract for the specified children's services. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act. Failure to comply with the Act may result in the imposition of a civil monetary penalty in an amount not to exceed $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. Each day a violation continues constitutes a separate violation.

(End of clause)

■ 47. Section 852.237–72 is added to read as follows:

852.237–72 Crime Control Act—Reporting of Child Abuse.

As prescribed in 837.403–70(c), insert the following clause:

Crime Control Act—Reporting of Child Abuse (Oct 2019)

(a) Public Law 101–647, also known as the Crime Control Act of 1990 (Act), imposes responsibilities on certain individuals who, while engaged in a professional capacity or activity, as defined in the Act, on Federal land or in a federally-operated (or contracted) facility, learn of facts that give the individual reason to suspect that a child has suffered an incident of child abuse.

(b) The Contractor shall comply with the requirements of the Act. The Act also applies to all applicable subcontracts awarded under this contract. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act.

(End of clause)

■ 48. Section 852.237–73 is added to read as follows:

852.237–73 Crime Control Act—Requirement for Background Checks.

As prescribed in 837.403–70(d), insert the following clause:

Crime Control Act—Requirement for Background Checks (Oct 2019)

(a) Public Law 101–647, also known as the Crime Control Act of 1990 (Act), requires that all individuals involved with the provision of child care services, as defined in the Act, to children under the age of 18 undergo a criminal background check.

(b) The Contracting Officer will provide the necessary information to the Contractor regarding the process for obtaining the background check. The Contractor may hire a staff person provisionally prior to the completion of a background check, if at all times prior to the receipt of the background check during which children are in the care of the newly-hired person, the person is within the sight and under the supervision of a previously investigated staff person.

(c) The Contractor shall comply with the requirements of the Act. The Act also applies to all applicable subcontracts awarded under the contract. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act.

(End of clause)

■ 49. Section 852.237–74 is added to read as follows:

852.237–74 Non-Discrimination in Service Delivery.

As prescribed in 837.110–70(a), the Contracting Officer shall insert the following clause in solicitations and contracts:

Non-Discrimination in Service Delivery (Oct 2019)

It is the policy of the Department of Veterans Affairs that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of VA programs and services based on non-merit factors such as race, color, national origin, religion, sex, gender identity, sexual orientation, or disability (physical or mental). By acceptance of this contract, the Contractor agrees to comply with this policy in supporting the program and in performing the services called for under this contract. The Contractor shall include this clause in all subcontracts awarded under this contract for supporting or performing the specified program and services. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with this policy.

(End of clause)

■ 50. Section 852.237–75 is added to read as follows:

852.237–75 Key Personnel.

As prescribed in 837.110–70(b), insert the following clause:

Key Personnel (Oct 2019)

The key personnel specified in this contract are considered to be essential to work performance. At least 30 days prior to the Contractor voluntarily diverting any of the specified individuals to other programs or contracts the Contractor shall notify the Contracting Officer and shall submit a justification for the diversion or replacement and a request to replace the individual. The request must identify the proposed replacement and provide an explanation of how the replacement's skills, experience, and credentials meet or exceed the requirements of the contract. If the employee of the Contractor is terminated for cause or separates from the contractor voluntarily with less than thirty days notice, the Contractor shall provide the maximum notice practicable under the circumstances. The Contractor shall not divert, replace, or announce any such change to key personnel without the written consent of the Contracting Officer. The contract will be modified to add or delete key personnel as necessary to reflect the agreement of the parties.

(End of clause)

■ 51. Section 852.237–76 is added to read as follows:

852.237–76 Award to Single Offeror.

As prescribed in 837.7001(a)(1), insert the following provision:

Award to Single Offeror (Oct 2019)

(a) Award shall be made to a single offeror.

(b) Offerors shall include unit prices for each item. Failure to include unit prices for each item will be cause for rejection of the entire offer.

(c) The Government will evaluate offers on the basis of the estimated quantities shown.

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is the lowest price to the Government.

(End of provision)

Alternate I (OCT 2019). As prescribed in 837.7001(a)(2), insert the following paragraph (d) in lieu of paragraph (d) of the basic provision:

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is in the best interest of the Government.

■ 52. Section 852.237–77 is added to read as follows:

852.237–77 Area of Performance.

As prescribed in 837.7001(b)(1), insert the following clause:

Area of Performance (Oct 2019)

(a) The area of performance is as specified in the contract.

(b) The Contractor shall take possession of the remains at the place where they are located, transport them to the Contractor's place of preparation, and later transport them to a place designated by the Contracting Officer.

(c) The Contractor will not be reimbursed for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(d) If remains are located outside the area of performance, the Contracting Officer may

place an order with the Contractor under this contract or may obtain the services elsewhere. If the Contracting Officer requires the Contractor to transport the remains into the area of performance, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance.

(e) The Contracting Officer may require the Contractor to deliver remains to any point within 100 miles of the area of performance. In this case, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

■ 53. Section 852.237–78 is added to read as follows:

852.237–78 Performance and Delivery.

As prescribed in 837.7001(b)(2), insert the following clause:

Performance and Delivery (Oct 2019)

(a) The Contractor shall furnish the material ordered and perform the services specified as promptly as possible, but not later than 36 hours after receiving notification to remove the remains, excluding the time necessary for the Government to inspect and check results of preparation.

(b) The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed 72 hours from the time the remains are casketed and final inspection is completed.

(End of clause)

■ 54. Section 852.237–79 is added to read as follows:

852.237–79 Subcontracting.

As prescribed in 837.7001(b)(3), insert the following clause:

Subcontracting (Oct 2019)

The Contractor shall not subcontract any work under this contract without the Contracting Officer's written approval. This clause does not apply to contracts of employment between the Contractor and its personnel.

(End of clause)

■ 55. Section 852.237–80 is added to read as follows:

852.237–80 Health Department and Transport Permits.

As prescribed in 837.7001(b)(4), insert the following clause:

Health Department and Transport Permits (Oct 2019)

The Contractor shall meet all State and local licensing requirements and obtain and furnish all necessary health department and shipping permits at no additional cost to the Government. The Contractor shall ensure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

■ 56. Section 852.249–70 is added to read as follows:

852.249–70 Termination for Default—Supplement for Mortuary Services.

As prescribed in 849.504–70, insert the following clause:

Termination for Default—Supplement for Mortuary Services (Oct 2019)

The clause entitled ''Default'' in FAR 52.249–8, is supplemented as follows:

The Contracting Officer may terminate this contract for default by written notice without the ten-day notice required by paragraph (a)(2) of the Default clause if—

(a) The Contractor, through circumstances reasonably within its control or that of its employees, performs any act under or in connection with this contract, or fails in the performance of any service under this contract and the act or failures may reasonably be considered to reflect discredit upon the Department of Veteran Affairs in fulfilling its responsibility for proper care of remains;

(b) The Contractor, or its employees, solicits relatives or friends of the deceased to purchase supplies or services not under this contract. (The Contractor may furnish supplies or arrange for services not under this contract, only if representatives of the deceased voluntarily request, select, and pay for them.);

(c) The services or any part of the services are performed by anyone other than the Contractor or the Contractor's employees without the written authorization of the Contracting Officer;

(d) The Contractor refuses to perform the services required for any particular remains; or

(e) The Contractor mentions or otherwise uses this contract in its advertising in any way.

(End of clause)

852.271–70 [Removed and Reserved]

■ 57. Section 852.271–70 is removed and reserved.

PART 871—LOAN GUARANTY AND VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAMS

■ 58. The authority citation for part 871 continues to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 871.2—Vocational Rehabilitation and Employment Service

■ 59. Section 871.212 is revised to read as follows:

871.212 Contract clauses.

(a) Contracting officers shall use the following clauses, as appropriate, in solicitations and contracts for vocational rehabilitation and employment services as they pertain to training and rehabilitation services and contracts for counseling services:

(1) 852.271–72, Time Spent by Counselee in Counseling Process.

(2) 852.271–73, Use and Publication of Counseling Results.

(3) 852.271–74, Inspection.

(4) 852.271–75, Extension of Contract Period.

(b) See 837.110–70(a) for clause 852.237–74, Non-Discrimination in Service Delivery.

[FR Doc. 2019–17824 Filed 9–3–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XY018

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the annual allowance of the 2019 Pacific cod total allowable catch apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2019, through 2400 hours, A.l.t., December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50

CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The annual allowance of the 2019 Pacific cod total allowable catch (TAC) apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA not participating in the cooperative fishery of the Rockfish Program is 2,148 metric tons (mt), as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the annual allowance of the 2019 Pacific cod TAC apportioned to trawl catcher vessels in the Central Regulatory Area of the GOA is necessary to account for the incidental catch in other anticipated fisheries. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt and is setting aside the remaining 2,148 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip. This closure does not apply to fishing by vessels participating in the cooperative fishery of the Rockfish Program for the Central GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 28, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–19045 Filed 8–29–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XY014

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Hook-and-Line Gear in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using hook-and-line gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2019 Pacific cod total allowable catch apportioned to catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2019, through 2400 hours, A.l.t., December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2019 Pacific cod total allowable catch (TAC) apportioned to catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA is 73 metric tons (mt), as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2019 Pacific cod TAC apportioned to catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 20 mt and is setting aside the remaining 53 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels using hook-and-line gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 28, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of

prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 29, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–19046 Filed 8–29–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 171
Wednesday, September 4, 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 HOMELAND SECURITY

8 CFR Part 103

[CIS No. 2645–19; DHS Docket No. USCIS–2019–0006]

RIN 1615–AC36

Registration Fee Requirement for Petitioners Seeking To File H–1B Petitions on Behalf of Cap Subject Aliens

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is proposing to amend its regulations to require petitioners seeking to file H–1B cap-subject petitions to pay a $10 fee for each registration they submit to U.S. Citizenship and Immigration Services (USCIS) for the H–1B cap selection process.

DATES: Written comments must be submitted on this rule on or before October 4, 2019. Comments on the Paperwork Reduction Act section of this rule (the information collections discussed therein) must be received on or before November 4, 2019.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2019–0006, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow this site's instructions for submitting comments.
- *Mail:* Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW, Mailstop #2140, Washington, DC 20529–2140. To ensure proper handling, please reference DHS Docket No. USCIS–2019–0006 in your correspondence. Mail must be postmarked by the comment submission deadline. Please note that we will not accept any comments that are hand delivered or couriered. In addition, we will not accept any comments that are on removable media (*e.g.* thumb drives, CDs, etc.). All comments that are mailed must be addressed as specifically written above.

FOR FURTHER INFORMATION CONTACT: Brian J. Hunt, Acting Chief, Business & Foreign Workers Division, Office of Policy & Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone (202) 272–8377.

SUPPLEMENTARY INFORMATION:

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I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule. Comments providing the most assistance to DHS will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports the recommended change.

Instructions: All submissions should include the agency name and DHS Docket No. USCIS–2019–0006 for this rulemaking. Providing comments is entirely voluntary. Regardless of how comments are submitted to DHS, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov* and will include any personal information provided by commenters. Because the information submitted will be publicly available, commenters should consider limiting the amount of personal information provided in each submission. DHS may withhold information provided in comments from public viewing if it determines that such information is offensive or may affect the privacy of an individual. For additional information, please read the Privacy Act notice available through the link in the footer of *http://www.regulations.gov.*

Docket: For access to the docket, go to *http://www.regulations.gov* and enter this rulemaking's eDocket number: USCIS–2019–0006.

II. Background

DHS is proposing to amend its regulations to charge potential petitioners a fee for each registration submitted for the H–1B cap selection process. Proposed 8 CFR 103.7(b)(1)(i)(NNN). On January 31, 2019, DHS published a final rule requiring petitioners seeking to file H–1B cap-subject petitions, including those eligible for the advanced degree exemption, to first electronically register with USCIS during a designated registration period, unless the requirement is suspended (''H–1B registration final rule'').[1] The H–1B registration final rule amended DHS regulations to codify the new registration requirement. *See* 8 CFR 214.2(h)(8)(iii)(A)(*1*). USCIS stated in the H–1B registration final rule that it was suspending the registration requirement for the fiscal year 2020 cap season to complete required user testing of the new H–1B registration system and otherwise ensure the system and process work correctly.

Once USCIS implements the system and requires registration, USCIS will not consider an H–1B cap-subject petition to be properly filed unless it is based on a valid registration selection for the applicable fiscal year. *See* 8 CFR 214.2(h)(8)(iii)(A)(*1*) and (h)(8)(iii)(D). USCIS will reject or deny H–1B cap-subject petitions that are not properly filed. 8 CFR 214.2(h)(8)(iii)(D).

III. Legal Authority

The Immigration and Nationality Act (INA) authorizes DHS to establish and collect fees for adjudication and naturalization services to ''ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.'' INA section 286(m), 8 U.S.C. 1356(m). Through the collection of fees established under that authority, USCIS is primarily funded by immigration and naturalization fees charged to applicants, petitioners, and other requestors. *See* INA sections

[1] *See* 84 FR 888 (Jan. 31, 2019).

286(m) and (n), 8 U.S.C. 1356(m) and (n); 8 CFR 103.7(b)(1)(i) (USCIS fees). Fees collected from individuals and entities filing immigration benefit requests are deposited into the Immigration Examinations Fee Account (IEFA) and used to fund the cost of processing immigration benefit requests.[2] Consistent with that authority and USCIS's reliance on fees for its funding, DHS is proposing a fee for submitting H–1B registrations.

IV. Proposed Fee

DHS is proposing a $10 fee for each registration submitted to register for the H–1B cap selection process. Proposed 8 CFR 103.7(b)(1)(i)(NNN). DHS regulations require petitioners seeking to file H–1B petitions subject to the regular cap, including those eligible for the advanced degree exemption, to first electronically register with USCIS during a designated registration period, unless the registration requirement is suspended. *See* 8 CFR 214.2(h)(8)(iii)(A)(*1*). When registration is required, an H–1B cap-subject petition must be based on a selected registration for the named beneficiary for the applicable fiscal year to be considered properly filed. 8 CFR 214.2(h)(8)(iii)(A)(*1*) and (h)(8)(iii)(D). Because USCIS operations are funded by fees collected for adjudication and naturalization services, and USCIS must expend resources to implement and maintain the registration system, DHS is proposing a fee for submitting H–1B registrations to recover those costs. Generally, DHS sets USCIS fees based on the revenue needed to recover the full cost of all USCIS operations, absent any known Congressional appropriations. *See generally* 81 FR 73292 (Oct. 24, 2016). DHS establishes IEFA fees by using a USCIS activity-based cost model for assigning all projected IEFA costs to specific benefit requests in a manner reasonably consistent with OMB Circular A–25. *See* OMB Circular A–25, *User Charges* (Revised), para. 6, 58 FR 38142 (July 15, 1993). USCIS costs that are not attributed to a specific adjudication and naturalization service are distributed among all fees.[3] DHS then makes additional adjustments to effectuate specific policy objectives.[4] However, when DHS creates new USCIS programs through separate rulemakings that require adjudication resources, a fee is necessary to recover the costs of those resources even where the exact costs are difficult to estimate until the program is operational. For example, DHS created the Application for Provisional Unlawful Presence Waiver, Form I–601A, and established the filing fee for the Form I–601A as the same fee as USCIS Form I–601, Application for Waiver of Ground of Inadmissibility, because the adjudication time required for both forms was thought to be the same. *See, e.g.,* 77 FR 19902–01, at 19910 (Apr. 2, 2012). The actual burden of the Form I–601A adjudication was unknown because the program had not been implemented. Similarly, when DHS established the fee for the Application for Entrepreneur Parole, Form I–941, to recover the anticipated processing costs to USCIS, the fee was based on burden estimates and workload forecast provided by USCIS' subject matter experts. See, 81 FR 60130–68, at 60159 fn. 93 (Aug. 31, 2016) (providing that the fee would be adjusted in the future based on the actual average completion rate). DHS is also not establishing the H–1B registration fee using the same method that it uses to establish the overall USCIS fee schedule because, as with any totally new program, the costs of the registration program are difficult to project. Infrastructure investments generally, including information technology platforms, usually serve multiple programs and functions across all business needs for USCIS. Those types of investments are not tracked as costs of a specific benefit request. In this case, the H–1B Registration system will not be a totally separate system and will be established within a platform that supports other USCIS functions. Nevertheless, as explained below, DHS knows that the registration program will require USCIS to incur certain costs and burdens for iterative development, correcting problems, handling help desk calls, and adding or maintaining infrastructure. Therefore, DHS is authorized by INA section 286(m), 8 U.S.C. 1356(m), to recover these costs through a fee.

The H–1B registration final rule estimated that the H–1B registration process will be an overall cost savings to the government. DHS estimated that H–1B registration will save an estimated $1.6 million annually when it is required.[5] USCIS will, however, have to expend a total of about $1.5 million on the initial development of the registration website. This cost to the government is considered a one-time cost. At the time, DHS recognized that there may be a need to recover the costs of processing registrations as well as recover costs of building, operating, and maintaining the registration system or costs from refining the registration system in the future. *See* 84 FR 888, 903. DHS was not able to estimate these additional maintenance costs. Even if USCIS were not to collect the fee proposed in this rule, it would anticipate a net savings from the removal of costs associated with the management of the large volume of paper filings. USCIS continues to anticipate those cost savings. Regardless of the net benefits provided by the registration system over the current process, USCIS will still incur costs directly from operating the registration system. USCIS expects this $10 fee to help offset the startup costs, such as building the information technology platform. USCIS will not achieve the expected savings from the registration requirement during the implementation period, but USCIS will realize those savings in later years.

The H–1B registration final rule also estimated that the H–1B registration process will result in an average undiscounted cost savings for all unselected petitioners ranging from $42.7 million to $66.8 million annually, depending on who petitioners use to submit the registration.[6] In contrast, the H–1B registration final rule determined there would not be cost savings for petitioners whose registrations were selected; rather these petitioners would experience new opportunity costs ranging from between $6.2 million to $10.3 million annually due to the registration requirement.[7] In this proposed rule's Executive Order (E.O.) 12866 analysis, DHS estimates that the proposed $10 registration fee requirement would impose annual costs to registrants ranging from $2.3 million to $2.6 million, depending on who petitioners use to submit the

[2] *See* 81 FR 26904, 26905 (May 4, 2016).

[3] The USCIS model for IEFA fee calculations distributes indirect costs. Costs that are not assigned to specific fee-paying immigration benefit requests are reallocated to other fee-paying immigration benefit requests outside the model. For example, the model determines the direct and indirect costs for refugee workload. The costs associated with services provided for free, such as the refugee workload, are reallocated outside the model to fee-paying immigration benefit requests.

[4] DHS may reasonably adjust fees based on value judgments and public policy reasons where a rational basis for the methodology is propounded in the rulemaking. *See FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983).

[5] *See* 84 FR 888, 890.

[6] Unselected petitioners are those who submitted registrations but whose petitions were not selected toward the regular cap or toward the advanced degree exemption. *See* 84 FR at 940. *Note:* Following publication of the H–1B registration final rule, USCIS recognized a calculation error. The cost figures referenced in the paragraph above are the corrected cost savings.

[7] *See* 84 FR at 938.

registration. The total costs to petitioners for each registration would range from $15.63 to $30.80 for a registration, depending on who the petitioner uses to submit the registration. Therefore, DHS acknowledges that the proposed $10 fee for H–1B registrations would result in a marginal increase in costs for selected petitioners, and that the costs for such petitioners estimated in the H–1B registration final rule would now range from $8.5 million to $12.9 million,[8] depending on who petitioners use to submit the registration. Likewise, the costs savings for unselected petitioners estimated in the H–1B registration final rule would decrease and now range from $40.4 million to $64.2 million.[9] However, the H–1B registration process, even with the costs associated with the proposed registration fee requirement,[10] would still result in net estimated cost savings for all unselected petitioners.

Again, there are expected to be both initial start-up costs and recurring costs associated with the registration process. DHS intends for the registration system to be ready prior to the initial implementation of the H–1B registration process, which may be as soon as the H–1B cap filing season for FY 2021.[11] These initial costs will be funded by IEFA revenue from other fees. These initial costs will be sunk costs that will not reoccur annually.[12]

In addition to the estimated costs in the H–1B registration final rule, there would be recurring costs every year, such as information technology purchases, maintenance, and administrative costs. Administrative costs will include costs to implement the requirement that USCIS select a sufficient number of registrations, based on USCIS projections, for beneficiaries on whose behalf petitions will be filed under the H–1B regular cap or those who may be eligible for the advanced degree exemption from the submitted registrations. The selection process also includes administrative costs associated with monitoring the system for potential fraud and abuse (*e.g.* monitoring the system to determine if employers are submitting many registrations but filing petitions based on selected registrations at a significantly lower rate, which could reflect gaming of the system to unfairly improve their odds of being selected). The selection processes for the regular cap and the advanced degree exemption may occur multiple times in a fiscal year, depending on how many of the selected registrants file petitions.[13] The proposed $10 fee would recover these reoccurring costs that were not included in the H–1B registration final rule.

USCIS lacks sufficient data to estimate reoccurring costs for such items as associated employee salaries, benefits and training, hardware updates, and software maintenance.[14] Therefore, DHS is proposing a $10 fee that would provide revenue to mitigate potential fiscal effects on USCIS.[15] DHS estimated 192,918 H–1B cap-subject registrations annually.[16] The proposed $10 fee accordingly would generate $1,929,180 in revenue. This registration revenue would avoid funding the process with other IEFA fee revenue. While DHS does not know if the proposed $10 fee will fully fund the recurring costs of H–1B registration, we believe that proposing a small fee is better than funding the reoccurring costs with revenue from other fees.

The U.S. Government Accountability Office (GAO), an independent, nonpartisan agency that works for Congress, describes equity of federal user fees [17] as a balancing act between two principles:

- Beneficiary-pays; and
- Ability-to-pay.

Under the beneficiary-pays principle, the beneficiaries of a service pay for the cost of providing that service. If the general public benefits from the service, then taxes should pay for it. If a small subset of people benefit, then users should pay a fee for it. *See* GAO–08–386SP at pg. 7–12.

Under the ability-to-pay principle, those who are more capable of bearing the burden of fees should pay more for the service than those with less ability to pay. IEFA fee exemptions, fee waivers, and reduced fees for low income households adhere to this principle. *See generally* 8 CFR 103.7(b)(1), (c) (USCIS fees, exemptions and waivers). Applicants, petitioners, and requesters who pay a fee cover the cost of processing requests that are fee-exempt, fee-waived, or fee-reduced.

DHS believes the proposed $10 registration fee adheres to both of these user fee principles. Because this fee is designed to offset costs occurring with the new H–1B registration process, applying this fee at the point-of-registration on a per registration basis ensures that the fee is incurred by users specifically benefitting from the use of the registration system—the beneficiary pays principle. DHS also believes that a $10 registration fee adheres to the ability-to-pay-principle because H–1B petitioners have demonstrated an ability and willingness to incur significant filing fees to petition for H–1B nonimmigrant workers. H–1B petitioners currently pay a $460 filing fee per petition. In addition to the filing fee, certain H–1B petitions may have to pay up to $6,000 in statutory fees. DHS does not have the authority to adjust the amount of these statutory fees. USCIS does not keep most of the revenue. CBP receives 50 percent of the $4,000 9–11 Response and Biometric Entry-Exit fee and the remaining 50 percent is deposited into the General Fund of the

[8] Calculations: $6.2 million (cost to selected petitioner, lower bound) + $2.3 million (total costs of added registration fee, lower bound) = $8.5 million (cost for selected petitioner with added $10 registration fee, lower bound). $10.3 million (cost to selected petitioner, upper bound) + $2.6 million (total costs of added registration fee, upper bound) = $12.9 million (cost for selected petitioner with added $10 registration fee, upper bound).

[9] Calculations: $42.7 million (savings to unselected petitioner, lower bound) − $2.3 million (total costs of added registration fee, lower bound) = $40.4 million (savings for unselected petitioner with added $10 registration fee, lower bound). $66.8 million (savings to unselected petitioner, upper bound) − $2.6 million (total costs of added registration fee, upper bound) = $64.2 million (savings for unselected petitioner with added $10 registration fee, upper bound).

[10] As explained later in the preamble, based on 2016 filings, every unique petitioning employer files requests for an average of slightly less than 5 H–1B cap-subject workers. The average petitioning employer therefore would incur fee costs of approximately $50 as a result of this proposed rule.

[11] In the H–1B Registration final rule, DHS indicated that it is suspending the H–1B registration process for FY 2020, and indicated that it will publish a notice in the **Federal Register** in advance of the cap season in which it will first implement the H–1B registration process. 84 FR at 889.

[12] In the H–1B Registration final rule, DHS indicated that USCIS will have to expend a total of about $1.5 million in the initial development of the registration website. This cost to the government is considered a one-time cost. *See* 84 FR 888.

[13] The H–1B registration final rule recognizes that some selected registrants might not ultimately file petitions. *See* 84 FR 888, 906. The final rule, therefore, provides that unselected registrations will remain on reserve in the system for the applicable fiscal year. *See* 8 CFR 214.2(h)(8)(iii)(A)(*7*). If USCIS determines that it needs to increase the number of registrations projected to meet the H–1B regular cap or advanced degree exemption allocation, and select additional registrations, USCIS would select from among the registrations that are on reserve a sufficient number to meet the revised projection(s) or re-open the registration period if additional registrations are needed to meet the revised projection(s). *Id.*

[14] The H–1B registration process was recently established. *See* 84 FR 888 (Jan. 31, 2019). While the rule went into effect on April 1, 2019, the implementation of the registration process has been suspended for FY 2020 to allow USCIS to make modifications and fully test the electronic H–1B registration system.

[15] Commenters on the proposed rule stated that they were concerned that the system would be flooded by frivolous registrations. *See* 84 FR 899. Thus, while the purpose of the fee is to recover the costs of the system, the registration fee may have an added benefit of deterring frivolous registrations.

[16] *See* 84 FR at 925.

[17] U.S. Government Accountability Office, *Federal User Fees: A Design Guide* (May 29, 2008), available from *https://www.gao.gov/products/GAO-08-386SP,* visited Mar. 14, 2019.

Treasury. USCIS retains 5 percent of the $1,500 or $750 American Competitiveness and Workforce Improvement Act (ACWIA) fee. The remainder goes to the Department of Labor and the National Science Foundation. USCIS keeps one third of the $500 Fraud Detection and Prevention fee, while the remainder is split between the Department of State and the Department of Labor. These statutory fees are in addition to the current Form I–129 fee of $460 and optional premium processing fee of $1,410.[18] Given the significant amount of fees H–1B petitioners already incur, DHS believes that the proposed $10 registration fee is de minimis and consistent with the ability-to-pay-principle.

DHS acknowledges that if the proposed $10 fee is more than the cost to administer the registration process, then the fee would not adhere to the beneficiary-pays principle. In that case, the proposed $10 fee would subsidize other IEFA fees. Once the process is in place, USCIS will monitor registration volume and level of effort associated with registration selection. In accordance with the requirements and principles of the Chief Financial Officers Act (CFO Act) of 1990, 31 U.S.C. 901–03 and Office of Management and Budget (OMB) Circular A–25, USCIS conducts biennial reviews of the non-statutory fees deposited into the IEFA and proposes fee adjustments if necessary to ensure full cost recovery. If a registration fee is finalized as proposed, USCIS would evaluate the data on the registration fee during future biennial fee reviews to determine whether a fee adjustment is necessary to ensure full cost recovery.

V. Statutory and Regulatory Reviews

A. Executive Orders 12866 (Regulatory Planning and Review), and 13563 (Improving Regulation and Regulatory Review)

Executive Orders 12866 and 13563 direct agencies to assess the costs, benefits, and transfers of available alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Information and Regulatory Affairs (OIRA) has designated this rule a ''significant regulatory action''—although not an economically significant regulatory action—under section 3(f) of Executive Order 12866. Accordingly, OIRA has reviewed this rule.

1. Summary

DHS is proposing to amend its regulations to require a fee for each registration submitted to register for the H–1B cap selection process. DHS is proposing a fee of $10 per registration to recover some of the costs that are associated with implementing and maintaining the H–1B cap registration system. USCIS has suspended the registration requirement for the FY 2020 H–1B cap selection process. DHS recognizes that the registration requirement was established to provide efficiency savings to both USCIS and H–1B cap-subject petitioners associated with the current paper-based petitioning process. In the H–1B registration final rule, DHS estimated significant cost savings for both USCIS and those H–1B petitioners. DHS stands by that analysis and believes that USCIS would still reap significant efficiency and cost savings when comparing an electronic registration process relative to the current paper filing process. DHS acknowledges that the $10 registration fee would reduce some of the estimated cost savings for unselected H–1B cap-subject petitioners as described in the H–1B registration final rule. As discussed in the Regulatory Review section, DHS does not believe that the proposed registration fee would significantly factor into the decision-making of potential H–1B petitioners, nor does DHS believe that the proposed fee would be perceived as being cost-prohibitive by these potential H–1B petitioners. After the registration requirement is implemented and reviewed over the coming years, and if the proposed registration fee is finalized, DHS would consider the costs associated with the system as required during biennial fee reviews and adjust the registration fee accordingly via notice-and-comment rulemaking.

2. Analysis of Costs and Benefits

When registration is required, all petitioners seeking to file an H–1B cap-subject petition, including those eligible for the advanced degree exemption, must first electronically register with USCIS during a designated registration period. A separate registration must be submitted for each worker on whose behalf a petitioner seeks to file an H–1B cap-subject petition. Only those petitioners whose registrations are selected will be eligible to file an H–1B cap-subject petition during an associated filing period for the applicable fiscal year. Under this proposed rule, each registration would require the $10 proposed registration fee, which would be due and payable at the time of registration submission. A registration would not be considered as properly submitted until the fee is paid.[19] In the analysis accompanying the H–1B registration final rule, DHS estimated that 192,918 H–1B cap-subject registrations will be submitted annually based on 5-year historical average Form I–129 petition filings.[20] That estimate will form the baseline for the analysis of costs associated with the $10 registration fee being proposed. As DHS acknowledged in the H–1B registration final rule, the use of this historical average to form the baseline estimate does not factor in the possibility that the registration's lower barrier to entry could result in increasing the number of registrations that USCIS receives.[21] To account for this possibility, this analysis will present a range analysis of annual costs up through an escalator of 30 percent increase over the baseline estimate.

Table 1 presents the annual, undiscounted, aggregate costs associated with the proposed $10 registration fee using a range of escalations over the baseline estimate of registrations.

[18] *See* USCIS, H and L Filing Fees for Form I–129, Petition for a Nonimmigrant Worker, *https://www.uscis.gov/forms/h-and-l-filing-fees-form-i-129-petition-nonimmigrant-worker* (last updated/reviewed Feb. 20, 2018).

[19] *See* 8 CFR 103.2(a)(1) and 8 CFR 214.2(h)(8)(iii)(A)(*1*).

[20] *See* 84 FR at 925.

[21] *Id.*

TABLE 1—UNDISCOUNTED AGGREGATE COST ESTIMATES BY PROJECTED REGISTRATIONS

	Number of registrations	Annual cost—undiscounted
Baseline	192,918	$1,929,180
Baseline Plus 10%	212,210	2,122,100
Baseline Plus 20%	231,502	2,315,020
Baseline Plus 30%	250,793	2,507,930

USCIS is required to review the cost of its operations on a biennial basis and recommend fee adjustments as necessary. USCIS may adjust the filing fees for immigration benefits and services through notice-and-comment rulemaking. DHS used a 5-year period of analysis to account for a potential time lag of the fee review and the actual adjustment that occurs during the rulemaking cycle. Therefore, it is reasonable to conclude that a 5-year period would be a sufficient period for DHS to base the analysis of the estimated impact of this proposed registration fee.

In addition to the $10 registration fee, USCIS projects there would be a 7-minute additional time burden associated with reading the instructions and completing the electronic fee payment. In the H–1B registration final rule, DHS monetized time burdens based on who is expected to submit the registration: A human resource (HR) specialist; an in-house lawyer; or an outsourced lawyer.[22] The relevant wage is currently $32.11 [23] per hour for an HR specialist and $69.34 [24] per hour for an in-house lawyer. DHS accounts for worker benefits when estimating the opportunity cost of time by calculating a benefits-to-wage multiplier using the Department of Labor, BLS report detailing the average employer costs for employee compensation for all civilian workers in major occupational groups and industries. DHS estimates that the benefits-to-wage multiplier is 1.46 and, therefore, is able to estimate the full opportunity cost per applicant, including employee wages and salaries and the full cost of benefits such as paid leave, insurance, and retirement.[25] DHS multiplied the average hourly U.S. wage rate for HR specialists and lawyers by 1.46 to account for the full cost of employee benefits and overhead, for a total of $46.88 [26] per hour for an HR specialist and $101.24 [27] per hour for an in-house lawyer. DHS recognizes that a firm may choose, but is not required, to outsource the preparation of these petitions and, therefore, has presented two wage rates for lawyers. To determine the full opportunity costs if a firm hired an outsourced lawyer, DHS multiplied the average hourly U.S. wage rate for lawyers by 2.5 for a total of $173.35 [28] to approximate an hourly billing rate for an outsourced lawyer.[29] The monetized equivalent time burden for 7 minutes (0.12 hours) is $5.63,[30] $12.15,[31] and $20.80 [32] for an HR specialist, in-house lawyer, and outsourced lawyer, respectively.

Based on a review of historical filings, USCIS determined that approximately 75 percent of H–1B cap-subject petitions are filed by an attorney or accredited representative.[33] This analysis will carry that finding forward in estimating the time burden costs for complying with the proposed registration fee requirement. In other words, the analysis of time burden costs presented assumes that 25 percent of the registrations will be completed by an HR specialist or representative, and 75 percent of the registrations will be completed by an attorney, either in-house or outsourced. Table 2 presents the annual, undiscounted, time burden or opportunity costs associated with paying the registration fee electronically, assuming 7 minutes of time burden, over a range of estimated numbers of registrations and according to who submits the H–1B registration.

TABLE 2—ANNUAL TIME BURDEN COST (UNDISCOUNTED) BY PROJECTED REGISTRATIONS & TYPE OF SUBMITTER, ROUNDED

	Number of registrations	HR Specialist [34]	In-house lawyer [35]	Outsourced lawyer [36]
Baseline	192,918	$271,532	$1,757,965	$3,009,521
Baseline Plus 10%	212,210	298,686	1,933,764	3,310,476
Baseline Plus 20%	231,502	325,839	2,109,562	3,611,431
Baseline Plus 30%	250,793	352,991	2,285,351	3,912,371

[22] *See* 84 FR at 929.

[23] Bureau of Labor Statistics, U.S. Department of Labor, ''Occupational Employment Statistics, May 2018, Human Resources Specialist'': *https://www.bls.gov/oes/2018/may/oes131071.htm.* Visited April 26, 2019.

[24] Bureau of Labor Statistics, U.S. Department of Labor, ''Occupational Employment Statistics, May 2017, Lawyers'': *https://www.bls.gov/oes/2018/may/oes231011.htm.* Visited April 26, 2019.

[25] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour)/(Wages and Salaries per hour). *See* Economic News Release, U.S. Dep't of Labor, Bureau of Labor Statistics, Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group (September 2018), available at *https://www.bls.gov/news.release/archives/ecec_12142018.pdf* (viewed March 8, 2019). The ECEC measures the average cost to employers for wages and salaries and benefits per employee hour worked.

[26] Calculation: $32.11 * 1.46 = $46.88 total wage rate for HR specialist.

[27] Calculation: $69.34 * 1.46 = $101.24 total wage rate for in-house lawyer.

[28] Calculation: $69.34 * 2.5 = $173.35 total wage rate for an outsourced lawyer.

[29] *See* 83 FR at 24914 (May 31, 2018). The DHS analysis in, ''Exercise of Time-Limited Authority To Increase the Fiscal Year 2018 Numerical Limitation for the H–2B Temporary Nonagricultural Worker Program'' used a multiplier of 2.5 to convert in-house attorney wages to the cost of outsourced attorney wages. DHS believes the methodology used in the Final Small Entity Impact Analysis remains sound for using 2.5 as a multiplier for outsourced labor wages in this rule.

[30] Calculation: $46.88 hourly wage rate for HR specialist * 0.12 hours = $5.63.

[31] Calculation: $101.24 hourly wage rate for in-house lawyer * 0.12 hours = $12.15.

[32] Calculation: $173.35 hourly wage rate for outsourced lawyer * 0.12 hours = $20.80.

[33] *See* 84 FR at 925.

[34] Calculation: Number of Registrations * 25 percent * $5.63 (figures presented in the table are rounded to the nearest dollar).

[35] Calculation: Number of Registrations * 75 percent * $12.15 (figures presented in the table are rounded to the nearest dollar).

[36] Calculation: Number of Registrations * 75 percent * $20.80 (figures presented in the table are rounded to the nearest dollar).

Note that the cost estimates in Table 2 are overstated because they do not account for the scenario of fewer unique entities submitting registrations for multiple workers. DHS assumes that in those cases, the registration submissions would be done at the same time so the fee payment could be bundled. The DHS analysis in the H–1B registration final rule found that, on average, each employer submitted five petitions.[37] Thus, the estimate of undiscounted costs in Table 2, which is based on the assumption of one petitioning employer filing one petition, is likely overstated by approximately 80 percent. Estimates that are more likely to reflect the current business behavior of five petitions per employer, are presented in Table 3.

TABLE 3—ANNUAL TIME BURDEN COST (UNDISCOUNTED) BY PROJECTED REGISTRATIONS & TYPE OF SUBMITTER, LESS 80%

	Number of registrations	HR Specialist	In-house lawyer	Outsourced lawyer
Baseline	192,918	$54,306	$351,593	$601,904
Baseline Plus 10%	212,210	59,737	386,753	662,095
Baseline Plus 20%	231,502	65,168	421,912	722,286
Baseline Plus 30%	250,793	70,598	457,070	782,474

Therefore, the total, undiscounted, aggregate annual costs of both the proposed fee and time burden costs are presented in Table 4. The figures in Table 4 are found by adding the proportional costs presented in Table 1 (*i.e.* assume 25% of registrations are completed by HR specialist and 75 percent of registrations are completed by lawyers either in-house or outsourced) with the estimated costs for entities submitting registrations in Table 3.

TABLE 4—AGGREGATE COST (UNDISCOUNTED) BY PROJECTED REGISTRATIONS & TYPE OF SUBMITTER

	Number of registrations	HR specialist (table 3 + 25% of table 1)	In-house lawyer (table 3 + 75% of table 1)	Outsourced lawyer (table 3 + 75% of table 1)
Baseline	192,918	$536,601	$1,798,478	$2,048,789
Baseline Plus 10%	212,210	590,262	1,978,328	2,253,670
Baseline Plus 20%	231,502	643,923	2,158,177	2,458,551
Baseline Plus 30%	250,793	697,581	2,338,018	2,663,422

The lower bound aggregate cost estimate of complying with the proposed registration fee requirement is found by summing the estimated cost of using an HR specialist with the cost estimate of using in-house lawyers to complete the registration. The upper bound aggregate cost estimate is found by summing the estimated cost of using an HR specialist with the cost estimate of using outsourced lawyers to complete the registration. Table 5 presents the lower bound and upper bound aggregate cost estimates over the projected number of registrations for a 5-year period, discounted at 3 and 7 percent.

TABLE 5—TRANSFER COST ESTIMATES BY PROJECTED REGISTRATIONS OVER 5-YEAR PERIOD, DISCOUNTED AT 3% AND 7%

	Number of registrations	5-year discounted costs, 3%, ($ millions)		5-year discounted costs, 7%, ($ millions)	
		Lower bound	Upper bound	Lower bound	Upper bound
Baseline	192,918	$10.7	$11.8	$9.6	$10.6
Baseline Plus 10%	212,210	11.8	13.0	105.0	11.7
Baseline Plus 20%	231,502	12.8	14.2	11.5	12.7
Baseline Plus 30%	250,793	13.9	15.4	12.4	13.8

As discussed previously, while this proposed fee may not recover the full costs associated with implementing and maintaining the H–1B registration system, it would allow for USCIS to recover some of the costs, thus lessening the fiscal impact to USCIS. DHS does not anticipate this proposed registration fee to represent a significant business expense for those employers that seek to employ cap-subject H–1B workers. The total costs for each registration would range from $15.63 to $30.80 for a registration, depending on who the petitioner uses to submit the registration. Even with this proposed registration fee requirement, as discussed previously in the preamble, the registration process is still anticipated to result in a net benefit

[37] *See* 84 FR at 948 (January 31, 2019) for the FY 2016 cohort of H–1B cap-subject petitions selected. Of the 95,839 petitions selected, there were only 20,046 unique entities that filed those petitions. Calculation: 95,839/20,046 = 4.78.

relative to the paper-based petition process.

This proposed fee may also provide some unquantified benefits to the extent that the fee may deter frivolous registrations. DHS makes no conclusions on the impact that a $10 fee would have on the number of registrations and has no way to estimate such an impact. As stated in the H–1B registration final rule, however, commenters on the H–1B registration proposed rule expressed various concerns about potential ''flooding'' of the registration system. While there is no way to estimate if a small fee would further deter such acts, beyond the measures identified in the H–1B registration final rule (*e.g.,* the attestation requirement), DHS believes that it is reasonable to conclude that the existence of a $10 fee would reduce the likelihood that frivolous registrations would be submitted to flood or otherwise game the registration system. In any event, such a benefit would only be tangential to the fee's primary purpose of recovering USCIS costs.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires Federal agencies to consider the potential impact of regulations on small entities during the development of their rules. The term ''small entities'' comprises of small businesses, not-for-profit organizations that are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. An ''individual'' is not defined by the RFA as a small entity and costs to an individual from a rule are not considered for RFA purposes. In addition, the courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities. Consequently, any indirect impacts from a rule to a small entity are not considered as costs for RFA purposes.

This proposed rule would have direct impacts to those entities that petition on behalf of H–1B cap-subject workers. Generally, H–1B petitions are filed by a sponsoring employer; by proxy, once the online registration requirement is implemented, registrations would likewise be submitted by a sponsoring employer or their authorized representative. The employer intending to petition for an H–1B cap-subject worker would incur the registration fee costs of $10 per registration as proposed. Therefore, DHS examines the direct impact of this proposed rule on small entities in the analysis that follows.

DHS estimated that approximately 78 percent of selected H–1B petitioners were small entities after conducting an analysis of a statistically significant sample.[38] Therefore, DHS believes it is reasonable to carry this finding through and assume that approximately 78 percent, a majority, of H–1B registrations would be submitted by small entities. Thus, for purposes of the RFA, this proposed rule would impact a ''substantial'' number of small entities.

To determine whether the impact of the proposed registration filing fee would be ''significant,'' DHS must consider the estimated fee impacts of individual petitioning small entities. In the H–1B registration final rule, DHS found that the majority of petitioning employers tended to submit petitions for multiple employees. Based on a review of filings received in 2016, DHS determined that for every one unique petitioning employer, there were an average of 4.78 petitions submitted.[39] For purposes of this analysis, DHS is rounding that figure up to form a baseline assumption that for every one petitioning employer, a total of five H–1B cap-subject workers are requested. Therefore, it is reasonable to conclude that on average each petitioning employer that is a small entity would face a total fee impact of $50, plus a one-time monetized time burden impact ranging from $5.58 to $20.47, as a result of this proposed H–1B registration fee.[40]

In that same statistically valid sample study, DHS was able to determine the top 10 industries that petitioned for cap-subject H–1B workers.[41] The industry data, using the North American Industry Classification System (NAICS), is self-reported on USCIS Form I–129, Petition for Nonimmigrant Worker, which petitioning employers use to petition for H–1B workers. Table 6 shows a list of the top 10 NAICS industries that submitted H–1B cap-subject petitions in the sample study, and the corresponding size standard according to the SBA.

TABLE 6—TOP 10 NAICS INDUSTRIES SUBMITTING FORM I–129, SMALL ENTITY ANALYSIS RESULTS

Rank	NAICS code	NAICS U.S. industry title	Size standards in millions of dollars	Size standards in number of employees
1	541511	Custom Computer Programming Services	$27.5	
2	541512	Computer Systems Design Services	27.5	
3	561499	All Other Business Support Services	15.0	
4	541330	Engineering Services	15.0	
5	511210	Software Publishers	38.5	
6	541611	Administrative Management and General Management Consulting Services	15.0	
7	334413	Semiconductor and Related Device Manufacturing		1,250
8	541618	Other Management Consulting Services	15.0	
9	541690	Other Scientific and Technical Consulting Services	15.0	
10	325412	Pharmaceutical Preparation Manufacturing		1,250

Source: USCIS analysis based on small business size standards.

Note: The Small Business Administration (SBA) has developed size standards to carry out the purposes of the Small Business Act and those size standards can be found in 13 CFR, section 121.201.

[38] *See* 84 FR at 948–49.

[39] *See* 84 FR at 948, explaining that, for the FY 2016 cohort, 20,046 unique entities filed the 95,839 H–1B cap-subject petitions that were selected. Calculation: 95,839/20,046 = 4.78.

[40] Calculation: $10 (proposed registration fee) × 5 registrations (one for each H–1B worker being entered into the registration) = $50 total fee impact for employers.

[41] *See* 84 FR at 950.

SBA's monetary size standard is based on the average annual receipts of the business entity. As discussed previously, DHS has determined that the majority of H–1B petitioning employers would be classified as ''small'' for purposes of the RFA. However, comparing the expected total fee impact of $55.58 on the low-end for every small entity (assuming each entity submits approximately five registrations) results in a negligible cost impact relative to average annual receipts. In fact, for a cost of $55.58, a company would need to have annual receipts of only $5,558 for the cost of the fee to equal 1% of the annual receipts. If a company used an outsourced lawyer to petition for a visa at a cost of $152.35 ($30.47 filing fee plus time burden costs × 5 registrations) the company would need to have annual receipts of only $15,235 for the cost of the fee to equal 1% of the annual receipts.

SBA guidance on additional measures to determine whether a rule would have a significant impact suggest comparing the compliance cost to the labor costs.[42] In that guidance, SBA states that an impact could be significant if the compliance cost ''exceeds 5 percent of the labor costs of the entities in that sector.'' [43] In the annual report to Congress on the characteristics of H–1B workers for fiscal year 2017, USCIS determined the median annual compensation for initial employment across all occupations was $75,000.[44] Furthermore, the median annual compensation for initial employment across known occupations ranged from a low of $42,000 to a high of $160,000.[45] This proposed rule is estimated to result in compliance costs that represent much less than 5 percent of the H–1B labor costs.

Based on these findings, DHS certifies that while this proposed rule could impact a substantial number of small entities, the impact that would arise from the proposed $10 registration fee would not result in a significant impact. Therefore, the Secretary certifies that this proposal would not cause a significant impact to a substantial number of small entities.

C. Other Regulatory Requirements

This proposed rule is not a ''major rule'' as defined by the Congressional Review Act, 5 U.S.C. 804(2), and thus is not subject to a 60-day delay in the rule becoming effective. This action is not subject to the written statement requirements of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Orders 13132 or 13175. This proposed rule also does not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(2)(ii) and 1508.4. This action would not affect the quality of the human environment and fits within Categorical Exclusion number A3(d) in Dir. 023–01 Rev. 01, Appendix A, Table 1, for rules that interpret or amend an existing regulation without changing its environmental effect.

D. Expedited Comment Period

Section 6(a)(1) of E.O. 12866 requires an agency to afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. DHS has found it necessary to provide a 30-day comment period for this proposed rule. USCIS intends for the fee proposed in this rule to be in place before the H–1B registration process is initially implemented, which may be as soon as the H–1B cap filing season for FY 2021.[46] The requirements for developing, publishing and responding to comments on a rulemaking will require much of the time that DHS needs to put the fee and registration process in place, and the additional 30-days of comment period would put DHS at risk of not having the fee in place before the registration period begins. The population affected by this rule is not vast, and the issues addressed by it are relatively insular. Therefore, DHS has concluded that the need for the certainty in having the fee established or not, justifies a 30-day comment period.

As discussed in the following section, as required by 5 CFR 1320.8(d)(1), DHS is providing a 60-day public comment period for the revisions to the approved collection of information that would be required by this rule. DHS will read, consider, draft responses, and revise the rule as necessary while the additional comments on the registration system and information collections continue to be received.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3512, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. DHS and USCIS invite the general public and other Federal agencies to comment on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the respective information collections. DHS is revising the information collections for two USCIS currently approved OMB control numbers as follows.

H–1B Registration Tool

DHS and USCIS are revising this information collection to report a change in the estimated annual cost to the Federal government as a result of the proposed rule. Additionally, the information collection instrument has been revised to include language about the proposed fee.

Comments are encouraged on the proposed revisions to the information collection instruments and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0144 in the body of the letter and the agency name. To avoid duplicate submissions, please use only *one* of the methods under the **ADDRESSES** and Public Participation section of this rule to submit comments. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

[42] *See* U.S. Small Business Administration, *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act,* The RFA threshold analysis: Can we certify? at Pg. 19, *https://www.sba.gov/sites/default/files/advocacy/How-to-Comply-with-the-RFA-WEB.pdf.* Visited Apr. 16, 2019.

[43] *Id.*

[44] *See* U.S. Citizenship and Immigration Services, *Characteristics of H–1B Specialty Occupation Workers, Fiscal Year 2017 Annual Report to Congress,* at Table 11, *https://www.uscis.gov/sites/default/files/reports-studies/Characteristics-of-Specialty-Occupation-Workers-H-1B-Fiscal-Year-2017.pdf.* Visited Apr. 16, 2019.

[45] *Id.*

[46] USCIS will announce the start of the initial registration period at least 30 calendar days in advance of such date. *See* 84 FR at 898–99. 8 CFR 214.2(h)(8)(iii)(A)(*3*).

e.g., permitting electronic submission of responses.

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* H–1B Registration Tool.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. USCIS uses the data collected on this form to determine which employers will be informed that they may submit a USCIS Form I–129, Petition for a Nonimmigrant Worker, to petition for a beneficiary in the H–1B classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection H–1B Registration Tool is 192,918 and the estimated hour burden per response is 0.5 hours. Any additional time burden for fee payment processing is captured in the information collection USCIS Electronic Fee Payment Processing (OMB 1615–0131).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 96,459 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total cost burden for purchases of equipment or services to achieve compliance with the information collection requirements of this rule (not including providing information to or keeping records for the government, or kept as part of customary and usual business or private practices), are $0.[47] There are no capital, start-up, operational or maintenance costs to respondents associated with this collection of information.

USCIS Electronic Payment Processing

DHS is revising this information collection to add an estimated 192,918 new respondents that would be required to utilize it to pay their H–1B Registration fee.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0131 in the body of the letter and the agency name. To avoid duplicate submissions, please use only *one* of the methods under the **ADDRESSES** and I. Public Participation section of this rule to submit comments. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* USCIS Electronic Payment Processing.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1450; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. USCIS allows for credit card payments via Form G–1450 and via the *pay.gov* online portal. Form G–1450 facilitates credit card payments for paper-filed benefit requests submitted through the USCIS Lockbox. Credit card information is collected on Form G–1450 to allow USCIS to track payment of the fee necessitated by the respondent's activity with USCIS, and to reconcile the payment received in the Treasury, Financial Management Service, Federal Financial Management System (FFMS) with the respondent's file. Credit card payments for electronically filed benefit requests are handled through the *pay.gov* online portal. USCIS does not receive credit card information for respondents using the *pay.gov* portal. USCIS only receives confirmation of payment and tracking details to allow matching of the payment with the benefit request filed. H–1B registrations can only be submitted electronically, so all H–1B registration fees will be processed through the *pay.gov* online portal.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection USCIS Electronic Payment Processing, where respondents are individuals or households, is 1,805,284 and the estimated hour burden per response is 0.12 hours; the estimated total number of respondents for the information collection Form G–1450 is 1,017,839 and the estimated hour burden per response is 0.12 hours; the estimated total number of respondents for the information collection USCIS Electronic Payment Processing, where respondents are businesses or other small entities, is 658,548 and the estimated hour burden per response is 0.12 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 417,800.52 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with the collection of information associated with this rulemaking, including purchases of equipment or services to achieve regulatory compliance, providing information to, or keeping records for the government are $0.[48] There is no cost to respondents for paying a fee to USCIS.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements.

Accordingly, DHS is proposing to amend chapter I of title 8 of the Code of Federal Regulations as follows:

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1356b, 1372; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Pub. L. 112–54, 125 Stat 550.

[47] As stated elsewhere in this rule, the annual transfer cost for registrants associated with the proposed $10 fee is $1,929,180.

[48] As stated elsewhere in this rule, the estimated opportunity cost for registrants to provide the information necessary to pay the proposed fee could range from $215,000 to $789,000 depending on who submits the payment.

■ 2. Section 103.7 is amended by adding paragraph (b)(1)(i)(NNN) to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(NNN) *Registration requirement for petitioners seeking to file H–1B petitions on behalf of cap-subject aliens.* For each registration submitted to register for the H–1B cap or advanced degree exemption selection process: $10. This fee will not be refunded if the registration is not selected or is withdrawn.

* * * * *

Kevin K. McAleenan,

Acting Secretary.

[FR Doc. 2019–18962 Filed 9–3–19; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2018–BT–TP–0004]

RIN 1904–AE36

Energy Conservation Program: Test Procedures for Cooking Products

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

ACTION: Notice of public meeting and extension of public comment period.

SUMMARY: On August 9, 2019, the U.S. Department of Energy (''DOE'') published in the **Federal Register** a notice of proposed rulemaking (''NOPR'') to withdraw the test procedure for conventional cooking tops. The August 9, 2019 NOPR announced that the details of a public meeting would be provided in a subsequent notice published in the **Federal Register** and stated that public comments will be accepted until October 8, 2019. DOE is announcing that a public meeting will be held on October 9, 2019, which will also be available as a webinar. Given the date of the meeting, DOE is extending the public comment period for submitting comments and data on the NOPR by 14 days to October 22, 2019.

DATES: *Meeting:* DOE will hold a public meeting on Wednesday, October 9, 2019, from 10:00 a.m. to 3:00 p.m. The meeting will also be broadcast as a webinar. In addition, the comment period for the NOPR published on August 9, 2019 (84 FR 39211), is extended. DOE will accept comments, data, and information regarding this proposed rulemaking received no later than October 22, 2019.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room BE–089, 1000 Independence Avenue SW, Washington, DC 20585.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2018-BT-TP-0004.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or regarding a public meeting, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: On August 9, 2019, the U.S. Department of Energy (''DOE'') published in the **Federal Register** a notice of proposed rulemaking (''NOPR'') and request for comment to withdraw the test procedure for conventional cooking tops. 84 FR 39211 The August 9, 2019 NOPR stated that the details of a public meeting would be provided in a subsequent notice published in the **Federal Register** and that public comments will be accepted until October 8, 2019.

This notice announces that DOE will hold a public meeting to discuss the proposed withdrawal of the conventional cooking tops test procedures on October 9, 2019. The public meeting will also be available as a webinar. This notice extends the public comment period for submitting comments and data on the NOPR by 14 days to October 22, 2019.

See section V, ''Public Participation,'' of the NOPR published on August 9, 2019, for additional information on submitting comments. *Id.*

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *https://www.energy.gov/eere/buildings/how-participate-or-comment.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Attendance at Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *Appliance_Standards_Public_Meetings@ee.doe.gov.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (''DHS''), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. DHS maintains an updated website identifying the State and territory driver's licenses that currently are acceptable for entry into DOE facilities at *https://www.dhs.gov/real-id-enforcement-brief.* Acceptable alternate forms of Photo-ID include a U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card

issued by States and territories identified on the DHS website (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID; or other Federal government issued Photo-ID card.

C. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

D. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

Signed in Washington, DC, on August 27, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2019–19051 Filed 9–3–19; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064–AF02

Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is seeking comment on proposed revisions to its regulations relating to interest rate restrictions that apply to less than well capitalized insured depository institutions. Under the proposed rule, the FDIC would amend the methodology for calculating the national rate and national rate cap for specific deposit products. The national rate would be the weighted average of rates paid by all insured depository institutions on a given deposit product, for which data are available, where the weights are each institution's market share of domestic deposits. The national rate cap for particular products would be set at the higher of the 95th percentile of rates paid by insured depository institutions weighted by each institution's share of total domestic deposits, or the proposed national rate plus 75 basis points. The proposed rule would also greatly simplify the current local rate cap calculation and process by allowing less than well capitalized institutions to offer up to 90 percent of the highest rate paid on a particular deposit product in the institution's local market area.

DATES: Comments will be accepted until November 4, 2019.

ADDRESSES: You may submit comments on the notice of proposed rulemaking using any of the following methods:

- *Agency website: https://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–AF02 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *https://www.fdic.gov/regulations/laws/federal.* Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, or by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Legal Division: Vivek V. Khare, Counsel, (202) 898–6847, *vkhare@fdic.gov;* Thomas Hearn, Counsel, (202) 898–6967, *thohearn@fdic.gov;* Division of Risk Management Supervision: Thomas F. Lyons, Chief, Policy and Program Development, (202) 898–6850, *tlyons@fdic.gov;* Judy Gross, Senior Policy Analyst, (202) 898–7047, *jugross@fdic.gov*.

SUPPLEMENTARY INFORMATION:

Policy Objectives

On December 18, 2018, the FDIC Board adopted an advance notice of proposed rulemaking (ANPR) to obtain input from the public on its brokered deposit and interest rate regulations in light of significant changes in technology, business models, the economic environment, and products

since the regulations were adopted.[1] As described in the ANPR, interest rates have been rising, however the national rate that is used to calculate rate caps applicable to less than well capitalized banks has stayed low because of market dynamics, including the introduction of new deposit products and features. In an effort to ensure that the national rate cap is reflective of the prevailing rates offered by institutions, the FDIC sought comment on all aspects of its regulatory approach relating to the interest rate restrictions, and specifically asked for comment on potential changes to the methodology used to calculate the national rate. The policy objective of this NPR is to seek comment on a proposal that attempts to ensure that deposit interest rate caps appropriately reflect the prevailing deposit interest rate environment, while continuing to ensure that less than well capitalized institutions do not solicit deposits by offering interest rates that significantly exceed prevailing rates on comparable deposit products. The FDIC anticipates that another NPR that addresses policy issues related to brokered deposits more generally will be issued at a later date.

I. Background

Section 224 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) added section 29 to the Federal Deposit Insurance (FDI) Act titled ''Brokered Deposits.'' The law originally restricted ''troubled'' insured depository institutions without a waiver from (1) accepting deposits from a deposit broker and (2) soliciting deposits by offering rates of interest on deposits that are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions (''institutions'' or ''banks'') having the same type of charter in such depository institution's normal market area.[2] Section 29 defined a ''troubled institution'' as an undercapitalized institution. Congress took further action two years later by enacting the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). As part of FDICIA, Congress made several amendments to align section 29 of the FDI Act with the prompt corrective action (PCA) framework.[3] One of these amendments broadened the applicability of section 29 from ''troubled institutions'' (*i.e.,* undercapitalized banks) to any insured depository institution that is not well capitalized.

Statutory Provisions Related to the Interest Rate Restrictions

Under section 29, well capitalized institutions are not restricted in paying any rate of interest on any deposit. However, the statute imposes interest rate restrictions on categories of insured depository institutions that are less than well capitalized. These categories are (1) adequately capitalized institutions with waivers to accept brokered deposits (including reciprocal deposits excluded from being considered brokered deposits);[4] (2) adequately capitalized institutions without waivers to accept brokered deposits;[5] and (3) undercapitalized institutions.[6] The statutory restrictions for each category are described in detail below.

Adequately capitalized institutions with waivers to accept brokered deposits. Institutions in this category may not pay a rate of interest on deposits that ''significantly exceeds'' the following: ''(1) The rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or (2) the national rate paid on deposits of comparable maturity, as established by the [FDIC], for deposits accepted outside the institution's normal market area.''[7]

Adequately capitalized institutions without waivers to accept brokered deposits. In this category, institutions may not offer rates that ''are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.''[8] For institutions in this category, the statute restricts interest rates in an indirect manner. Rather than simply setting forth an interest rate restriction for adequately capitalized institutions without a waiver to accept brokered deposits, the statute defines the term ''deposit broker'' to include ''any insured depository institution that is not well capitalized . . . which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.''[9] In other words, the depository institution itself is a ''deposit broker'' if it offers rates significantly higher than the prevailing rates in its own ''normal market area.'' Without a waiver, the institution cannot accept deposits from a ''deposit broker.'' Thus, the institution cannot accept these deposits from itself. In this indirect manner, the statute prohibits institutions in this category from offering rates significantly higher than the prevailing rates in the institution's ''normal market area.''

Undercapitalized institutions. In this category, institutions may not solicit deposits by offering rates ''that are significantly higher than the prevailing rates of interest on insured deposits (1) in such institution's normal market area; or (2) in the market area in which such deposits would otherwise be accepted.''[10]

II. Regulatory Approach

The FDIC has implemented the statutory interest rate restrictions through two rulemakings.[11] While the statutory provisions noted above set forth a basic framework based upon capital categories, they do not provide certain key details, such as definitions of the terms ''significantly exceeds,'' ''significantly higher,'' ''market,'' and ''national rate.'' As a result, the FDIC defined these key terms via rulemaking in 1992. Both the ''national rate'' calculation and the application of the interest rate restrictions were updated in a 2009 rulemaking.

''Significantly Exceeds'' or ''Significantly Higher.''[12] Through both the 1992 and the 2009 rulemakings, the FDIC has interpreted that a rate of interest ''significantly exceeds'' another rate, or is ''significantly higher'' than another rate, if the first rate exceeds the second rate by more than 75 basis points.[13] In adopting this standard in 1992, and subsequently retaining it in 2009, the FDIC offered the following explanation: ''Based upon the FDIC's experience with the brokered deposit prohibitions to date, it is believed that this number will allow insured depository institutions subject to the

[1] The ANPR was published for comment in the **Federal Register** on February 6, 2019. (84 FR 2366)

[2] Public Law 101–73, August 9, 1989, 103 Stat. 183.

[3] The PCA capital thresholds are: (1) Well capitalized; (2) adequately capitalized; (3) undercapitalized; (4) significantly undercapitalized; and (5) critically undercapitalized.

[4] 12 U.S.C. 1831f(e).

[5] 12 U.S.C. 1831f(g)(3).

[6] 12 U.S.C. 1831f(h).

[7] 12 U.S.C. 1831f(e).

[8] 12 U.S.C. 1831f(g)(3).

[9] *Id.*

[10] 12 U.S.C. 1831f(h).

[11] 57 FR 23933 (1992); 74 FR 26516 (2009).

[12] The FDIC has not viewed the slight verbal variations in these provisions as reflecting a legislative intent that they have different meaning and so the agency has, through rulemaking, construed the same meaning for these two phrases.

[13] 12 CFR 337.6(b)(2)(ii), (b)(3)(ii) and (b)(4). The FDIC first defined ''significantly higher'' as 50 basis points. 55 FR 39135 (1990). As part of the 1992 rulemaking, commenters suggested that the FDIC define ''significantly higher'' as 100 basis points. In response, the FDIC defined ''significantly higher'' as 75 basis points.

interest rate ceilings . . . to compete for funds within markets, and yet constrain their ability to attract funds by paying rates significantly higher than prevailing rates.'' [14]

''Market.'' In the FDIC's regulations, as implemented through both the 1992 and 2009 rulemaking, the term ''market'' is ''any readily defined geographical area in which the rates offered by any one insured depository institution soliciting deposits in that area may affect the rates offered by other insured depository institutions in the same area.'' [15] The FDIC determines an institution's market area on a case-by-case basis.[16]

The ''National Rate.'' As part of the 1992 rulemaking, the ''national rate'' was defined as follows: ''(1) 120 percent of the current yield on similar maturity U.S. Treasury obligations; or (2) In the case of any deposit at least half of which is uninsured, 130 percent of such applicable yield.'' In defining the ''national rate'' in this manner, the FDIC understood that the spread between Treasury securities and depository institution deposits can fluctuate substantially over time but relied upon the fact that such a definition is ''objective and simple to administer.'' [17] By using percentages (120 percent, or 130 percent for wholesale deposits, of the yield on U.S. Treasury obligations) instead of a fixed number of basis points, the FDIC hoped to ''allow for greater flexibility should the spread to Treasury securities widen in a rising interest rate environment.'' Additionally, at the time of the 1992 rulemaking, the FDIC did not have readily available data on actual deposit rates paid and used Treasury rates as a proxy.

Prior to the 2009 rulemaking, yields on Treasury securities began to plummet, driven by global economic uncertainties, which resulted in a ''national rate'' that was lower than deposit rates offered by many institutions. As part of the 2009 rulemaking, with the benefit of having data on offered rates available on a substantially real-time basis, the FDIC redefined the ''national rate'' as ''a simple average of rates paid by all insured depository institutions and branches for which data are available.'' [18] At that time, the FDIC noted that the ''national rate'' methodology represents an objective average of rates paid by all reporting insured depository institutions for particular products.

The ''Prevailing Rate''

The FDIC has recognized, as part of its regulation on interest rate restrictions, that competition for deposit pricing has become increasingly national in scope. Therefore, through the 2009 rulemaking, the FDIC presumes that the prevailing rate in an institution's market areas is the FDIC-defined national rate.[19]

Application of the Interest Rate Restrictions

A bank that is not well capitalized generally may not offer deposit rates more than 75 basis points above the national rate for deposits of similar size and maturity.[20]

As noted above, the national rate is defined as a simple average of rates paid by all insured depository institutions and branches that offer and publish rates for specific products. These products include non-jumbo and jumbo CDs of various maturities, as well as savings, checking and money market deposit accounts (MMDAs).[21] The FDIC receives interest rate data on various deposit products from a private data aggregator on a weekly basis. The data aggregator computes the simple averages for the various deposit products as well as the corresponding national rate cap by adding 75 basis points to each simple average. The FDIC then publishes on a weekly basis the national rate simple averages and corresponding national rate caps on its website.[22]

If the posted national rates differ from the actual rates in a bank's local market area, the bank may present evidence to the FDIC that the prevailing rate in a particular market is higher than the national rate.[23] If the FDIC agrees with this evidence,[24] the institution would be permitted to pay as much as 75 basis points above the local prevailing rate for deposits solicited in its local market areas. For deposits that are solicited on the internet or otherwise outside its local market, the institution would have to offer rates that do not exceed the national rate cap. In evaluating this evidence, the FDIC may use segmented market rate information (for example, evidence by State, county or metropolitan statistical area). Also, the FDIC may consider evidence as to the rates offered by credit unions but only if the insured depository institution competes directly with the credit unions in the particular market.

III. Need for Further Rulemaking

The current interest rate cap regulations became effective in 2010 and were adopted to modify the previous national rate cap (based on U.S. Treasury securities) that had become overly restrictive. Chart 1 below reflects the current national rate cap and the average of the top ten rates paid for a 12-month CD between 2010 and the present.[25] Chart 1 illustrates that between 2010 and approximately the second quarter of 2015, rates on deposits were quite low, even for the top rate payers. The current regulation's methodology for calculating the national rate, to which 75 basis points is added to arrive at the national rate cap, resulted in a national rate cap that allowed less than well capitalized institutions to easily compete with even the highest rates paid on the 12-month CD.

[14] 57 FR 23933, 23939 (1992); 74 FR 26516, 26520 (2009).

[15] 57 FR 23933 (1992) and 74 FR 26516 (2009).

[16] 12 CFR 337.6(f).

[17] 57 FR 23933, 23938 (June 5, 1992).

[18] 74 FR 26516 (2009).

[19] 74 FR 26516 at 26519 (2009).

[20] 12 CFR 337.6(b)(2)(ii)(B). Well capitalized banks are not subject to the interest rate restrictions in § 337.6. However, a quantitatively ''well capitalized'' bank subject to a written agreement, order to cease and desist, capital directive, or prompt corrective action directive which includes a capital maintenance provision, is reclassified as adequately capitalized for § 337.6 purposes.

[21] Jumbo accounts are accounts with deposits greater or equal to $100,000.

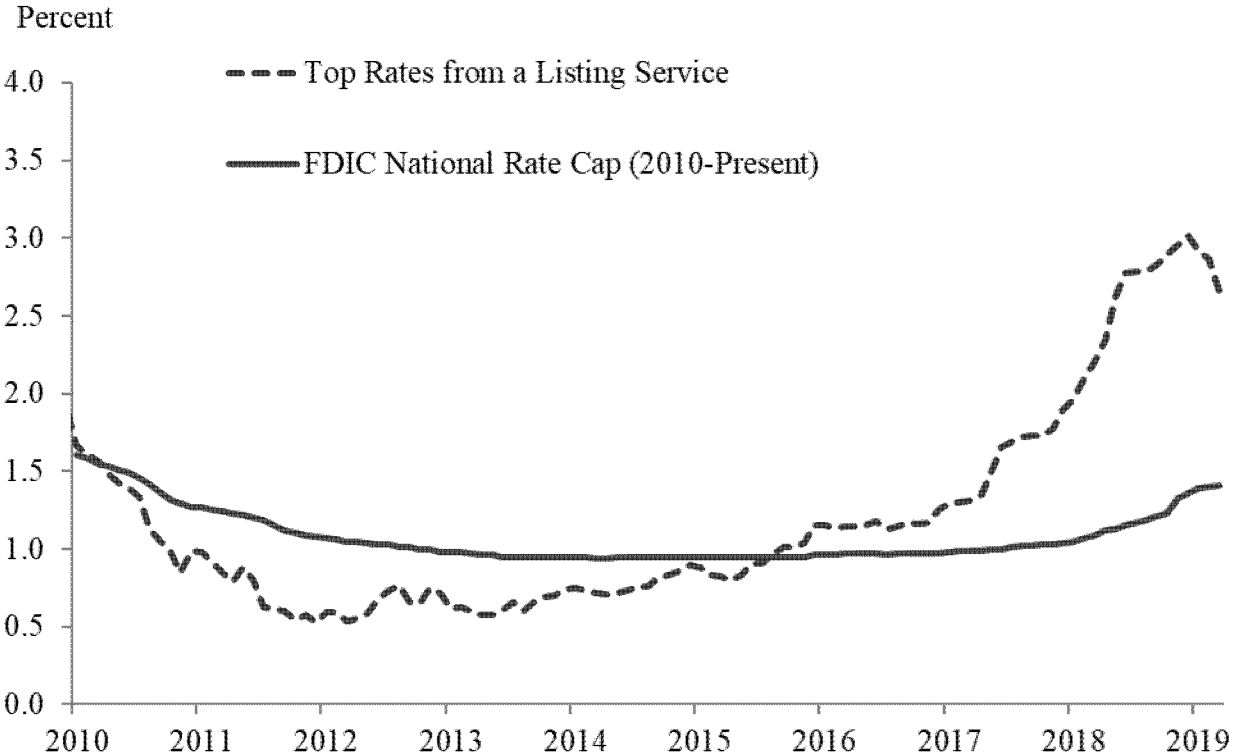
[22] Available at: *https://www.fdic.gov/regulations/resources/rates/.*

[23] 12 CFR 337.6(f).

[24] The procedures for seeking such a determination are set forth in FIL–69–2009 (December 4, 2009). As explained in the FIL, an insured depository institution can request a local rate determination by sending a letter to the applicable FDIC regional office. The institution should specify its market area(s). After receiving the request, the FDIC will make a determination as to whether the bank's market area is a high-rate area. If the FDIC agrees that the bank is operating in a high-rate area, the bank would need to calculate and retain evidence of the prevailing rates for specific deposits in its local market area. The question and answer attachment was revised in November 1, 2011.

[25] The average of the top ten rates paid for 12 month CDs is meant to illustrate a competitive offering rate for wholesale insured deposits and show the general direction of the movement of the market for deposit rates.

Chart 1—12-Month CD, Comparison of Listing Service Top Ten Average Payers and the FDIC National Rate Cap, 2010 to Present



Source: RateWatch, QwickRate. Rate caps shown for non-jumbo deposits (less than $100,000).

Since July 2015, however, market conditions have changed so the current national rate methodology results in a national rate for the 12-month CD that, when 75 basis points are added, produces a national rate cap that has remained relatively unchanged and could restrict less than well capitalized institutions from competing for market-rate funding. Market conditions have caused similar changes in the rates of other deposit products compared to the applicable rate cap, although the timing of when such changes occurred varied from product to product. Interest rates have been relatively low since the financial crisis that began in 2007. Towards the end of 2015, however, some banks began to increase rates paid on deposits as the Federal Reserve increased its federal funds rate targets. During this time, and up to the present day, the largest banks have been, on average, slower to raise interest rates on deposits (as published). This has held down the simple average of rates offered across all branches. Additionally, institutions, including the largest banks, have recently been offering more deposit products with special features, such as rewards checking, higher rates on odd-term maturities, negotiated rates, and cash bonuses, that are not included in the calculation of the posted national rate.

Because of these developments, the majority of the institutions subject to the interest rate caps have been granted approval to use the local rate cap for deposits obtained locally. The national rate cap, however, remains applicable to deposits that these institutions obtained from outside their respective normal market area, including through the internet.

Setting the national rate cap at a too low of a level could prohibit less than well capitalized banks from competing for deposits and create an unintentional liquidity strain on those banks competing in national markets. For example, a national rate cap that is too low could destabilize a less than well capitalized bank just as it is working on improving its financial condition. Preventing such institutions from being competitive for deposits, when they are most in need of predictable liquidity, can create severe funding problems. Additionally, a rate cap that is too low may be inconsistent with the statutory requirement that a firm is prohibited from offering a rate that ''significantly exceeds'' or is ''significantly higher'' than the prevailing rate. This could unnecessarily harm the institution and its customers, especially when liquidity planning is essential for safety and soundness. At the same time, however, the statute imposes interest rate restrictions on weak institutions. It has been the FDIC's experience that while some banks recover from problems, others use high-rate funding and other available funds, not to recover, but to delay insolvency—a strategy that could lead to increased losses for the deposit insurance fund.[26]

Consequently, the FDIC is proposing to modify its regulations to provide a more balanced, reflective, and dynamic national and local rate cap that will ensure that less than well capitalized institutions have the flexibility to access market-rate funding, yet prevent them

[26] *See e.g.,* OIG Failed Bank Review for Proficio Bank, February 2018, FBR–18–001, (*https://www.fdicoig.gov/sites/default/files/publications/FBR-18-001.pdf*).

from offering a rate that significantly exceeds the prevailing rate for a particular product, in accordance with Section 29.

Issues Raised by Commenters

In response to the ANPR on brokered deposits and interest rate restrictions, the FDIC received over 130 comments from individuals, banking organizations, non-profits, as well as industry and trade groups, representing banks, insurance companies, and the broader financial services industry. Of the total comments, 59 related to the FDIC's rules on the interest rate restrictions.

The majority of these commenters expressed concerns about the current national rate calculation and raised the same issues highlighted by the FDIC as part of the ANPR. Most commenters were of the view that the current national rate cap is too low. One reason cited by commenters was that the largest banks with the most branches have a disproportional effect on the national rate. These institutions have been slow to increase published rates even as interest rates offered by community banks and online-focused banks have begun to rise significantly in comparison. Many of these commenters suggested that this skewing effect is compounded by minimizing the significance of online-focused banks, which have few or no branches but tend to pay the highest rates. Commenters also noted that the national rate is low because published rates (1) tend to be lower than the actual interest paid on deposits after negotiation and (2) may not accurately reflect certain promotional or cash bonus products.

Some commenters stated that because of technological advances (*e.g.,* internet and smartphones) any depositor can shop nationwide for the best yield, so all institutions compete in the national market. As a result of this new way to access deposits, along with the variety of available deposit products, commenters suggested that no single formula or set of formulas would be able to accurately define the prevailing rate in an institution's normal market area, although commenters expressed a desire for a more dynamic approach. One commenter stated that there will always be constant evolution in the types of interest paid to depositors, and new entrants will continue to develop different products.

A number of commenters stated that the interest rate restrictions are penalizing less than well capitalized institutions and increase the likelihood of a liquidity failure because such institutions would be at a competitive disadvantage in raising deposit funding at the current rate caps.

Several commenters also raised concerns over examiners' use of the national rate cap as a proxy for ''high risk'' deposits for well capitalized banks. The FDIC has responded to these concerns by revising its Risk Management Supervision Manual of Examination Policies and clarifying to examiners that rate caps apply only to institutions that are less than well capitalized.[27]

One commenter believed that it would be inconsistent with Congressional intent for the FDIC to take action to modify interest rate restrictions in a manner that would allow less than well capitalized banks to accept high-rate deposits.

Recommendations Provided by Commenters

Many commenters provided recommendations for changing the national rate and national rate cap methodology. Commenters suggested the following changes:

- The national rate calculation should include all comparable deposit rates, including, for example, promotional CD products (*e.g.,* ''off-tenor'' terms), specials offered (*e.g.,* cash incentives), rewards checking products, and products that are available only in the online marketplace.
- The national rate calculation should include one entry per bank charter rather than the current approach that calculates the simple average of published rates by all branches.
- The national rate should be based on fixed income instruments such as U.S. Treasury yields or the Federal Home Loan Bank advance rate. Some of these commenters suggested that the current national rate cap should allow institutions to choose between the higher of the national rate cap set in the 1992 and the 2009 rulemaking. This would allow less than well capitalized institutions to offer rates at the higher of (1) 120, or 130 percent for wholesale deposits, of the U.S. Treasury yields plus 75 basis points and (2) the current national rate cap (simple average of all branches plus 75 basis points).
- The national rate calculation should be based on an average of the top listing service rates.
- Community banks should be able to use a more tailored local market rate that includes online rates, specials, and promotional rates.

Additionally, other commenters asserted that the interest rate restrictions should be eliminated and replaced with growth restrictions on banks that are undercapitalized or have serious asset quality issues.

In response to the issues raised by commenters, the FDIC seeks public comments on a proposal to amend the interest rate caps. The purpose of the proposed rule would be to ensure that the rate caps are more dynamic in that they remain reflective of the prevailing rates offered through all stages of the economic and interest rate cycles. Additionally, the proposed rule is intended to allow less than well capitalized insured depository institutions subject to the interest rate caps to reasonably compete for funds within markets, and yet, in accordance with Section 29, constrain them from offering a rate that significantly exceeds the prevailing rate for a particular product.

IV. Proposed Rule

The proposal would amend the national rate and both the national rate cap and the local rate cap. The proposal would also provide a new simplified process for institutions that seek to offer a local market rate that exceeds the national rate cap.

National Rate

The proposed national rate would be the weighted average of rates paid by all insured depository institutions on a given deposit product, for which data are available, where the weights are the institution's market share of domestic deposits. Through this proposal, the FDIC would continue to interpret the ''prevailing rates of interest . . . in an institution's normal market area'' to be the national rate, as defined by regulation. The key difference between the proposed national rate and the current national rate is that the calculation of the proposed national rate would be a weighted average based on an institution's share of total domestic deposits, while the current methodology is based on an institution's number of branches.

In determining the proposed national rate, the FDIC would calculate an average rate per institution for each specific deposit product that the institution offers, and for which data is available, including CDs of various tenors, as well as savings accounts, checking accounts and MMDAs. The national rate for a specific deposit

[27] *https://www.fdic.gov/regulations/safety/manual/section6-1.pdf.* For safe and sound operation, it is important for the management of any institution to assess and monitor the characteristics of its entire funding base, to understanding of the stability of all funding sources, and to identify potential funding shortfalls and sources that in a stress event may become unavailable or cost prohibitive. The FDIC is evaluating whether any further changes to the Manual are warranted.

product would then be calculated by multiplying each bank's rate by its amount of domestic deposits, summing these values, and dividing by the total amount of domestic deposits held by such institutions. Table 1 below presents data for a hypothetical deposit product. The national rate for this hypothetical deposit product would be 1.56 percent, the average of the rates offered by these banks, weighted by domestic deposits. Chart 2 compares the national rate under the current methodology weighted by branches to the proposed methodology weighted by deposits.

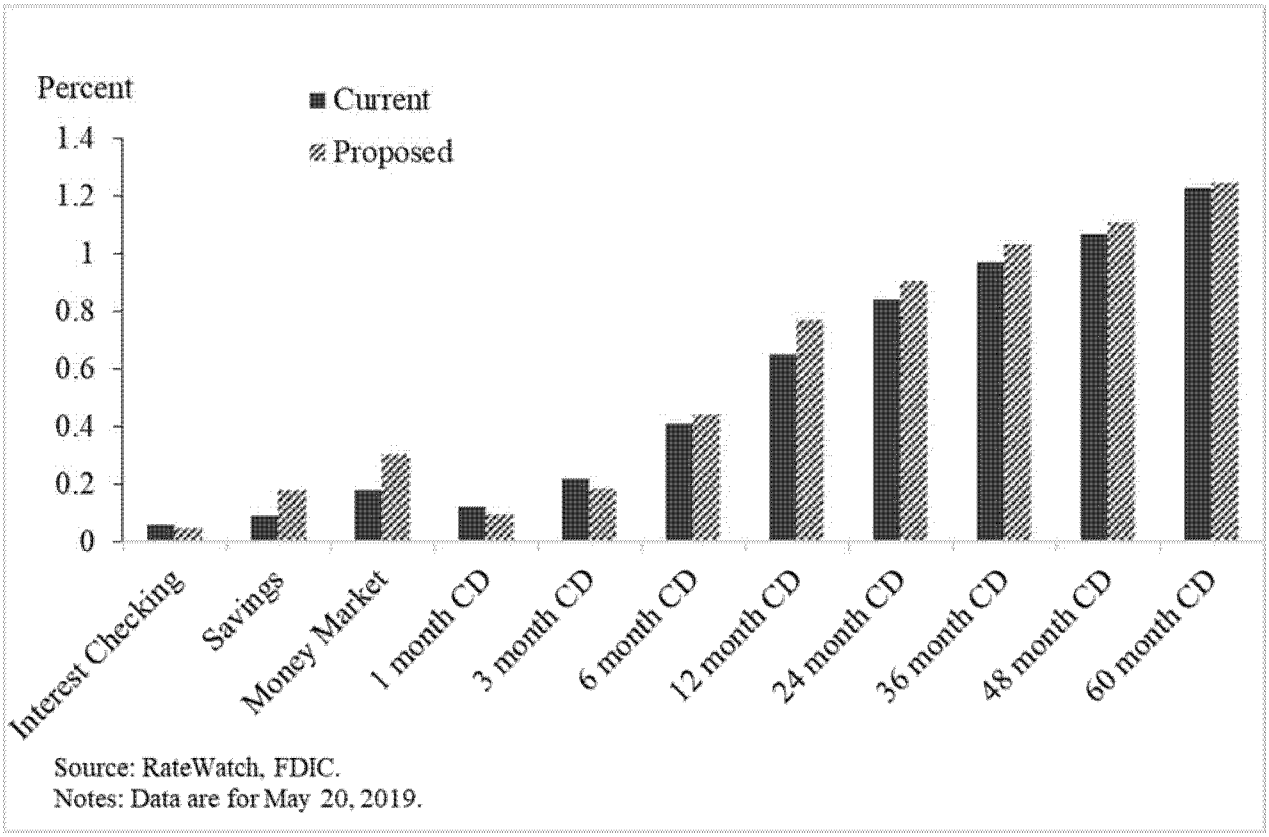
Calculation of the average using the weighted methodology:

$$\sum_{Bank\ M}^{Bank\ A} Domestic\ deposits * Rate\ Paid \Big/ \sum_{Bank\ M}^{Bank\ A} Domestic\ deposits = (3129.8/200000) = 1.56\%$$

TABLE 1

Bank	Total deposits	Share of industry deposits (%)	Rate (%)
Bank A	4,000	2.00	2.30
Bank B	3,000	1.50	2.25
Bank C	21,000	10.50	2.15
Bank D	4,000	2.00	2.05
Bank E	23,000	11.50	2.00
Bank F	12,000	6.00	1.99
Bank G	6,000	3.00	1.75
Bank H	76,000	38.00	1.45
Bank I	32,000	16.00	1.40
Bank J	3,000	1.50	1.00
Bank K	9,000	4.50	0.45
Bank L	2,000	1.00	0.25
Bank M	5,000	2.50	0.15
Total	200,000	100.00	N/A

Chart 2—Comparison of the Current National Rate and the Proposed National Rate for Various Deposit Products (as of May 20, 2019)



National Rate Cap

The proposal would interpret that a rate of interest ''significantly exceeds'' the prevailing rate, or is ''significantly higher'' than the prevailing rate, if the rate of interest exceeds the national rate cap. The national rate cap would be set to the higher of (1) the rate offered at the 95th percentile of rates weighted by domestic deposit share or (2) the proposed national rate plus 75 basis points. The FDIC would compute the permissible national rate cap applicable for different deposit products and maturities on a monthly basis, and would plan to publish such information on the FDIC's website on a monthly basis.[28]

Rates offered at the 95th Percentile. Through this proposal, one method for the national rate cap would be the rate offered at the 95th percentile of rates weighted by domestic deposit share. By definition, the rates that exceed this component of the national cap would be part of the top 5 percent of rates offered, weighted by domestic deposit share. In other words, setting the threshold at the 95th percentile would allow institutions subject to the interest rate restrictions to compete with all but the top five percent of offered rates, weighted by domestic deposit share. This standard is intended to set a reasonable proxy for rates that ''significantly exceed'' the prevailing rate in that the rate would allow less than well capitalized institutions to access market-rate funding. At the same time, it would constrain them from being at the very top of the market.

To determine the rate being offered at the 95th percentile, the FDIC would calculate an average rate per institution for each specific deposit product that the institution offers, and for which data is available, including CDs of various tenors, as well as savings, checking and MMDAs. These rates would be sorted by rate offered on the given deposit product from highest to lowest. An institution's percentile would be determined by taking the sums of the amounts of domestic deposits held by the institution and by all the institutions offering a lower rate, dividing that value by the total domestic deposits held by all institutions for which data is available. The rate offered by the bank whose percentile was the first at or above the 95th percentile would be the rate at the 95th percentile.

In Table 2 below, Bank C is the first institution offering a rate at or above the 95th percentile. Therefore, Bank C's rate of 2.15 percent would be the national rate cap for this hypothetical deposit product under the 95th percentile method.

$$\sum_{Bank\ M}^{Bank\ C} Domestic\ deposits \Big/ \sum_{Bank\ M}^{Bank\ A} Domestic\ deposits = (193000/200000) = 96.5\%$$

[28] FDIC would retain discretion to publish more or less frequently, if needed.

TABLE 2

Bank	Total deposits	Share of industry deposits (%)	Cummulative deposits	Percentile (%)	Rate (%)
Bank A	4,000	2.00	200,000	100.0	2.30
Bank B	3,000	1.5	196,000	98.0	2.25
Bank C	21,000	10.5	193,000	96.5	2.15
Bank D	4,000	2.0	172,000	86.0	2.05
Bank E	23,000	11.5	168,000	84.0	2.00
Bank F	12,000	6.0	145,000	72.5	1.99
Bank G	6,000	3.0	133,000	66.5	1.75
Bank H	76,000	38.0	127,000	63.5	1.45
Bank I	32,000	16.0	51,000	25.5	1.40
Bank J	3,000	1.5	19,000	9.5	1.00
Bank K	9,000	4.5	16,000	8.0	0.45
Bank L	2,000	1.0	7,000	3.5	0.25
Bank M	5,000	2.5	5,000	2.5	0.15

National Rate Plus 75 Basis Points. Through this proposal, the second method for the national rate cap methodology would be the proposed national rate plus 75 basis points. This method for the national rate cap would build upon the long-standing application that an amount that is 75 basis points above the average rates offered on a particular product is an appropriate proxy for a rate that ''significantly exceeds'' or is ''significantly higher'' than the prevailing rate. The 75 basis point add-on to this national rate cap would also provide needed flexibility during low-rate environments, or when the rate paid at the 95th percentile is low due to a convergence of rates being offered by banks with relatively large deposit shares for particular products. In such cases, the 95th percentile may not represent a rate that ''significantly exceeds'' or is ''significantly higher'' than the prevailing rate for particular deposit products.

Proposed Methodology

Weighting the national rate and the national rate cap by domestic deposits is more representative of the amount of deposits placed at offered rates than weighting by branches (which is a feature of the current method), particularly for internet-only banks that have a large share of deposits but few branches and tend to pay higher rates. Moreover, the use of percentiles decreases the effects of institutions that may be viewed as pushing down the average by offering very low published rates, but at the same time may offer special features, such as cash bonuses or negotiated rates, that result in an effective higher interest expense paid to depositors than is reflected in the published rates.

Additionally, utilizing a percentile methodology would improve the current national rate cap by providing a more dynamic calculation. This is because the distribution of rates offered often reflects a large mass of rates at the low end of the market and fewer rates offered at the high end of the market. As many commenters noted, this distribution has caused the current national rate caps (calculated using a simple average) to remain low even as more institutions begin to pay higher rates. Because one component of the proposed national rate cap would be based on rates paid at the 95th percentile, the effect of having a large mass of rates at the low end of the market would not be as pronounced.

There are, however, potential data limitations with this proposed methodology. The data gathered from third party sources is based upon information provided directly by institutions or made available via public sources. As such, some rates being offered for certain products are left unreported or unpublished and therefore may not be captured as part of the data set used to determine the national rate caps. If a rate offered by an institution that has a sizeable market share of total domestic deposits is not included in the data sources, then the national rate cap may not be truly reflective of the market. In addition, if the data is not consistently reported or captured, the national rate cap could be subject to fluctuations from month to month due to the methodology's use of weighting. To ensure that all reported rates are incorporated in the national rate cap, the FDIC would review the data it receives to ensure that all rate information that has been provided is incorporated [29] before making the national rate cap available on the FDIC's website.

There may also be other factors (*e.g.,* geopolitical changes, changes to the federal funds rate) that could have an impact on the rates being offered and may cause fluctuations in the national rate cap, given the proposed weighting by deposit share. Moreover, it is possible that one institution, or a few institutions, with a large deposit share could affect the national rate cap by withdrawing a product from the market or by introducing a product into the market. While such fluctuations, caused by factors other than data limitations, would be reflective of changes in the market, these changes could cause downward volatility in the national rate cap. In order to address the effect of this potential downward volatility, the FDIC proposes that, for institutions that are subject to the interest rate restrictions, any subsequent published national rate cap, that is lower than the previously published national rate cap, take effect 3 days after publication. The previously posted national rate cap would remain in effect during this 3-day period. Furthermore, in the event of a substantial unexpected decrease in the national rate cap, the FDIC would have the discretion to delay the date on which that national rate cap takes effect. Until the subsequent national rate cap takes effect, the previously published national rate cap would remain in effect.

Table 3 below compares the current and proposed national rate cap based upon the various deposit maturities using data from May 20, 2019,[30] and provides the applicable rate cap that is based upon the higher of the two proposed national rate caps.

[29] To the extent possible, staff plans to review the data for omissions that may have a significant impact on the national rate and national rate cap.

[30] Historical data are only available through the end of May 2019.

TABLE 3—COMPARISON OF THE CURRENT NATIONAL RATE CAP AND THE PROPOSED NATIONAL RATE CAP FOR VARIOUS DEPOSIT PRODUCTS (AS OF MAY 20, 2019)

Deposit products	Current national rate cap	Proposed national rate cap
Interest Checking	0.81	0.80*
Savings	0.84	1.05
MMDA	0.93	1.20
1 month CD	0.87	0.85*
3 month CD	0.97	0.94*
6 month CD	1.16	1.21
12 month CD	1.40	2.70
24 month CD	1.59	2.65
36 month CD	1.72	2.75
48 month CD	1.82	2.80
60 month CD	1.98	3.00

* For these products, the Proposed Rate Cap as of May 20, 2019, would be based on the weighted mean plus 75 basis points methodology as of March 2019.

Source: FDIC and RateWatch.

As part of this proposal, the FDIC would continue to publish the national rate cap for the on-tenor maturities noted above in Table 3.[31] If an institution seeks to offer a product with an off-tenor maturity for which a rate is not published by the FDIC, then the institution would be required to use the rate offered on the next lowest on-tenor maturity for that product as the applicable national rate cap. For example, an institution seeking to offer a 26-month CD product must use the rate offered for the 24-month CD product as the institution's national rate cap.

Historical Data. In determining the appropriateness of the proposed methodology for the national rate and national rate cap, the FDIC reviewed and considered the proposed national rate cap's progression over time relative to the current and previous rate caps and top rates from a listing service. Appendix 1 of this document provides charts with historical data for the various maturities. The charts illustrate that the proposed national rate cap set to the rate offered at the 95th percentile would be more reactive to and reflective of the fluctuations in the interest rate market than the current national rate cap for many of the maturities, particularly those with tenors of 6 months or more and MMDAs. To the extent that the rate offered at the 95th percentile is flat, and does not react to the top payers due to a convergence of rates among the banks with the largest deposit shares for particular deposit products (as currently seen with the interest checking product and the one and three month CDs), then the national rate plus 75 basis points would provide flexibility for institutions to remain competitive, while still satisfying the statutory interest rate restrictions applicable to less than well capitalized institutions.

Local Rate Cap

Since the 2009 rulemaking, competition for deposits among insured depository institutions continues to grow increasingly digital and therefore national in scope. Today, a consumer in any market, including rural markets, can access rates and shop for deposit products by checking a variety of websites. In light of this evolution, the proposal would continue to presume that the national rate cap applies to rates offered on all deposits by less than well capitalized institutions. However, because the FDIC's experience suggests some institutions still do compete for particular products within their local market areas, the proposal would continue to provide a local rate cap process.

Specifically, the proposal would allow less than well capitalized institutions to provide evidence that any bank and credit union in its local market offers a rate on particular deposit product in excess of the national rate cap. If sufficient evidence is provided, then the less than well capitalized institution would be allowed to offer 90 percent of the competing institution's rate on the particular product. This would replace the current methodology that requires the local rate cap to be the average of the rates offered by all competing institutions, which can include credit unions, for a particular product plus 75 basis points.

As part of this proposal, the FDIC would define an institution's market area as any readily defined geographical area, which may include the State, county or metropolitan statistical area, in which the insured depository institution solicits depositors by offering rates on a particular deposit product. Less than well capitalized institutions that solicit deposit products outside of their local market area, such as online listing services, would not be allowed to offer rates on those nationally-sourced deposit products in excess of the national rate cap, and therefore would not be eligible for a local rate cap determination for those products.

An institution's local market rate cap would be based upon the rate offered on a particular deposit product type and maturity period by an insured depository institution or credit union that is accepting deposits at a physical location within the institution's local market area. If a less than well capitalized institution seeks to offer a product with an off-tenor maturity that is not offered by competing institutions within its local market area, then the institution would use the rate offered on the next lowest on-tenor maturity for that product when determining its local market rate cap. For example, a less than well capitalized institution seeking to offer a 26-month CD product would use the rate offered for a competitor's 26-month product. In this way, an institution would be able to take into consideration rates offered on off-tenor

[31] On-tenor maturities include the following term periods: 1-month, 3-month, 6-month, 12-month, 24-month, 36-month, 48-month, and 60-month. All other term periods are considered off-tenor maturities for purposes of the interest rate restrictions.

maturity products in calculating a local rate cap. If a 26-month product was not being offered by a competitor, then the institution would use the rate offered on a 24-month CD product to calculate the institution's local market rate cap.

A less than well capitalized institution would not be permitted to calculate its local rate cap based on rates that are tied to a deposit balance. For example, if a competing institution offers different interest rates for different deposit balances for the same deposit maturity, the institution may not pick the highest rate from the competing institution's rates. The less than well capitalized institution should average the competing institution's interest rates for each size deposit within each maturity period.[32] In addition, a less than well capitalized institution would be permitted to use published rates only, rather than adjusting a competing institution's rates to reflect special features, such as cash incentives being offered by that competing institution, when calculating its local market rate cap.

Similarly, for time deposits, the FDIC would view lack of limits on withdrawals as a special feature. For example, if an institution is reviewing a competitor's rates on a CD with a five year stated maturity but only a one-month limit on withdrawals (or considering offering such a product itself), the FDIC would look to the substance of the product, which is more akin to a one-month CD, when considering a less than well capitalized institution's request for a local rate determination.

The proposal would also eliminate the current two-step process where less than well capitalized institutions request a high rate determination from the FDIC and, if approved, calculate the prevailing rate within local markets. Instead, a less than well capitalized institution would need to notify its appropriate FDIC regional office that it intends to offer a rate that is above the national rate cap and provide evidence that it is competing against an institution or credit union that is offering a rate in its local market area in excess of the national rate cap. As described above, the institution would then be allowed to offer 90 percent of the rate offered by a competitor in the institution's local market area. The institution would be expected to calculate the local rate cap monthly, maintain records of the rate calculations for at least two examination cycles and, upon the FDIC's request, provide the documentation to the appropriate FDIC regional office and to examination staff during any subsequent examinations.

The proposal to amend the local rate cap is intended to streamline the current local rate cap process and provide additional flexibility for less than well capitalized institutions to compete with local competition offering rates in excess of the national rate cap. This proposal would also address a popular promotional method of attracting new maturity deposits by offering higher rates on off-tenor products.

Treatment of Non-Maturity Deposits for Purposes of the Interest Rate Restrictions

For purposes of the interest rate restrictions, the FDIC has from time to time looked at the question of when non-maturity deposits in an existing account are considered ''accepted'' or ''solicited.'' The FDIC, through this proposal, is considering an interpretation under which non-maturity deposits are viewed as ''accepted'' and ''solicited'' for purposes of the interest rate restrictions at the time any new non-maturity deposits are placed at an institution.

Under this proposed interpretation, balances in a money market demand account or other savings account, as well as transaction accounts, at the time an institution falls below well capitalized would not be subject to the interest rate restrictions. However, if funds were deposited to such an account after the institution became less than well capitalized, the entire balance of the account would be subject to the interest rate restrictions. If, however, the same customer deposited funds into a new account and the balance in that account was subject to the interest rate restrictions, the balance in the initial account would continue to not be subject to the interest rate restrictions so long as no additional funds were accepted. Interest rate restrictions also generally apply to any new non-maturity deposit accounts opened after the institution falls to below well capitalized.

The term ''accept'' is also used in PCA-triggered restrictions related to brokered deposits and employee benefit plan deposits.[33] The FDIC plans to address in a future rulemaking when deposits are ''accepted'' for purposes of these PCA-related restrictions, both for non-maturity deposits, such as transaction accounts and MMDAs, as well as for certificates of deposits and other time deposits.

V. Alternatives

Below are alternatives that were considered, and on which the FDIC is seeking comment, as part of this proposed rulemaking.

Higher of Two Previous Rate Caps

As an alternative to replacing the 75 basis points as the threshold for ''significantly exceeds'' and the current simple average methodology for the national rate, the FDIC considered retaining the current threshold but modifying it so that, for a particular deposit product, the national rate cap would be 75 basis points added to the higher of: (1) The current simple average calculation; or (2) the methodology used by the FDIC between 1992 and 2009, *i.e.,* 120 percent or, 130 percent for wholesale deposits, of the applicable Treasury security rate, plus 75 basis points.

Several commenters suggested that the FDIC allow institutions to pay the higher of the previous national rate cap, which tracks the yields on comparable Treasury securities plus 75 basis points, or the current national rate cap. Chart 3 below shows the national rate cap based on Treasury securities from 1996 through the present. The chart also shows the current rate cap from 2009 forward, as well as the average of top rates from a listing service from 1996 to the present.

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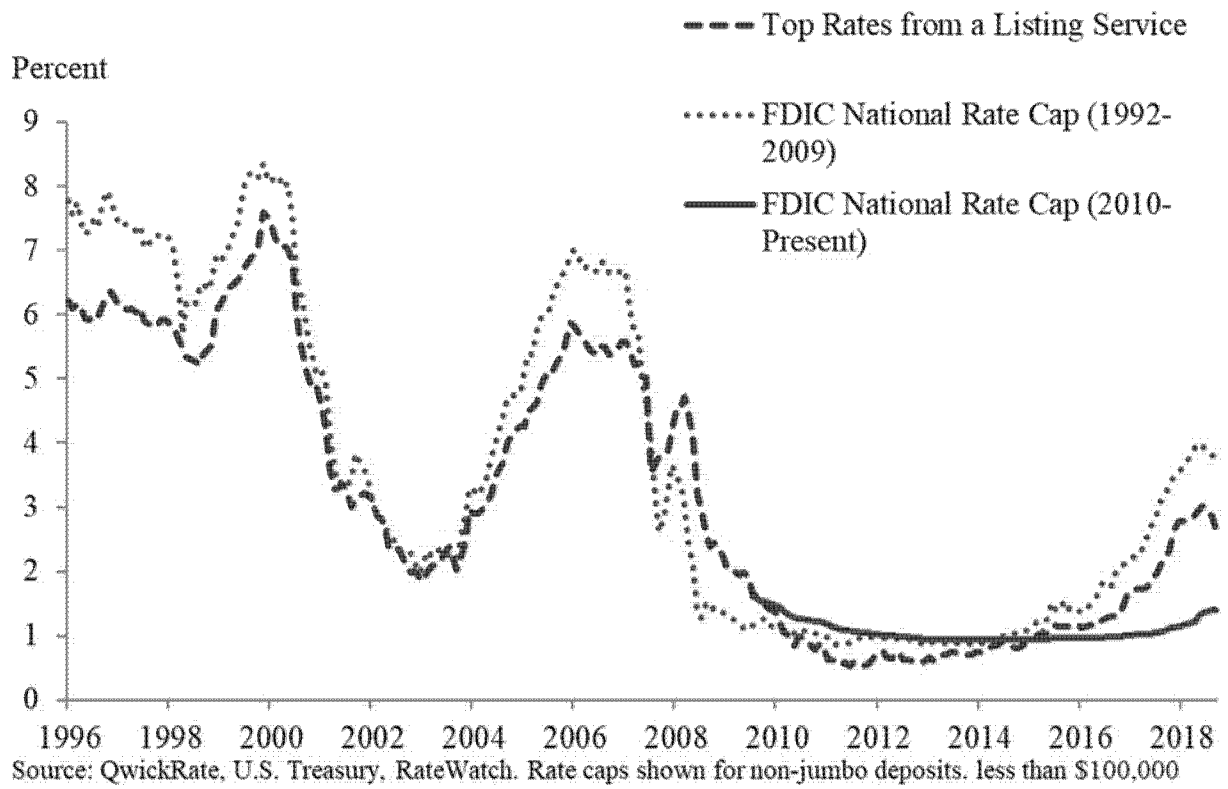
[32] For example, a competing institution may offer, on the same deposit product, 1 percent interest for a minimum deposit of $10,000 and 2 percent interest for a minimum deposit of $100,000. In such a case, for purposes of the local rate cap, the competing institution's interest rate would be 1.5 percent.

[33] See 12 U.S.C. 1821(a)(1)(D) and 1831f(a).

Chart 3—12 Month CD, Comparison of Top Listing Service Rates, the FDIC National Rate Caps in Effect from 1996 to 2009 and from 2010 to Present



Source: QwickRate, U.S. Treasury, RateWatch. Rate caps shown for non-jumbo deposits. less than $100,000

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Chart 3 illustrates the difficulties in determining a prevailing market rate that accurately reflects the true market value of different deposit products in changing economic environments. The method used to calculate the previous national rate cap (using U.S. Treasury securities) worked well for many years because rates on Treasury obligations tracked closely the rates on deposits. In 2008, however, the rates on Treasury obligations dropped dramatically because of a flight to quality during the financial crisis. Consequently, the yields on U.S. Treasuries fell faster than deposit rates and no longer tracked the rates available on deposits, thereby prompting the FDIC to change the national rate to the current simple average approach. The current approach provided institutions much needed relief during the post-crisis years up until 2015 when, as described above, rates started increasing and the national rate cap lagged behind. At the same time, however, because the current methodology was so permissive, it effectively made the interest rate restrictions non-constraining for less than well capitalized institutions for several years.

Today, with the benefit of having data to review the ability of previous and current national rate calculations to capture deposit market conditions, it is apparent that neither measure works in all interest rate environments. Given that the method used to calculate the national rate cap tied to U.S. Treasury securities works well under certain economic conditions (high-rate or rising-rate environments), and the current method of calculating the national rate cap works well under other economic conditions (falling-rate environment), the FDIC considered setting the national rate cap applicable to less than well capitalized institutions at the higher of the previous and current rate caps. The FDIC also considered whether the U.S. Treasury securities index would warrant a multiplier plus 75 basis points, as previously provided.

The FDIC believes that this alternative would be simple to administer and provide immediate and continuous relief to institutions subject to the interest rate restrictions. Using a fixed income product such as U.S. Treasury securities would also mitigate potential data limitations in determining a national rate based solely upon rates reported to third-party sources. However, U.S. Treasury securities are not deposit rates and, as indicated by the chart above, do not always track deposit rates. Also, U.S. Treasury securities do not have the necessary range of maturities that are prevalent with deposit products, particularly with the recent popularity of non-maturity deposits.[34] Moreover, there are certain rate environments in which neither alternative might be expected to yield a rate that ''significantly exceeds'' or is ''significantly higher'' than the prevailing rate, such as a high rate environment in which Treasury yields dropped precipitously while deposit rates remained constant.

Average of the Top-Payers

Some commenters suggested that the FDIC use an average of the top rates paid as the national rate cap. As an example, the FDIC could set the national rate cap based upon the average of the top-25 rates offered (by product type). Under this approach, the FDIC would interpret that a less than well capitalized institution ''significantly exceeds the prevailing rate in its normal market area'' if it offers a rate that is above the average of the top rates offered in the country. This approach would be simple to administer and the

[34] One option considered is to use the overnight Federal Funds rate in place of U.S. Treasury securities for the non-maturity deposit products.

FDIC would be able to provide real-time rate caps because it would no longer need to maintain and review the extensive data it receives from third party data providers to calculate averages.

At the same time, setting the ''prevailing rate'' based upon rates offered at the top of the market might be viewed as inconsistent with the FDIC's historical interpretation that the ''prevailing rates'' offered should include rates offered by all participants in the market. The subset of banks paying the highest rate may have a small market share and have little to no influence over competitive rates paid in the market. Further, this same small subset of banks could be significant outliers from the rates offered by the market.

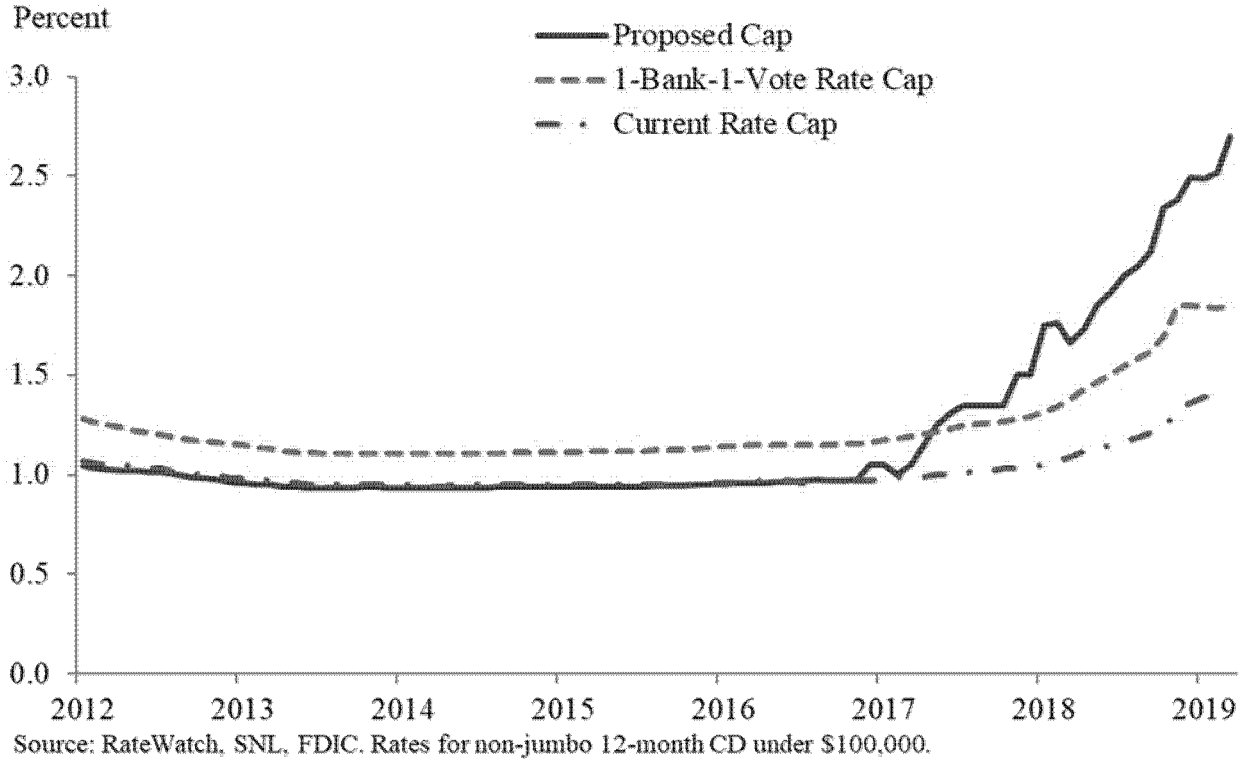
Incorporate Specials and Promotions Into the Current National Rate Calculation

Several commenters suggested that the FDIC change its methodology in calculating the current national rate and include additional inputs for the published rates, such as special negotiated rates or other monetary bonus offers. Calculating the national rate with these special features is problematic. Foremost, information regarding special features is not consistently provided by institutions to private publications. Additionally, the data provided by institutions on Call Reports is limited to a very broad category of interest expense on non-maturity deposits and maturity deposits on only a quarterly basis. Institutions do not provide details on the interest expense related to the variety of deposit products, particularly for maturity deposits.

One Vote per Institution

Commenters also recommended that published rates be limited to the highest rate offered by each depository institution. According to commenters, this would prevent a skewing effect on the national rate by the largest institutions with the most branches. In considering this alternative, the FDIC analyzed the impact of this change. The chart below compares, for the 12-month CD, the current national rate cap (using all branches) and the national rate rap using the highest rate offered by each IDI (in other words, each institution gets ''one vote''). The differences in rates range from 15 to 52 basis points, with a range of 25 basis points between 2012 through 2017, as illustrated in Chart 4 below.

Chart 4—Current and Proposed Rate Caps Compared to Rate Cap Using 1-Bank-1-Vote



Source: RateWatch, SNL, FDIC. Rates for non-jumbo 12-month CD under $100,000.

In the FDIC's view, the one-bank, one-vote approach, almost by definition would result in a national rate that may not be reflective of market rates currently being offered. Moreover, the FDIC believes that institutions with multiple branches and more deposits have a greater impact on competition and the market rates. Therefore, including branches or weighting by market share is a more reflective way to calculate the national rate.

Federal Home Loan Bank Borrowing Rate

Many commenters suggested that the FDIC amend the current national rate calculation and use the Federal Home Loan Bank (FLHB) borrowing rate for each maturity. The FDIC chose not to propose the FHLB borrowing rate for several reasons. The FHLB borrowing rate is not based upon rates offered by institutions,[35] but is instead based upon the cost of funds for FHLB member institutions and requires that FHLBs obtain and maintain collateral from their members to secure the advance. Collateral requirements and borrowing interest rates may also vary based on an insured depository institution's financial condition. Moreover, FHLB advances, unlike deposit products, are not insured and not guaranteed by the U.S. government. In addition, there are 11 different FHLB districts, all that establish their own rates that may vary between districts. As such, the FHLB borrowing rate would be an imprecise indicator of rates offered on deposits by insured depository institutions.

VI. Expected Effects

The interest rate restrictions apply to an insured depository institution that is less than well capitalized under the Prompt Corrective Action (PCA) capital regime. An institution may be less than well capitalized either because: (1) Its capital ratios fall below those set by the federal banking agencies for an institution to be deemed well capitalized; or (2) it otherwise meets the capital requirements for the well capitalized category, but is subject to a written agreement, order, capital directive, or prompt corrective action directive issued by its primary regulator that requires the institution to meet and maintain a specific capital level for any capital measure.[36]

Currently, very few insured depository institutions are less than well capitalized. As of March 30, 2019, there were 5,362 FDIC-insured institutions. Of these, 22 had capital ratios that put them in a PCA category lower than well capitalized and hence, potentially, affected by the proposed rule.[37] The FDIC reviewed deposit interest rate information for a sample of 17 of these institutions for which data were available. Twelve of the 17 paid deposit interest rates that were less than both the current and the proposed national rate caps. Five of these 17 institutions paid interest rates on a number of deposit products that exceeded the current national rate cap but were less than the proposed national rate cap. A few deposit products at three of the banks paid rates exceeding both the current and proposed national rate caps.

Deposit interest rates paid by less than well capitalized banks that exceed the current national rate cap reflect situations where banks avail themselves of the local rate cap process. By generally increasing the level of the national interest rate caps in the current interest rate environment, the proposal can be expected to reduce the need for less than well capitalized banks to avail themselves of the local rate cap process. This is expected to simplify liquidity planning for these institutions.

In some future less favorable economic and banking environment, where the number of less than well capitalized banks increases substantially, the effects of the rule would become more meaningful.

Conceptually, under the proposed rule, the national rate cap would appear more responsive to, and reflective of, changes in the interest rate environment than is the current national rate cap. This would likely reduce the potential for severe liquidity problems or liquidity failures at viable banks to arise solely as a result of the operation of the cap. The FDIC believes this aspect of the rule is important, although difficult to quantify given uncertainties about both the future interest rate environment and the future condition of banks.

Having a national interest rate cap that is more reflective of the interest rate environment may also result in lower losses to the DIF. In the last financial crisis, the FDIC encouraged mergers and problem asset reduction for problems banks while they were opened as well as innovations in franchise marketing for failed bank assets.[38] Inappropriately restricting banks from competing for deposits could result in expedited failures and less time for less than well capitalized institutions to solve their problems either through asset sales or mergers.

On the other hand, by generally increasing the rate caps, the proposed rule may increase the possibility, as compared to the current national rate cap, that a less than well capitalized institution could continue to fund imprudent operations by soliciting insured deposits at high interest rates. Since the proposal sets the national rate cap at the greater of the deposit weighted average rate plus 75 basis points, or the 95th percentile of deposit weighted interest rates, two types of interest rate environments should be distinguished.

When interest rates are low and the rates paid by institutions are distributed over a relatively narrow band, the ''average plus 75 basis points'' prong of the rule would likely determine the cap. The operation of the cap in these low interest rate environments would be similar to the current cap, which defines ''significantly exceeds'' by reference to a 75 basis point difference. In higher or rising interest rate environments, in which the deposit interest rates paid by institutions are widely dispersed, the ''95th percentile'' prong of the rule would be more likely to determine the cap. In these environments, the proposal would in effect limit the interest rate paid by a less than well capitalized institution to less than the top five percent of deposit weighted rates on comparable deposit products. This ensures that the national rate cap will remain within a defined percentile band of the distribution of prevailing interest rates.

The FDIC is interested in commenters views on the impact of the proposed rule in less favorable economic environments, as regard to the objective of avoiding liquidity problems and liquidity failures of viable institutions, and the objective of ensuring that less than well capitalized institutions do not solicit deposits at interest rates significantly exceeding prevailing interest rates on comparable deposit products.

Appendix 1

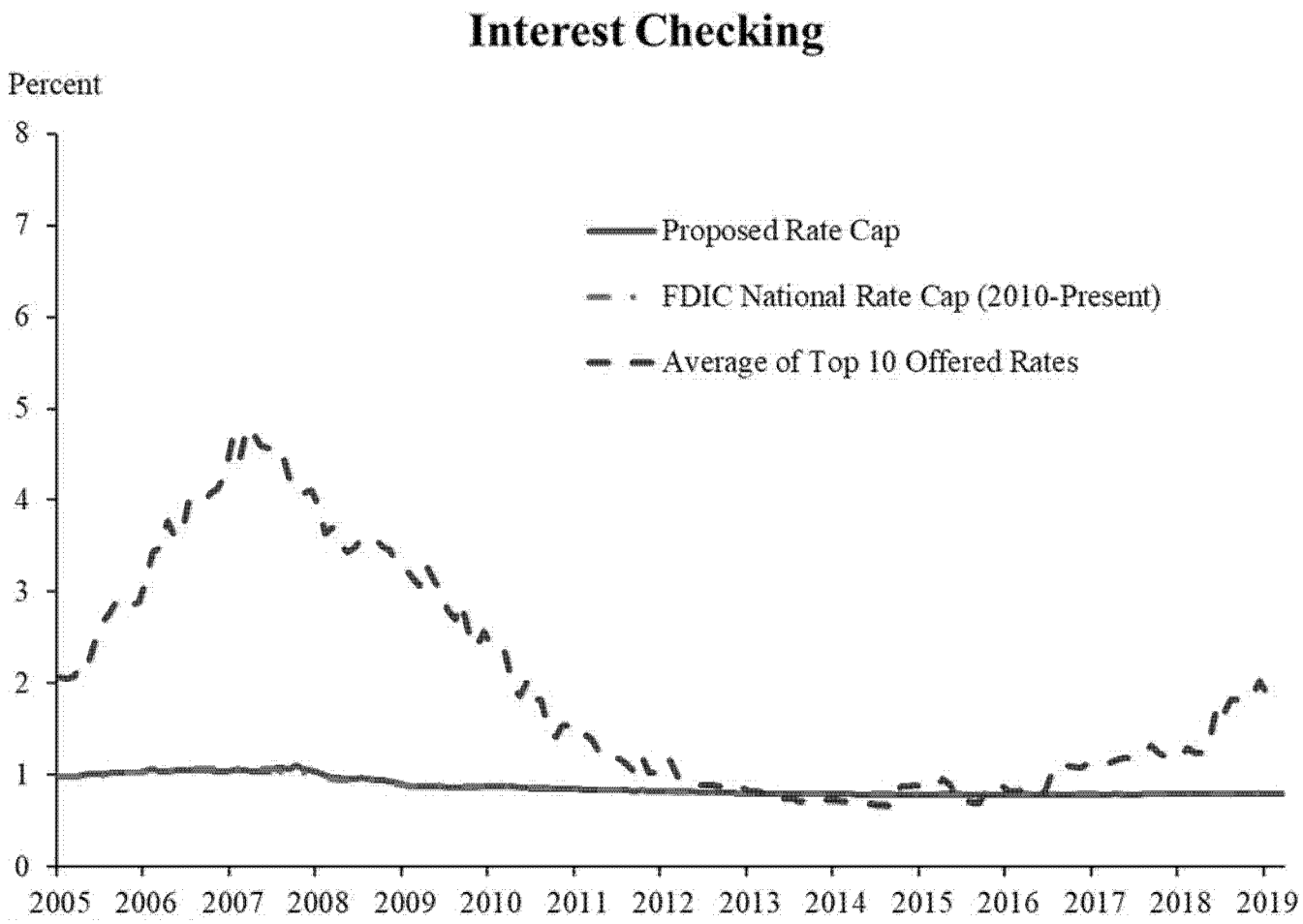
Historical charts illustrating the proposed national rate cap, the top rates offered, and the previous and current national rate caps, where applicable, since 2005.

[35] Section 29 of the FDI Act restricts less than well capitalized institutions from offering a rate of interest that is significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions. 12 U.S.C. 1831f(g)(3).

[36] FDIC—12 CFR 324.403(b)(1)(v); Board of Governors of the Federal Reserve System—12 CFR 208.43(b)(1)(v); Office of the Comptroller of the Currency—12 CFR 6.4(c)(1)(v).

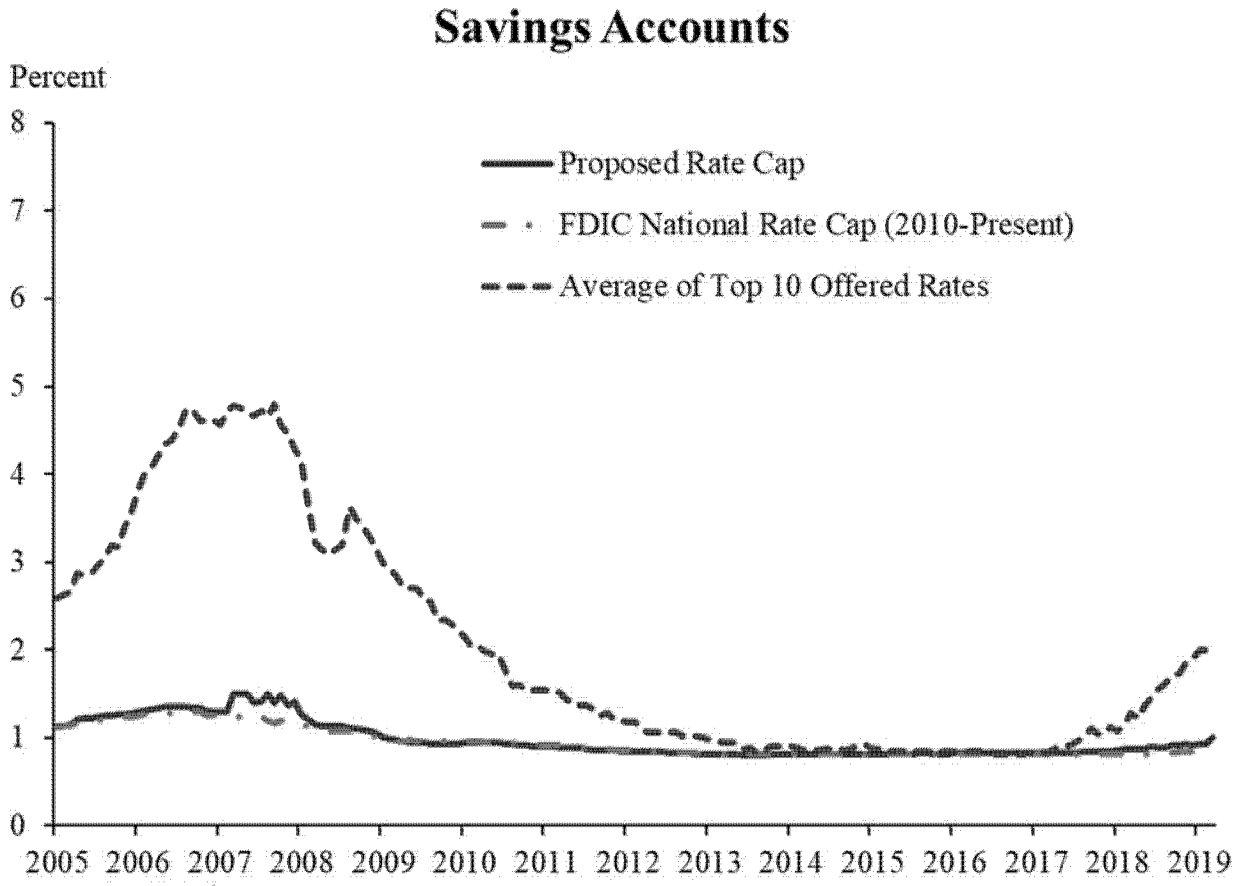
[37] The 22 institutions do not include any quantitatively well capitalized institutions that may have been administratively classified as less than well capitalized.

[38] Federal Deposit Insurance Corp., Crisis and Response: An FDIC History, 2008–2013 (2017), pp. 134, 175 (*https://www.fdic.gov/bank/historical/crisis/crisis-complete.pdf*).



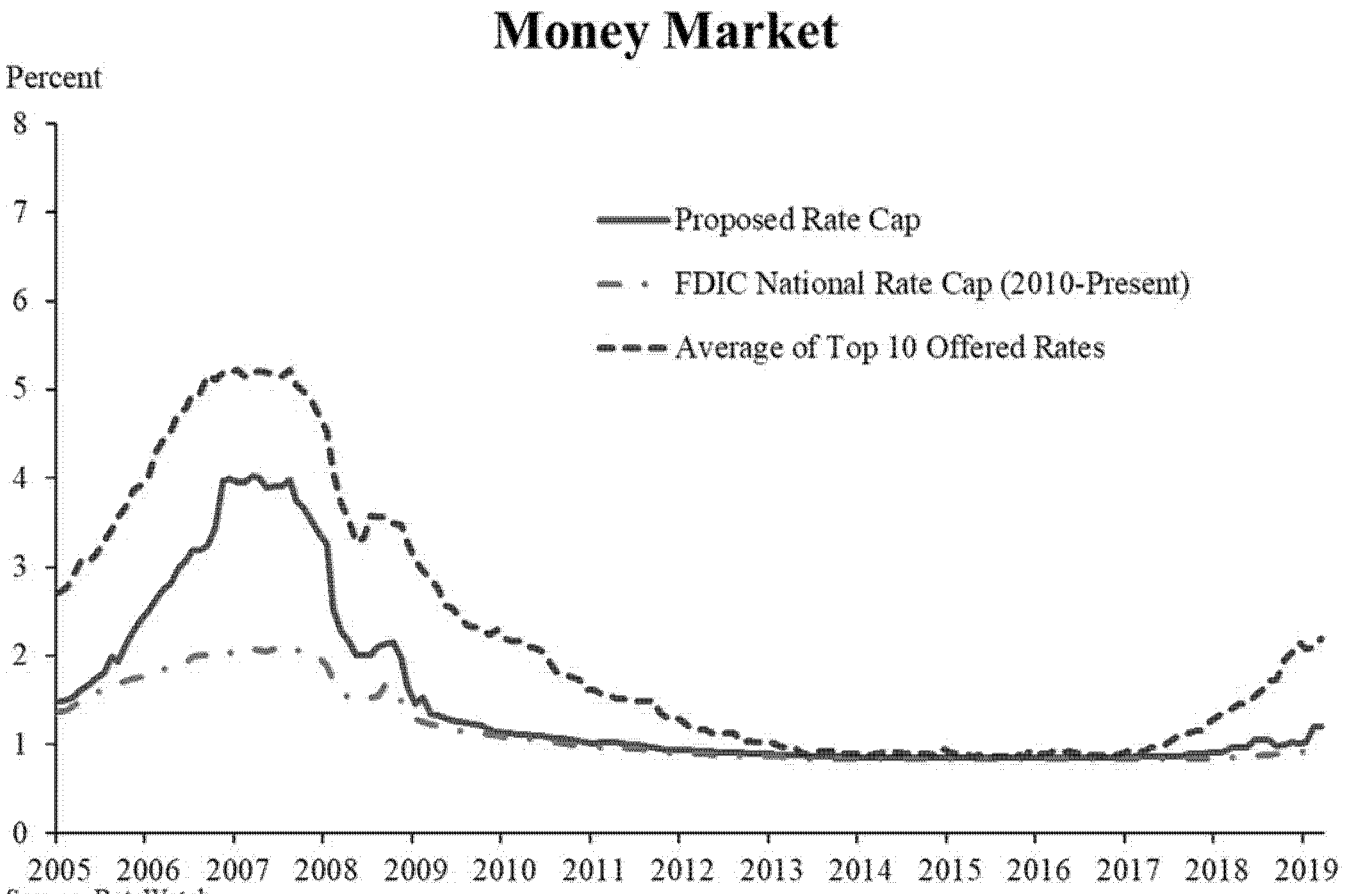
Source: RateWatch.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted mean plus 75 basis points methodology as of March 2019.



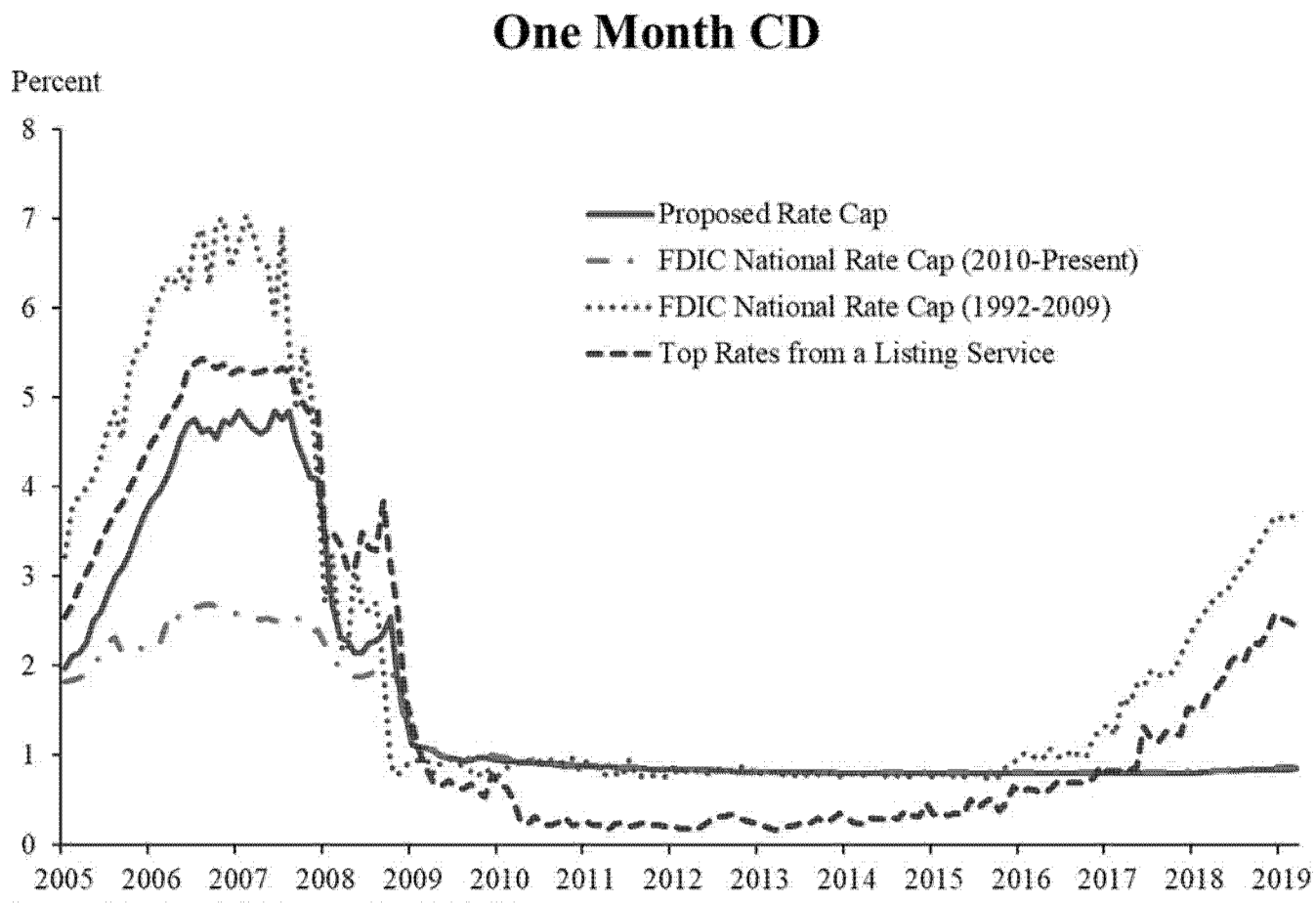
Source: RateWatch.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019.

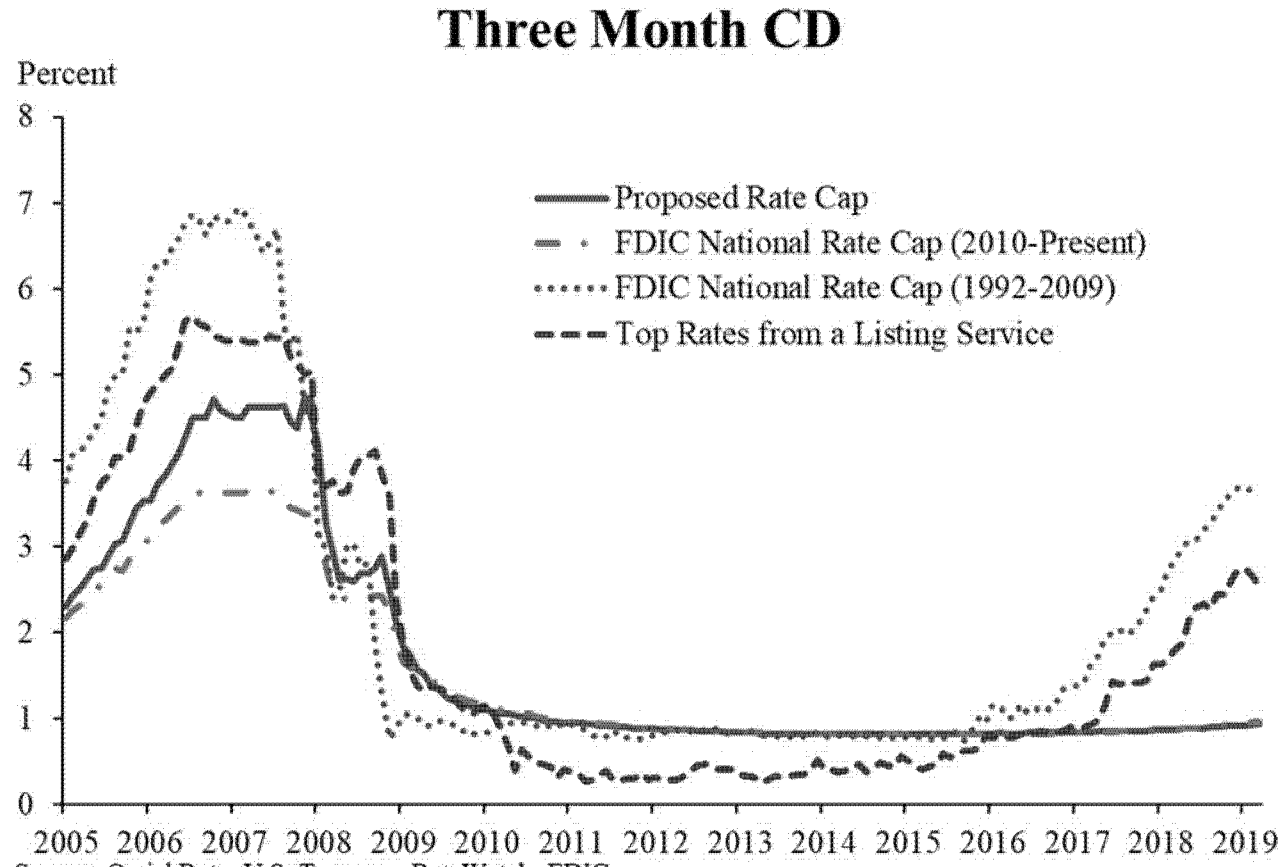


Source: RateWatch.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019.

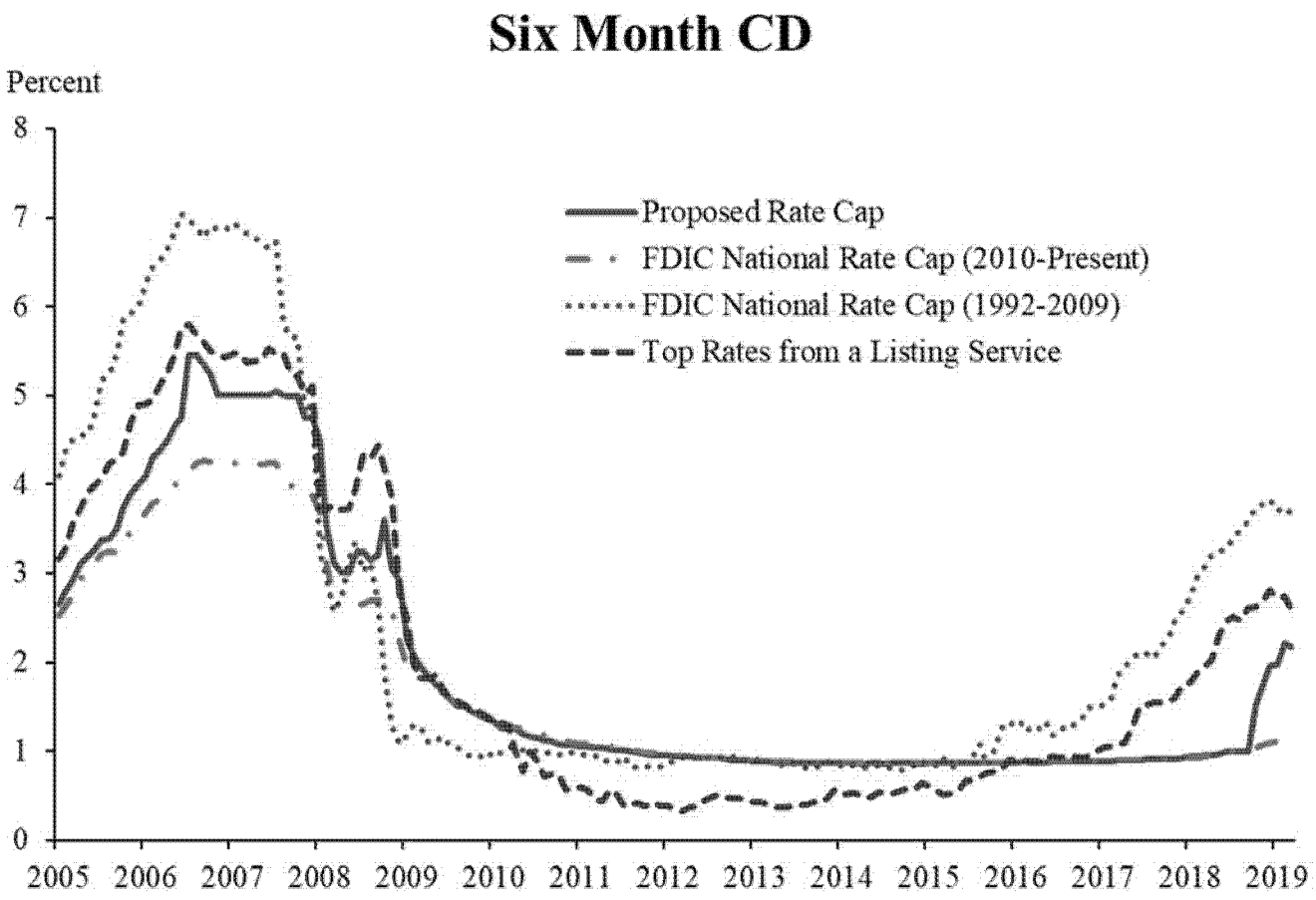


Source: QwickRate, U.S. Treasury, RateWatch, FDIC.
Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted mean plus 75 basis points methodology as of March 2019.



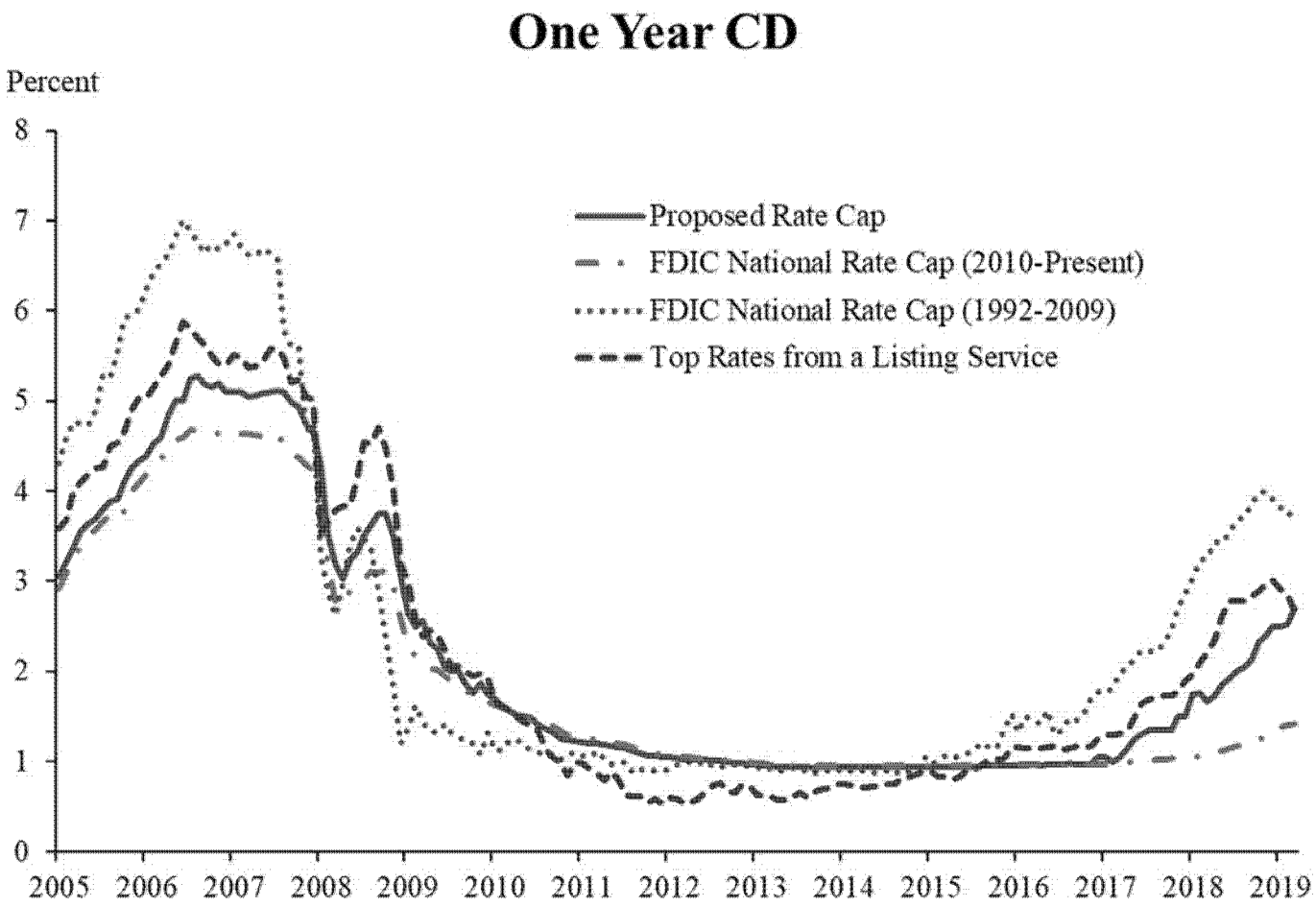
Source: QwickRate, U.S. Treasury, RateWatch, FDIC.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted mean plus 75 basis points methodology as of March 2019.



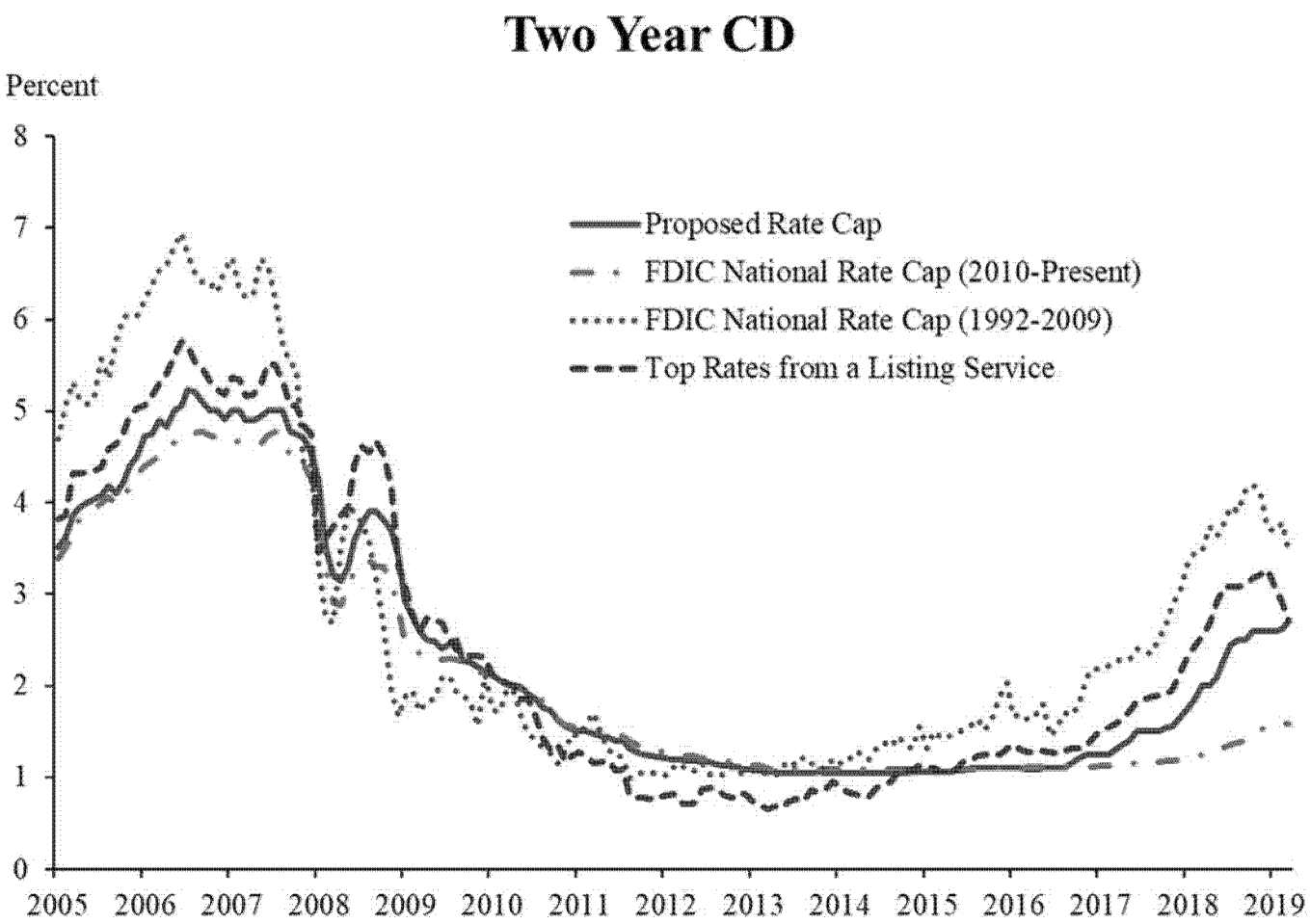
Source: QwickRate, U.S. Treasury, RateWatch, FDIC.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019

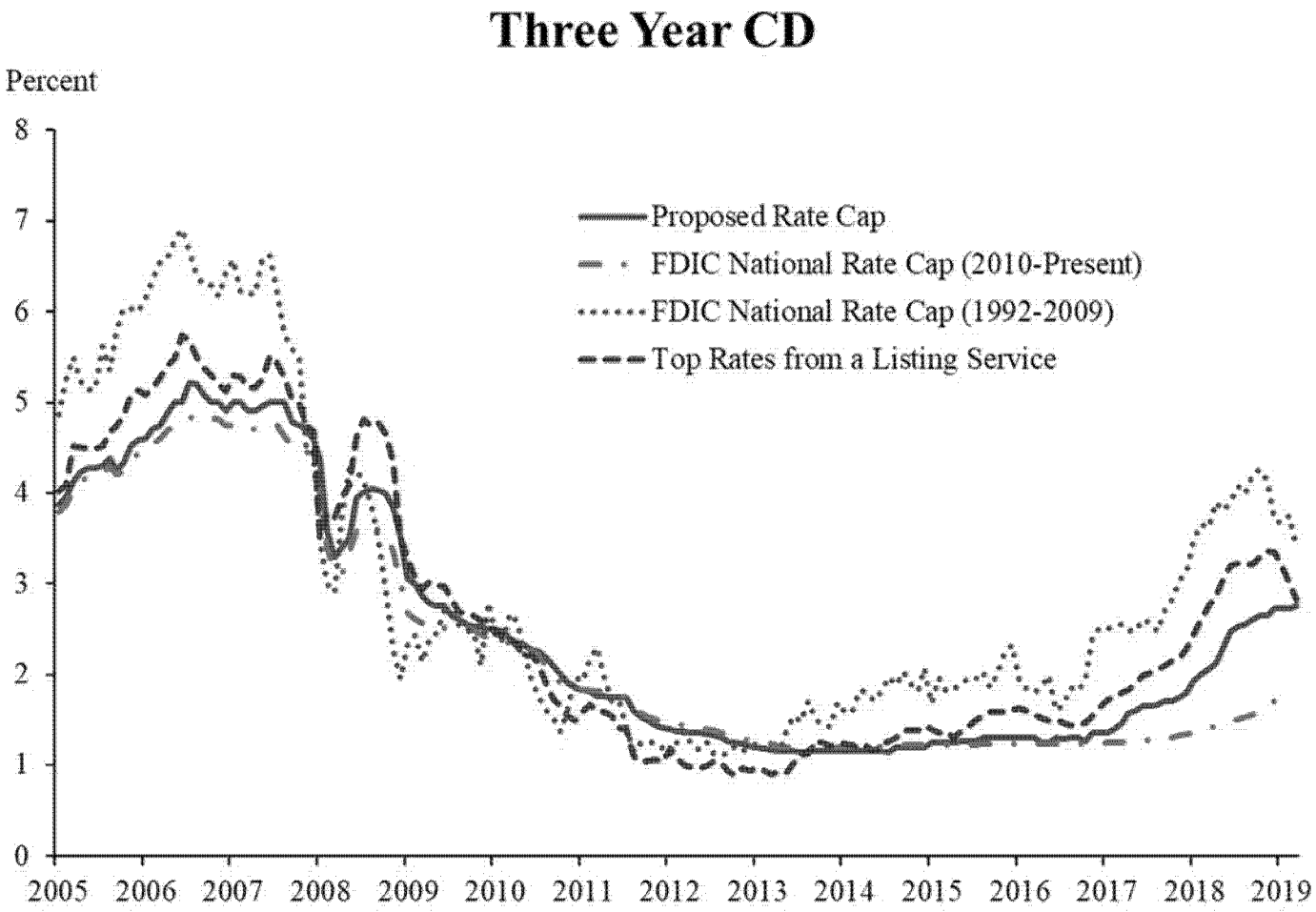


Source: QwickRate, U.S. Treasury, RateWatch, FDIC.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019

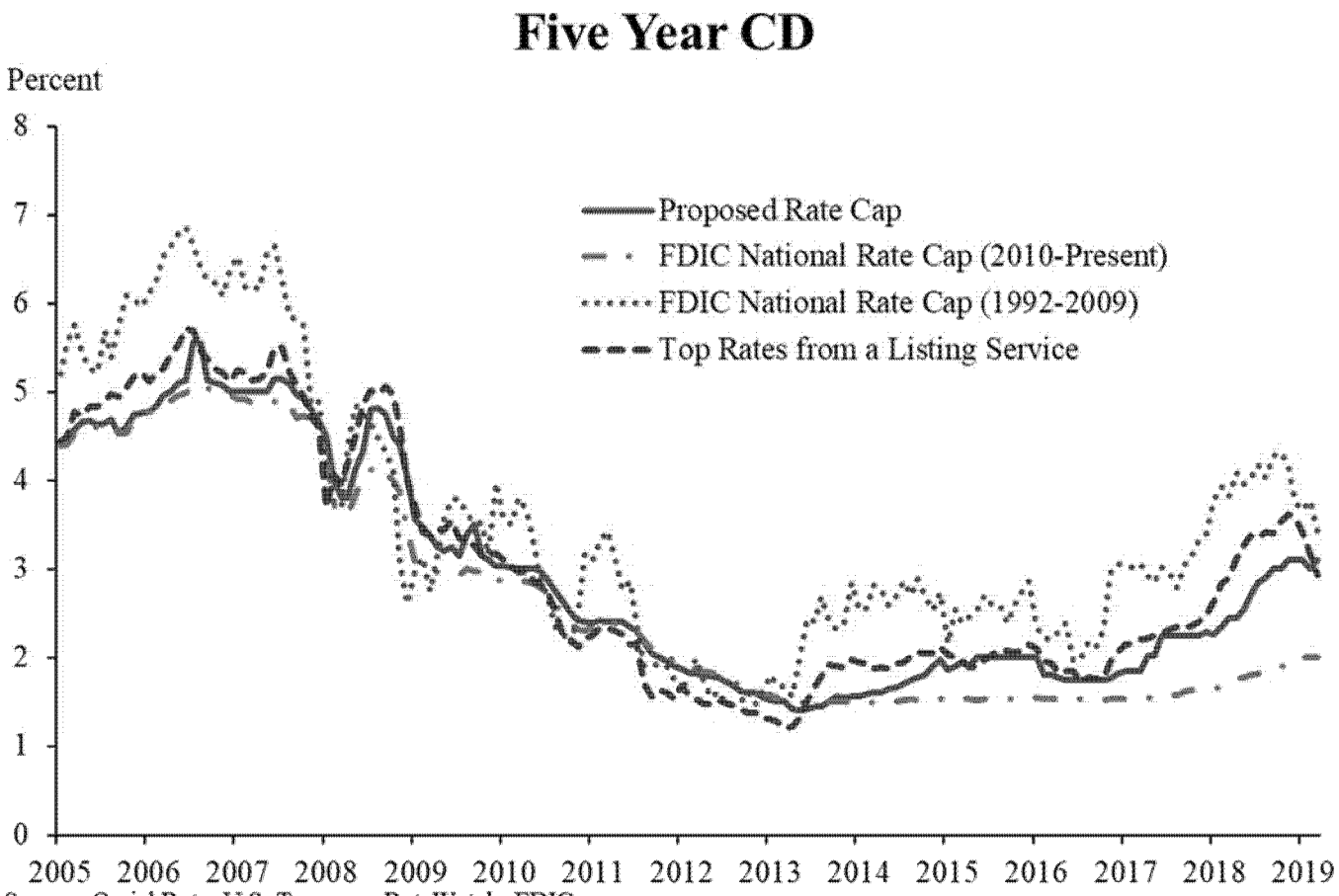


Source: QwickRate, U.S. Treasury, RateWatch, FDIC.
Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019



Source: QwickRate, U.S. Treasury, RateWatch, FDIC.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019



Source: QwickRate, U.S. Treasury, RateWatch, FDIC.

Note: The data points for 2019 run through March 2019. For this product, the Proposed Rate Cap would be based on the weighted 95th percentile methodology as of March 2019.

I. Request for Comment

The FDIC invites comment from all members of the public regarding all aspects of the proposal, including the alternatives considered. This request for comment is limited to this proposal. The FDIC will carefully consider all comments that relate to the proposal. In particular, the FDIC invite comment on the following questions:

Question 1. Does the proposed calculation of the rate caps enable less than well capitalized institutions to compete for deposits while satisfying section 29? If not, please explain why.

Question 2. The FDIC proposes to update the national rate cap information every month, with discretion to update the rate cap more or less frequently. Currently, the FDIC updates this information on a weekly basis. Should national rate calculations be provided more or less frequently than every month, as proposed?

Question 3. U.S. Treasury securities do not have maturities that are comparable to non-maturity deposit products (*e.g.,* money market or interest checking). If the FDIC were to use U.S. Treasury securities in its calculation for the national rate cap, is there a fixed income product that could be used in place of U.S. Treasury securities as a proxy for the national rate cap for non-maturity deposit products?

Question 4. The proposed national rate and rate cap are weighted by deposit share, which gives relatively more influence to internet-only institutions that have large deposit shares than the current all-branch approach. Is this weighting system appropriate?

Question 5. To address potential downward volatility in the national rate cap, the FDIC is proposing that, for institutions that are subject to the interest rate restrictions, any subsequent published national rate cap, that is lower than the previously published national rate cap, take effect 3 days after publication. In certain circumstances, the FDIC would also have discretion to delay the date on which a national rate cap takes effect. Is this a reasonable approach to address the effects of potential downward volatility in the national rate cap? Are there other ways to address or reduce the effect of potential volatility on less than well capitalized institutions that are subject to the interest rate restrictions?

Question 6. Data limitations do not allow consistent means to include certain special promotions, like cash bonuses, to be included in the proposed national rate calculations. Is it appropriate to incorporate specials and promotions? Is there another way to capture these promotions or deposit products that pay interest based upon an index or are triggered at some future date (*e.g.,* step-up rates)?

Question 7. The proposed national rate plus 75 basis points is being proposed as an option for products whose rates converge, as seen with a few deposit products. While this appears to be a useful alternative for a few products in the current rate environment, it might be less appropriate in other rate environments. For example, this alternative could yield a rate cap that does not ''significantly exceed'' the prevailing rate in a high rate environment. Are there better options for setting a proxy to determine what it means to ''significantly exceed''

a prevailing market rate when rates converge?

Question 8. Should the local rate be exclusively limited to institutions with a smaller geographical footprint? If so, how should eligibility be determined?

Question 9. If there is significant movement downwards in the national rate cap from one publication period to the next, do institutions need additional time to lower interest rates on particular products in an effort to be in compliance with the rate caps? If so, what is an appropriate amount of time?

Question 10. internet institutions are not included in the local deposit rate calculation. Is this a reasonable approach? If the FDIC allowed institutions to use internet competitors in their local rate calculations, how would they choose such competitors and which ones should be chosen?

Question 11. For purposes of the rate restrictions, the FDIC is considering an interpretation under which balances in non-maturity deposit accounts at the time the institution becomes less than well capitalized are not subject to the interest rate restrictions, but the balance would be if new funds were deposited into such accounts. Is this interpretation appropriate? Would there be substantial operational difficulties for institutions to monitor additions to these existing accounts in order to determine when they would be subject to the interest rate restrictions?

VI. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3521, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule does not create a new or revise an existing information collection. Therefore, no Paperwork Reduction Act clearance submission to OMB will be made.

B. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach Bliley Act,[39] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make this revised proposal easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that, in connection with a proposed rule, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[40] However, a regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the proposed rule. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $550 million that are independently owned and operated or owned by a holding company with less than or equal to $550 million in total assets.[41]

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 noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-insured institutions.

The FDIC is proposing revisions to its regulations relating to interest rate restrictions that apply to less than well capitalized insured depository institutions, by amending the methodology for calculating the national rate and national rate cap. The proposal would also modify the current local rate cap calculation and process.

Specifically, the proposal defines the national rate for a deposit product as the average rate for that product, where the average is weighted by domestic deposit share. The proposed national rate cap is the higher of (1) the rate offered at the 95th percentile of rates weighted by domestic deposit share or (2) the proposed national rate plus 75 basis points.

Because the FDIC's experience suggests some institutions compete for particular products within their local market area, the proposal would continue to provide a local rate cap process.

Specifically, the proposal would allow less than well capitalized institutions to provide evidence that any bank or credit union in its local market offers a rate on particular deposit product in excess of the national rate cap. If sufficient evidence is provided, then the less than well capitalized institution would be allowed to offer 90 percent of the competing institution's rate on the particular product. For the reasons discussed below, the FDIC certifies that the proposed rule will not have a significant economic effect on a substantial number of small entities.

Based on March 31, 2019, Call Report data, the FDIC insures 5,362 depository institutions, of which 3,920 are considered small entities for the purposes of RFA.[42] As of March 31, 2019, 20 small, FDIC-insured depository institutions were less than well capitalized.[43] This represents less than two-fifths of one percent of all FDIC-insured institutions as of March 31, 2019, and approximately one-half of one percent of small, FDIC-insured institutions. For 17 small institutions that were less than well capitalized as of March 31, 2019, and that reported rates to a private data aggregator, FDIC analysts compared the national rate caps calculated under the current methodology with the national rate caps which would have been in effect under the proposal during the month of March across 11 deposit products.[44] As

[39] Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999).

[40] 5 U.S.C. 601 *et seq.*

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

[42] March 31, 2019, FFIEC Call Report.

[43] *Id.* The 20 institutions do not include any quantitatively well capitalized institutions that may have been administratively classified as less than well capitalized.

[44] The 11 products are savings accounts, interest checking accounts, money market deposit accounts, 1-month, 3-month, 6-month, 12-month, 24-month, 36-month, 48-month, and 60-month CDs. Jumbo and non-jumbo rate caps reported for the week of March 4, 2019, were averaged for each of the 11 products to calculate a single rate cap per product under the current methodology. (*https://www.fdic.gov/regulations/resources/rates/historical/2019-03-04.html).*

described in more detail below, the analysis shows that the proposed national rate caps are less restrictive than the current national rate caps, and would reduce the likelihood that less than well capitalized institutions would need to avail themselves of the local rate cap determination process.

Five of the 17 (just under 30 percent) less than well capitalized institutions for which data were available reported offering rates above the national rate caps calculated under the current methodology for seven out of the 11 products considered.[45] Under the proposed methodology, three institutions reported rates above the national rate caps on two products. Thus, the number of deposit products with rates constrained by the national rate cap is reduced for all five institutions, and two of those institutions would be relieved of the need to avail themselves of the local rate cap determination process.

For the 3-month, 6-month, 36-month, and 48-month CD products, two less than well capitalized small institutions reported offering rates above the national rate caps calculated under the current methodology. On average, the reported offering rates were 6, 13, 29, and 58 basis points above the national rate caps, respectively.

Three institutions reported offering rates above the national rate caps calculated under the current methodology for the 12-month and 24-month CD products, and four reported offering rates above the national rate caps as currently calculated for the 60-month CD product. Rates offered on the 12-month and 24-month CD products were 37 and 45 basis points above the national rate caps, on average. Rates offered on the 60-month CD product averaged 26 basis points above the national rate cap for that product.

Across all deposit products offered at rates above the national rate caps calculated under the current methodology, the rates offered were 30 basis points above the national rate caps on average.

Had the national rate caps in effect at the time been calculated under the proposed methodology, then two less than well capitalized small institutions would have reported offering rates that averaged 11 basis points above the national rate cap for the 3-month CD product, and one institution would have reported offering a rate three basis points above the national rate cap for the 48-month CD product.

Across all deposit products offered at rates above the national rate caps calculated under the proposed methodology, the rates offered were 7 basis points above the national rate caps on average.

No less than well capitalized small institution reported offering a rate above the national rate caps calculated under the current or proposed methodology for savings, interest checking, MMDA, or 1-month CD products during the timeframe considered.

The number of small, less than well capitalized institutions with offered rates above the national rate caps falls from five under the current methodology to three under the proposed methodology. Thus, the number of small less than well capitalized institutions that need to rely on a local rate cap is expected to fall.

The FDIC cannot more precisely quantify the effects of the proposed rule relative to the current methodology because it lacks data on the dollar amounts placed in deposit products broken down by the rates offered. However, few small institutions are less than well capitalized, and most of those small, less than well capitalized institutions for which data were available reported rates across the 11 deposit products considered that were below the national rate caps as calculated under both the current and proposed methodologies. For the few less than well capitalized institutions as of March 31, 2019 whose deposit interest rates are constrained by the current national rate cap but not the proposed rate cap, the effect of the rule would be burden reducing in the sense of reducing the need for local rate cap determinations.

Based on the foregoing information, the FDIC certifies that the proposed rule will not significantly affect a substantial number of small entities. The FDIC welcomes comments on its analysis. Specifically, what data would help the FDIC better quantify the effects of the proposal compared with the current methodology?

D. Riegle Community Development and Regulatory Improvement Act

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA), 12 U.S.C. 4701, requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[46] In addition, new regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally must 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.

Because the proposal would not impose additional reporting, disclosure, or other requirements on IDIs, section 302 of the RCDRIA therefore does not apply. Nevertheless, the requirements of RCDRIA will be considered as part of the overall rulemaking process. In addition, the FDIC also invites any other comments that further will inform the FDIC's consideration of RCDRIA.

List of Subjects in 12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

For the reasons stated in the preamble, the FDIC proposes to amend 12 CFR part 337 as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

■ 1. The authority for 12 CFR part 337 continues to read:

Authority: 12 U.S.C. 375a(4), 375b, 1463(a)(1),1816, 1818(a), 1818(b), 1819, 1820(d), 1828(j)(2), 1831, 1831f, 5412.

■ 2. Amend § 337.6 as follows:
■ a. Revise paragraphs (a) introductory text and (a)(3)(i) through (iii);
■ b. Remove paragraph (a)(5)(iii);
■ c. Remove paragraphs (b)(2)(ii) and (b)(3)(ii) and redesignate paragraphs (b)(2)(i) and (b)(3)(i) as paragraphs (b)(2) and (3); and
■ d. Remove paragraph (f).

The revisions read as follows:

§ 337.6 Brokered deposits.

(a) *Definitions.* For the purposes of this section and § 337.7, the following definitions apply:

* * * * *

(3) * * *

(i) For purposes of section 29 of the Federal Deposit Insurance Act, this section, and § 337.7, the terms *well capitalized, adequately capitalized,* and

[45] This is not meant to suggest that these institutions are not in compliance with the national rate caps, but rather that they have sought and received local rate determinations that allow them to offer certain products at rates above the national caps.

[46] 12 U.S.C. 4802.

undercapitalized,[11] shall have the same meaning for each insured depository institution as provided under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate federal banking agency for that institution.[12]

(ii) If the appropriate federal banking agency reclassifies a well capitalized insured depository institution as adequately capitalized pursuant to section 38 of the Federal Deposit Insurance Act, the institution so reclassified shall be subject to the provisions applicable to such lower capital category under this section and § 337.7.

(iii) An insured depository institution shall be deemed to be within a given capital category for purposes of this section and § 337.7 as of the date the institution is notified of, or is deemed to have notice of, its capital category, under regulations implementing section 38 of the Federal Deposit Insurance Act issued by the appropriate federal banking agency for that institution.[13]

* * * * *

■ 3. Add § 337.7 to read as follows:

§ 337.7 Interest rate restrictions.

(a) *Definitions*—(1) *National rate.* The weighted average of rates paid by all insured depository institutions on a given deposit product, for which data are available, where the weights are each institution's market share of domestic deposits.

(2) *National rate cap.* The higher of:

(i) The interest rate offered on a particular deposit product at the 95th percentile by insured depository institutions, for which data is available, weighted by each institution's share of total domestic deposits; or

(ii) The national rate plus 75 basis points.

(3) *Local market rate cap.* 90 percent of the highest interest rate paid on a particular deposit product in the institution's local market area. An institution's local market rate cap shall be based upon the rate offered on a particular product type and maturity period by an insured depository institution or credit union that is accepting deposits at a physical location within the institution's local market area.

(4) *Local market area.* An institution's local market area is any readily defined geographical area, which may include the State, county or metropolitan statistical area, in which the insured depository institution solicits depositors by offering rates on a particular deposit product.

(5) *On-tenor and off-tenor maturities.* On-tenor maturities include the following term periods: 1-month, 3-month, 6-month, 12-month, 24-month, 36-month, 48-month, and 60-month. All other term periods are considered off-tenor maturities for purposes of this section.

(b) *Computation and publication of national rate cap*—(1) *Computation.* The Corporation will compute the national rate cap for different deposit products and maturities, as determined by the Corporation based on available and reported data.

(2) *Publication.* The Corporation will publish the national rate cap monthly, but reserves the discretion to publish more or less frequently, if needed, on the Corporation's website. Except as provided in paragraph (e) of this section, for institutions that are less than well capitalized at the time of publication, a national rate cap that is lower than the previously published national rate cap will take effect 3 days after publication. The previously published national rate cap will remain in effect during this 3-day period.

(c) *Application*—(1) *Well capitalized institutions.* A well capitalized institution may pay interest without restriction under this section.

(2) *Institutions that are not well capitalized.* An institution that is not well capitalized may not accept or solicit deposits by offering a rate of interest on any deposit which exceeds the national rate cap. A less than well capitalized institution that seeks to pay a rate above the national rate cap but not exceeding its local market rate cap, should follow the notice provisions in paragraph (d) of this section.

(d) *Notice related to local market rate cap applicability.* An insured depository institution that seeks to pay a rate of interest up to its local market rate cap shall provide notice and evidence of the highest rate paid on a particular deposit product in the institution's local market area to the appropriate regional director. The institution shall update its evidence and calculations periodically, as requested by the appropriate regional director, and make such information available for inspection by examination staff.

(e) *Offering products with off-tenor maturities.* If an institution seeks to accept or solicit by offering a product with an off-tenor maturity for which the Corporation does not publish the national rate cap or that is not accepted or solicited by competing institutions within its local market area, then the institution will be required to use the rate accepted or solicited on the next lowest on-tenor maturity for that product when determining its applicable national or local market rate cap. For example, an institution seeking to accept or solicit a 26-month certificate of deposit must use the rate offered for a 24-month certificate of deposit to determine the institution's applicable national or local market rate cap.

(f) *Discretion to delay effect of published national rate cap.* In the event of a substantial unexpected decrease in the published national rate cap from one month to the next, the Corporation may, in its discretion, delay the date on which the published national rate cap takes effect. The previously published national rate cap will remain in effect until the effective date, as determined by the Corporation, of the subsequent published national rate cap.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on August 20, 2019.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2019–18360 Filed 9–3–19; 8:45 am]

BILLING CODE 6714–01–P

[11] The term *undercapitalized* includes any institution that is *significantly undercapitalized* or *critically undercapitalized* under regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the appropriate federal banking agency for that institution.

[12] For the most part, the capital measure terms are defined in the following regulations: FDIC—12 CFR part 324, subpart H; Board of Governors of the Federal Reserve System—12 CFR part 208; and Office of the Comptroller of the Currency—12 CFR part 6.

[13] The regulations implementing section 38 of the Federal Deposit Insurance Act and issued by the federal banking agencies generally provide that an insured depository institution is deemed to have been notified of its capital levels and its capital category as of the most recent date: (1) A Consolidated Report of Condition and Income is required to be filed with the appropriate federal banking agency; (2) A final report of examination is delivered to the institution; or (3) Written notice is provided by the appropriate federal banking agency to the institution of its capital category for purposes of section 38 of the Federal Deposit Insurance Act and implementing regulations or that the institution's capital category has changed. Provisions specifying the effective date of determination of capital category are generally published in the following regulations: FDIC—12 CFR 324.402; Board of Governors of the Federal Reserve System—12 CFR part 208, subpart D; and Office of the Comptroller of the Currency—12 CFR 6.3.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0670; Product Identifier 2019–NM–104–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the lower skin of the fuselage skin lap splices along the lower fastener row of a certain stringer lap splice on certain body station skin panels is subject to widespread fatigue damage (WFD). This proposed AD would require inspections of the lower skin of the fuselage skin lap splices along the lower fastener row of a lap splice on certain body station skin panels and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 21, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0670.

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–2019–0670; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: James Guo, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0670; Product Identifier 2019–NM–104–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

The FAA will post all comments received, without change, to *http://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contacts received about this proposed AD.

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as WFD. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

The FAA has received a report indicating that an operator of a Model 737–300 airplane discovered a crack in the skin at a chem-milled step at body station (STA) 727B+10, just above stringer (S)-14R. The airplane had accumulated 88,805 flight hours and 65,804 flight cycles at the time the crack was found. Upon further inspection in the local area using high frequency eddy current (HFEC) hole probe inspection, multiple fastener hole cracks were

found in the S–14 lap splice lower row in the lower skin between STA 727A and STA 727E. The lower skin at S–14 is structure that may be susceptible to WFD and may also have scratches that can propagate into cracks. The scratch cracks may interact with fatigue cracking. This condition, if not addressed, could result in rapid decompression or loss of structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019. The service information describes procedures for detailed inspections for previous repairs, and repetitive dual frequency eddy current (DFEC) inspections for cracks of the lower skin of the fuselage skin lap splices along the lower fastener row of the S–14 lap splice at specified locations on the STA 727 to STA 908 skin panel in areas not inspected by other service bulletins, and applicable on-condition actions. On-condition actions include open hole HFEC inspections for cracks, and repair.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0670.

Costs of Compliance

The FAA estimates that this proposed AD affects 158 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
DFEC Inspections of S–14 Lap Splices.	18 work-hours × $85 per hour = $1,530 per inspection.	$0	$1,530 per inspection	$241,740 per inspection.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
97 work-hours × $85 per hour = $8,245	$0	$8,245

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

2. Will not affect intrastate aviation in Alaska, and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2019–0670; Product Identifier 2019–NM–104–AD.

(a) Comments Due Date

The FAA must receive comments by October 21, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the lower skin of the fuselage skin lap splices along the lower fastener row of the stringer (S)-14 lap splice on certain body station skin panels is subject to widespread fatigue damage (WFD). The FAA is issuing this AD to address scratch cracks and fatigue cracking which may interact and could result in rapid decompression or loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1382, dated May 6, 2019, which is referred to in Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019 uses the phrase ''the original issue date of Requirements Bulletin 737–53A1382 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Terminating Action

Certain skin panel replacements identified as terminating action in Boeing Alert Requirements Bulletin 737–53A1382 RB, dated May 6, 2019, terminate the inspections in the corresponding locations required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

(1) For more information about this AD, contact James Guo, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@faa.gov.*

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

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

Suzanne Masterson,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–18980 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG–2019–0606]

RIN 1625–AA00

Safety Zone, North Washington Street Bridge Replacement Project, Charles River, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the navigable waters within 100 yards of the North Washington Street Bridge, Charles River, Boston, Massachusetts, from December 1, 2019 through December 31, 2023. The temporary safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards created during the replacement project of the North Washington Street Bridge. When enforced, this proposed rule would prohibit vessels and persons from being in the safety zone unless authorized by the Captain of the Port Boston or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 4, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0606 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mark Cutter, Waterways Management Division, U.S. Coast Guard Sector Boston, telephone 617–223–4000, email *Mark.E.Cutter@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
NAD 83 North American Datum 1983
§ Section
U.S.C. United States Code
MassDOT Massachusetts Department of Transportation

II. Background, Purpose, and Legal Basis

Massachusetts Department of Transportation (MassDOT) notified Sector Boston that there will be times in which the navigable channels underneath the North Washington Street Bridge, Charles River, Boston, Massachusetts, will need to be closed for the removal of the old bridge spans, demolition of the swing span pier foundation, construction of the abutment, and replacement of the span. The exact times are currently unknown. However, every effort is being made by the MassDOT and contractor to schedule these closures during the winter months when the Charles River is iced over or during the fall and spring when boating traffic is minimal.

The replacement project started in the summer of 2018 and is expected to be completed in the spring of 2023. The COTP Boston determined that the potential hazards associated with the removal of the old bridge spans, demolition of the swing span pier foundation, construction of the abutment, and replacement of the span will be a safety concern for anyone within the work area. The proposed temporary safety zone would be enforced during the removal of the old bridge spans, demolition of the swing span pier foundation, construction of the abutment, and replacement of the span or when other hazards to navigation arise. No vessel or person will be permitted to enter the proposed temporary safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will notify the public of closures through the Massachusetts Bay Harbor Safety Committee meetings, Boston's Port Operators Group meetings, Local Notice to Mariners, and through the Massachusetts Boating & Yacht Clubs Associations network. The Coast Guard will issue a Safety Marine Information Broadcast (SMIB) via marine channel 16 (VHF–FM) seven days in advance of the commencement of the proposed safety zone.

The purpose of this rulemaking is to protect personnel, vessels, and the marine environment from potential hazards created during the replacement project of the North Washington Street Bridge, Charles River, Boston, Massachusetts. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The Coast Guard is proposing to establish a safety zone starting at 12:01 a.m. on December 1, 2019, to 11:59 p.m. on December 31, 2023. The safety zone would cover all navigable waters within 100 yards of the North Washington Street Bridge, Charles River, Boston, Massachusetts. The safety zone will only be enforced during periods when work barges and cranes will be placed in the navigable channel or when other hazards to navigation exist. Any closure is expected to last less than two weeks. The duration of the zone is intended to ensure the safety of vessels, the maritime public, construction workers, and the marine environment during periods of replacement of the North Washington Street Bridge, over the main channel at the entrance of the Charles River, Boston, Massachusetts. During the enforcement period, all vessels and persons must obtain permission from the COTP Boston or a designated representative before entering the safety zone.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time of year of the safety zone. There may be a time during the boating summer season that the safety zone needs to be enforced. However, MassDOT and the contractor are making all attempts to schedule these needed closures during the winter months when the Charles River is iced over or during the fall and spring when boating traffic is minimal. We expect the adverse economic impact of this proposed rule to be minimal. We will provide ample notice of the safety zone effective dates and vessels will be able to enter the safety zone when construction equipment is not occupying the channel. Although this regulation may have some adverse impact on the public, the potential impact will be minimal because the boating season for vessels on the Charles River usually begins in early May and concludes in October. If a summer time closure is needed, with the exception of an emergency, we will coordinate with MassDOT, the contractor, and the Harbormaster to ensure that all alternatives are explored, the duration is of the shortest possible timeframe, and a minimum of two weeks notification has been given to the boating public via Local Notice to Mariners, Safety Marine Information Broadcast via marine channel 16 (VHF–FM) and through the Massachusetts Boating & Yacht Clubs Associations network.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a temporary safety zone for the navigable waters within 100 yards of the North Washington Street Bridge, Charles River, Boston, Massachusetts, from December 1, 2019 through December 31, 2023 for the replacement of the bridge. The safety zone will only be enforced during periods when work barges and cranes will be placed in the navigable channel or when other hazards to navigation arise. As discussed in our pre-construction meeting, any closure is expected to be of less than a two-week duration and all attempts are being made by MassDOT and contractor to schedule these closures during winter months when there is no boating traffic or during the spring and fall season when boating traffic is minimal. Normally, such actions are categorically excluded from further review under paragraph L60(a) of Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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.T01–0606 to read as follows:

§ 165.T01–0606 Safety Zone, North Washington Street Bridge Replacement Project—Charles River, Boston, MA

(a) *Location.* The following area is a safety zone: All navigable waters within 100 yards of the North Washington Street Bridge, Charles River, Boston, Massachusetts.

(b) *Enforcement Periods.* This rule is enforceable from 12:01 a.m. on December 1, 2019, to 11:59 p.m. on December 31, 2023.

(c) *Definitions.* As used in this section:

(1) Designated representative means any Coast Guard commissioned,

warrant, petty officer, or any federal, state, or local law enforcement officer who has been designated by the Captain of the Port (COTP) Boston, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official patrol vessels means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Boston to enforce this section.

(d) *Regulations.* When this safety zone is enforced, the following regulations, along with those contained in 33 CFR 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the COTP Boston or the COTP's designated representatives. However, any person or vessel permitted to enter the safety zone must comply with the directions and orders of the COTP Boston or a designated representative.

(2) To obtain permission required by this regulation, individuals may reach the COTP Boston or a COTP-designated representative via Channel 16 (VHF–FM) or 617–223–5757 (Sector Boston Command Center).

(3) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.

Dated: August 28, 2019.

Eric. J. Doucette,

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

[FR Doc. 2019–19048 Filed 9–3–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[USCG–2018–1058]

Extension of Comment Period for the Port Access Route Study: Alaskan Arctic Coast

AGENCY: Coast Guard, DHS.

ACTION: Notice of extension of comment period.

SUMMARY: The United States Coast Guard is extending the comment period for the notice of study and request for comments for the Port Access Route Study: Alaskan Arctic Coast that we published on December 21, 2018. This action will provide the public with additional time and opportunity to provide the Coast Guard with information regarding the Port Access Route Study: Alaskan Arctic Coast. The comment period is extended until January 30, 2020.

DATES: Comments and related material must be received by the Coast Guard on or before January 30, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2018–1058 using the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, please contact LCDR Michael Newell, Seventeenth Coast Guard District (dpw), at telephone number (907) 463–2263 or email *Michael.D.Newell@uscg.mil,* or Mr. David Seris, Seventeenth Coast Guard District (dpw), at telephone number (907) 463–2267 or email to *David.M.Seris@uscg.mil,* or LT Stephanie Bugyis, Seventeenth Coast Guard District (dpw), at telephone number (907) 463–2265 or email to *Stephanie.M.Bugyis@uscg.mil.*

SUPPLEMENTARY INFORMATION: On December 21, 2018, the Coast Guard published a notice of study and request for comments for the Port Access Route Study: Alaskan Artic Coast (83 FR 65701). The comment period in that document closed September 1, 2019. In this action, the Coast Guard is providing notice that the public comment period is extended until January 30, 2020. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by searching the docket number ''USCG–2018–1058''.

This notice is issued under authority of 33 U.S.C. 1223(c) and 5 U.S.C. 552.

Dated: August 29, 2019.

Matthew T. Bell, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.

[FR Doc. 2019–19080 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–15–P

Notices

Federal Register
Vol. 84, No. 171
Wednesday, September 4, 2019

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

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–981]

Utility Scale Wind Towers From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding its administrative review of utility scale wind towers (wind towers) from the People's Republic of China (China) for the period of review (POR) February 1, 2018, through January 31, 2019, based on the withdrawal of the request for review.

DATES: Applicable September 4, 2019.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, 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) 482–5831.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on wind towers from China for the above POR.[1] On February 26, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce received a timely request from the Wind Tower Trade Coalition (the petitioner) to conduct an administrative review of this antidumping duty order.[2]

Pursuant to this request, and in accordance with 19 CFR 351.225(c)(1)(i), on May 2, 2019, Commerce published a notice of initiation of an administrative review of the antidumping duty order on wind towers from China.[3] On May 16, 2019, the petitioner timely withdrew its request for an administrative review of all 56 companies for which it had requested a review.[4] No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the petitioner withdrew its request for review within 90 days of the publication date of the *Initiation Notice.* No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review on wind towers from China covering the period February 1, 2018, through January 31, 2019, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of wind towers from China. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review in the **Federal Register**.

Notification to Importers

This notice also serves as a final reminder to importers for whom this review is being rescinded of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with section 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: August 23, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–18934 Filed 9–3–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–832]

Carbon and Alloy Steel Wire Rod From the Republic of Turkey: Rescission of Countervailing Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 2816 (February 8, 2019).

[2] *See* Letter from the petitioner, ''Utility Scale Wind Towers from the People's Republic of China: Request for Administrative Review,'' dated February 26, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 18777 (May 2, 2019) (*Initiation Notice*).

[4] *See* Letter from the petitioner, ''Utility Scale Wind Towers from the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated May 16, 2019.

countervailing duty (CVD) order on carbon and alloy steel wire rod (wire rod) from the Republic of Turkey (Turkey).

DATES: Applicable September 4, 2019.

FOR FURTHER INFORMATION CONTACT: Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0486.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on wire rod from Turkey for the period September 5, 2017 through December 31, 2018.[1] On May 31, 2019, Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), a producer and exporter of wire rod, filed a timely request for review, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[2] Pursuant to this request, and in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of Icdas.[3] On August 2, 2019, Icdas filed a timely withdrawal of request for the administrative review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, Icdas, the only party to file a request for review, withdrew its request by the 90-day deadline. Accordingly, we are rescinding the administrative review of the CVD order on wire rod from Turkey for the period September 5, 2017 through December 31, 2018.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess CVD duties on all appropriate entries of wire rod from Turkey. CVD duties shall be assessed at rates equal to the cash deposit of estimated CVD duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of CVD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of CVD duties occurred and the subsequent assessment of doubled CVD duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: August 28, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–19032 Filed 9–3–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Carbon and Alloy Steel Wire Rod From Turkey: Correction to Notice of Opportunity To Request Administrative Review,* 84 FR 23760 (May 23, 2019).

[2] *See* Letter from Icdas, ''Carbon & Alloy Steel Wire Rod from the Republic of Turkey; Icdas's Request for Administrative Review,'' dated May 31, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 33739 (July 15, 2019).

[4] *See* Letter from Icdas, ''Carbon & Alloy Steel Wire Rod from the Republic of Turkey; Icdas's Withdrawal of Request for Countervailing Duty Administrative Review,'' dated August 2, 2019.

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 84 FR 44603, August 26, 2019.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, September 4, 2019.

CHANGES IN THE MEETING: The date of the meeting has changed. This meeting will now be held at 10:00 a.m. on Friday, September 6, 2019.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: August 30, 2019.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2019–19155 Filed 8–30–19; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Performance of Accrediting Agencies Under Review by the Secretary of Education

AGENCY: U.S. Department of Education, Accreditation Group, Office of Postsecondary Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review for purposes of recognition by the U.S. Secretary of Education.

FOR FURTHER INFORMATION CONTACT: Herman Bounds, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 270–01, Washington, DC 20202, telephone: (202) 453–7615, or email: *herman.bounds@ed.gov.*

SUPPLEMENTARY INFORMATION: This solicitation of third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by § 496(n)(1)(A) of the Higher Education Act (HEA) of 1965, as amended. These accrediting agencies will be on the agenda for the Winter 2020 National Advisory Committee on Institutional Quality and Integrity meeting. The meeting date has not been determined but will be announced in a separate **Federal Register** notice.

Agencies Under Review and Evaluation: Below is a list of agencies currently undergoing review and evaluation by the Department's Office of Postsecondary Education Accreditation Group, including each agency's current and requested scopes of recognition:

Application for Initial Recognition

1. National Nurse Practitioner Residency and Fellowship Training Consortium. Requested Scope of Recognition: The accreditation of postgraduate residency and fellowship

nurse practitioner (NP) postgraduate training programs in the United States. This recognition also extends to the agency's Appeals Panel.

Applications for Renewal of Recognition

1. New York State Board of Regents, State Education Department, Office of the Professions (Public Postsecondary Vocational Education, Practical Nursing).
2. Pennsylvania State Board of Vocational Education, Bureau of Career and Technical Education.
3. Kansas State Board of Nursing.
4. Maryland Board of Nursing.

Application for an Expansion of Scope

1. The Association for Biblical Higher Education, Commission on Accreditation. Scope of Recognition: The accreditation and preaccreditation (''Candidate for Accreditation''), at the undergraduate level, of institutions of biblical higher education in the United States offering both campus-based and distance education instructional programs. *Requested Scope of Recognition:* The accreditation and preaccreditation (''Candidate Status'') of institutions of biblical higher education in the United States offering undergraduate certificates, associate degrees, baccalaureate degrees, graduate certificates, and master's degrees, including the accreditation of educational programs offered via distance education.

Application for Granting of Academic (Masters and Doctoral) Degrees by Federal Agencies and Institutions

1. National Intelligence University: Undergoing Substantive Change (Reorganization/Command Change).

Compliance Report

1. The Oklahoma Board of Career and Technology Education (OBCTE) compliance report includes findings of noncompliance with the criteria in 34 Code of Federal Regulations (CFR) § 603 identified in the May 9, 2018 letter from the senior Department official following the February 7, 2018 NACIQI meeting available at: *https://opeweb.ed.gov/aslweb/finalstaffreports.cfm.*

Submission of Written Comments Regarding a Specific Accrediting Agency or State Approval Agency Under Review

Written comments about the recognition of a specific accrediting or State agency must be received by October 3, 2019, in the *ThirdPartyComments@ed.gov* mailbox and include the subject line ''Written Comments: (agency name).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Comments about an agency that has submitted a compliance report scheduled for review by the Department must relate to the criteria for recognition cited in the senior Department official's letter that requested the report, or in the Secretary's appeal decision, if any. Comments about an agency that has submitted a petition for renewal of recognition must relate to the agency's compliance with the Criteria for the Recognition of Accrediting Agencies, or the Criteria and Procedures for Recognition of State Agencies for the Approval of Vocational and Nurse Education as appropriate, which are available at *http://www.ed.gov/admins/finaid/accred/index.html.*

Only written material submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations.

A later **Federal Register** notice will describe how to register to provide oral comments at the Winter 2020 meeting regarding the recognition of a specific accrediting agency or State approval agency.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1011c.

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2019–19025 Filed 9–3–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site; Meeting

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, September 23, 2019, 1:00 p.m.–5:00 p.m.; Tuesday, September 24, 2019, 9:00 a.m.–5:00 p.m.

ADDRESSES: Francis Marion, 387 King Street, Charleston, SC 29403.

FOR FURTHER INFORMATION CONTACT: Amy Boyette, Office of External Affairs, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–6120.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, September 23, 2019

Opening, Chair Update, and Agenda Review
Agency Updates
Administrative & Outreach Committee Update
Facilities Disposition & Site Remediation Committee Update
Nuclear Materials Committee Update
Strategic & Legacy Management Committee Update
Waste Management Committee Update
Break
Presentation: Solar Power Study Update
Draft Recommendations
Public Comments
Recess

Tuesday, September 24, 2019

Reconvene
Agenda Review
Presentations:

• Liquid Waste Operations Update
• Liquid Waste Regulatory Update
Lunch Break
Presentations:
• Saltstone Reliability
• Salt Waste Processing Facility Update
• Tank Closure Cesium Removal (TCCR) Program Update
• Federal Advisory Committee Act
Public Comments
Voting
Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Amy Boyette at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Amy Boyette's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Amy Boyette at the address or telephone number listed above. Minutes will also be available at the following website: *http://cab.srs.gov/srs-cab.html.*

Signed in Washington, DC, on August 27, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–18952 Filed 9–3–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2309–000]

Whitewater Hill Wind Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Whitewater Hill Wind Partners, 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 September 4, 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: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19041 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–050]

North East Wisconsin Hydro, LLC; Notice of Drawdown, Temporary Variance and Soliciting Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Drawdown of the Park Mill Power Canal.

b. *Project No.:* 2744–050.

c. *Date Filed:* August 5, 2019.

d. *Applicant:* North East Wisconsin Hydro, LLC.

e. *Name of Project:* Menominee and Park Mill Hydroelectric Project.

f. *Location:* The project is located on the Menominee River in Menominee County, Michigan, and Marinette County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Michael Scarzello, North East Wisconsin Hydro, LLC, c/o Eagle Creek Renewable Energy, 116 North State Street, P.O. Box 167, Neshkoro, WI 54960–0167, (973) 998–8400.

i. *FERC Contact:* Aneela Mousam, (202) 502–8357, *aneela.mousam@ferc.gov.*

j. Deadline for filing comments is 15 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests 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–2744–050. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* The licensee is requesting to conduct a drawdown of the Park Mill Power Canal as soon as possible, while it finalizes the

Drawdown Plan required by Article 404 of the license. The licensee must lower the water surface elevation of the project's 2,400-foot-long power canal by approximately 18 feet to complete turbine maintenance/repairs on several units currently out of service. The license proposes a drawdown rate of 1.0 feet per 24-hour with no more than 0.5 feet drop in any 8-hour period. The drawdown, repair and refill is estimated to span nine week. The licensee has consulted with the Wisconsin and Michigan Departments of Natural Resources, and the U.S. Fish and Wildlife Service.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments:* Anyone may submit comments in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. Any comments must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments must set forth their evidentiary basis. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: August 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19068 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–40–000]

Commission Information Collection Activities (FERC–516A); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

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–516A, Small Generator Interconnection Agreements.

DATES: Comments on the collection of information are due November 4, 2019.

ADDRESSES: You may submit comments (identified by Docket No. IC19–40–000) 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,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–516A, Standardization of Small Generator Interconnection Agreements and Procedures.

OMB Control No.: 1902–0203.

Type of Request: Three-year extension of the FERC–516A information collection requirements with no changes to the current reporting requirements.

Abstract: Under Sections 205 and 206 of the Federal Power Act (FPA) the Commission is charged with ensuring just and reasonable electric transmission rates and charges as well as ensuring that jurisdictional providers do not subject any person to any undue prejudice or disadvantage.

The lack of consistent and readily accessible terms and conditions for connecting resources to the grid led to a large number of disputes between jurisdictional transmission providers and small generators in the late 1990s and early 2000s. In response, the Commission directed transmission providers to include Commission-approved, standard, pro-forma interconnection procedures (small generator interconnection procedures or SGIP) and a single uniformly applicable interconnection agreement (small generator interconnection agreement or SGIA) in their open-access transmission tariffs (OATTs). The requirement to create and file these documents was instituted August 2005 by Commission Order No. 2006 and is codified in 18 CFR 35.28(f). This requirement set and maintained a standard in OATTs for consistent consideration and processing of interconnection requests by transmission providers.

Since the issuance of Order No. 2006, many aspects of the energy industry have changed including the growth of small generator interconnection requests and the growth in solar photovoltaic (PV) installations. These changes have been driven, in part, by state renewable energy goals and policies. For example, approximately 3,300 MW of grid-connected PV capacity were installed in the U.S. in 2012 compared to 79 MW in 2005, the year Order No. 2006 was issued.

In February 2012, pursuant to Sections 205 and 206 of the FPA and Rule 207 of the Commission's Rules of Practice and Procedures, and noting that the Commission encouraged stakeholders to submit proposed revisions to the regulations set forth in Order No. 2006, the Solar Energy Industries Association (SEIA) filed a Petition to Initiate Rulemaking (Petition). The Petition requested the Commission revise the pro forma SGIA and SGIP set forth in Order No. 2006. SEIA asserted that the pro forma SGIP and SGIA as applied to small solar generation were no longer just and reasonable, had become unduly discriminatory, and presented unreasonable barriers to market entry.

SEIA noted that its Petition would apply exclusively to solar electric generation due to its unique characteristics.

In 2012 the Commission issued a Notice of Petition for Rulemaking in Docket No. RM12–10–000 and began a public process to explore SEIA's Petition through the Commission's formal notice and comment process as well as technical conferences.

In November 2013, the Commission issued Order No. 792 to amend the pro forma Small Generator Interconnection Procedures and pro forma Small Generator Interconnection Agreement.

Order No. 792: (1) Incorporates provisions that provide an Interconnection Customer with the option of requesting from the Transmission Provider a pre-application report providing existing information about system conditions at a possible Point of Interconnection; (2) revised the 2 megawatt (MW) threshold for participation in the Fast Track Process included in section 2 of the pro forma SGIP; (3) revised the customer options meeting and the supplemental review following failure of the Fast Track screens so that the supplemental review is performed at the discretion of the Interconnection Customer and includes minimum load and other screens to determine if a Small Generating Facility may be interconnected safely and reliably; (4) revised the pro forma SGIP Facilities Study Agreement to allow the Interconnection Customer the opportunity to provide written comments to the Transmission Provider on the upgrades required for interconnection; (5) revised the pro forma SGIP and the pro forma SGIA to specifically include energy storage devices; and (6) clarified certain sections of the pro forma SGIP and the pro forma SGIA.

With these modifications, the Commission concluded that the package of reforms adopted in Order No. 792 will reduce the time and cost to process small generator interconnection requests for Interconnection Customers and Transmission Providers, maintain reliability, increase energy supply, and remove barriers to the development of new energy resources.

Type of Respondents: Jurisdictional transmission service providers.

Estimate of Annual Burden: [1] The Commission estimates the annual public reporting burden for the information collection as:

FERC–516A—STANDARDIZATION OF SMALL GENERATOR INTERCONNECTION AGREEMENTS AND PROCEDURES

Requirements [2]	Number of respondents annually (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response [3] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Maintenance of Documents—Transmission Providers	46	1	46	1 $84.38	46 $3,881	84.38
Filing of Agreements—Transmission Providers	95	1	95	25 $2,109.50	2,375 $200,403	2,109.50
Pre-Application Report—Interconnection Customers [4]	800	1	800	1 $84.38	800 $67,504	84.38
Pre-Application Report—Transmission Providers	142	5.63	800	2.5 $210.95	2,000 $168,760	1,188.45
Supplemental Review—Interconnection Customers	500	1	500	0.5 $42.19	250 $21,095	42.19
Supplemental Review—Transmission Providers	142	3.52	500	20 $1,687.60	10,000 $843,800	5,942.25
Review of Required Upgrades—Interconnection Customers	250	1	250	1 $84.38	250 $21,095	84.38
Review of Required Upgrades—Transmission Providers	142	1.76	250	2 $168.76	500 $42,190	297.11
Total	.....	.....	3,241	.....	16,221 $1,368,728	.....

[2] All requirements for transmission providers are mandatory. All requirements for interconnection customers are voluntary.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $84.38 per Hour = Average Cost per Response. This figure is the average of the salary plus benefits for an attorney, electrical engineer, and administrative staff: Attorney (Occupation Code: 23–0000): $142.86/hour, Electrical Engineer (Occupation Code: 17–2071): $68.17/hour, Office and Administrative Support (Occupation Code: 43–0000): $42.11/hour. The wages are derived from the Bureau of Labor and Statistics at *http://bls.gov/oes/current/naics3_221000.htm* and the benefits figure from *http://www.bls.gov/news.release/ecec.nr0.htm*.

[4] We assume each request for a pre-application report corresponds with one Interconnection Customer.

[1] The Commission defines burden as 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, reference 5 Code of Federal Regulations 1320.3.

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: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19044 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1695–000]

Cabazon Wind Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Cabazon Wind Partners, 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 September 4, 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: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19040 Filed 9–3–19; 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: RP19–1060–002.

Applicants: WBI Energy Transmission, Inc.

Description: Compliance filing 2019 Correction Compliance Filing with Order 587–Y to be effective 8/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5063.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: RP19–1486–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—BUG to Energy Plus 799755 to be effective 9/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5027.

Comments Due: 5 p.m. ET 9/9/19.

Docket Numbers: RP19–1487–000.

Applicants: ETC Tiger Pipeline, LLC.

Description: § 4(d) Rate Filing: Fuel Filing Out of Cycle on 8–27–19 to be effective 10/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5054.

Comments Due: 5 p.m. ET 9/9/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19037 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF19–6–000]

Western Area Power Administration; Notice of Filing

Take notice that on August 20, 2019, Western Area Power Administration submitted tariff filing per: Rate Service for the Central Arizona Project Transmission Services—Western Area Power Administration-Rate Order No. WAPA–172 to be effective August 2, 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 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 September 19, 2019.

Dated: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19038 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–2742–000]

Rock River I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Rock River I, 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 September 4, 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: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19039 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–28–000]

Commission Information Collection Activities (FERC–555); Comment Request

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

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 submitting its information collection FERC–729 (Electric Transmission Facilities) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously published a Notice in the **Federal Register** on June 27, 2019, requesting public comments. The Commission received no comments and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by October 4, 2019.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0098, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–28–000, 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–555 (Preservation of Records for Public Utilities and Licensees, Natural Gas and Oil Pipeline Companies).

OMB Control No.: 1902–0098.

Abstract: The Commission collects the information under the requirements of FERC–555 (Records Retention Requirements) to carry out its responsibilities in implementing the statutory provisions of Sections 301, 304 and 309 of the Federal Power Act (FPA),[1] Sections 8, 10 and 16 of the

[1] 16 U.S.C. 825, 825c and 825h.

Natural Gas Act (NGA),[2] and Section 20 of the Interstate Commerce Act (ICA).[3]

The regulations for preservation of records establish retention periods, necessary guidelines, and requirements for retention of applicable records. These requirements apply to the regulated public utilities, natural gas and oil pipeline companies subject to the Commission's jurisdiction. Regulated entities use these records as the basis for required rate filings and reports to the Commission. Additionally, the Commission's audit staff will use the records during compliance reviews. The Commission's enforcement staff will also use the information during investigations. Finally, the Commission will use the records for special analyses when necessary.

On January 8, 1999 the Commission issued AI99–2–000, an Accounting Issuance providing guidance on records storage media. More specifically, the Commission gave each jurisdictional company the flexibility to select its own storage media. The storage media selected must have a life expectancy equal to the applicable record period unless the quality of the data transferred from one media to another with no loss of data would exceed the record period.

On January 27, 2000, the Commission issued a final rule amending its records retention regulations for public utilities and licensees as well as natural gas and oil pipeline companies. These changes included revising the general instructions, and shortening various records retention periods. The objective of the final rule was to reduce or eliminate burdensome and unnecessary regulatory requirements.

The Commission is not making any additional changes to the record retention requirements specified under FERC–555. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR parts 125, 225, and 356.

Type of Respondent: Electric utilities, natural gas pipelines, and oil pipelines.

Estimate of Annual Burden:[4] The Commission estimates the annual public reporting burden for the information collection as:

FERC–555—PRESERVATION OF RECORDS FOR PUBLIC UTILITIES AND LICENSE, NATURAL GAS AND OIL PIPELINE COMPANIES

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. and cost per response[5]	Total annual burden hours and total annual cost
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
509	1	509	5,218.14 hrs.; $417,451	2,656,034 hrs.; $212,482,720.

Additional Background. Based on the data submitted by jurisdictional filers in 2010, we provide more detail regarding how we generated burden and cost estimates. We divided the entities into three size categories based on annual revenue reported on FERC's financial forms (Form 1, Form 2/2A and Form 6).[6] As indicated in the appendix, we only received useful responses from five entities: Three large, one medium, and one small. Because of this very limited data, it should not be inferred that the average burden and cost indicated for each entity size are representative of the burden for all entities in that size category and industry. We performed the analysis in this way in order to come up with a better average to apply across all the industries. It should also be noted that it is difficult to compare across industries based on entity size. For example, the first table below indicates that a large electric utility has an annual revenue more than ten times greater than a large gas pipeline.

The first table shows the estimated size categories by industry, and the second table shows the burden and cost based on size (combining the 3 industries).

Industry and size classification	Annual revenue
ELECTRIC:	
Large	>$1.15 Billion.
Medium	$310 Million to $1.15 Billion.
Small	<310 Million.
GAS:	
Large	>$100 Million.
Medium	$10 Million to $100 Million.
Small	<$10 Million.
OIL:	
Large	>$50 Million.
Medium	$5 Million to $50 Million.
Small	<$5 Million.

[2] 15 U.S.C. 717–717w.

[3] 49 U.S.C. 20.

[4] ''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 Title 5 Code of Federal Regulations 1320.3.

[5] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $80/hour = Average cost/response. The figure is the 2019 FERC average hourly cost (for wages and benefits) of $80 (and an average annual salary of $167,091/year). Commission staff is using the FERC average salary because we consider any record retention requirements completed in response to the FERC–555 to be compensated at rates similar to the work of FERC employees.

[6] The size thresholds are estimates based on staff judgment.

Size	Number of entities (1)	Average hours per entity (2)	Total burden hours [7] (1) * (2)
Large	174	11,475	1,996,658
Medium	166	2,371	393,619
Small	169	1,571	265,572

The total estimated annual cost burden to respondents is $212,482,720, which includes $127,433,401 for non-labor record storage costs and $85,049,319 for employee costs. The average cost per respondent is $417,451, which includes $250,360 for non-labor record storage costs and $167,091 for employee costs. All of these cost figures are based on staff analysis of the data we received in 2019.

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: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19043 Filed 9–3–19; 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: EC19–113–000.

Applicants: Golden State Water Company.

Description: Supplement to July 12, 2019 Application for Authorization Under Section 203 of the Federal Power Act [Revised Exhibit N] of Golden State Water Company.

Filed Date: 8/28/19.

Accession Number: 20190828–5072.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: EC19–129–000.

Applicants: Ambit Northeast, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Ambit Northeast, LLC.

Filed Date: 8/28/19.

Accession Number: 20190828–5139.

Comments Due: 5 p.m. ET 9/18/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1762–001.

Applicants: Electric Energy, Inc.

Description: Compliance filing: Compliance to 2019 Att M and Att N to be effective 4/30/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5063.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2150–001.

Applicants: Shawville Power, LLC.

Description: Compliance filing: Shawville Power LLC Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5032.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2151–001.

Applicants: New Castle Power, LLC.

Description: Compliance filing: New Castle Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5033.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2152–001.

Applicants: Brunot Island Power, LLC.

Description: Compliance filing: Brunot Island Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5035.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2153–001.

Applicants: Gilbert Power, LLC.

Description: Compliance filing: Gilbert Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5036.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2154–001.

Applicants: Sayreville Power, LLC.

Description: Compliance filing: Sayreville Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5037.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2155–001.

Applicants: Portland Power, LLC.

Description: Compliance filing: Portland Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5038.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2156–001.

Applicants: Warren Generation, LLC.

Description: Compliance filing: Warren Generation Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5039.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2157–001.

Applicants: Mountain Power, LLC.

Description: Compliance filing: Mountain Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5040.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2158–001.

Applicants: Orrtanna Power, LLC.

Description: Compliance filing: Orrtanna Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5041.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2159–001.

Applicants: Shawnee Power, LLC.

Description: Compliance filing: Shawnee Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5042.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2160–001.

Applicants: Titus Power, LLC.

Description: Compliance filing: Titus Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5043.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2161–001.

Applicants: Hamilton Power, LLC.

Description: Compliance filing: Hamilton Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5047.

[7] Due to rounding during the analysis and calculations, the total in this column does not sum to the exact figure reported shown in the summary burden table.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2162–001.

Applicants: Blossburg Power, LLC.

Description: Compliance filing: Blossburg Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5052.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2163–001.

Applicants: Hunterstown Power, LLC.

Description: Compliance filing: Hunterstown Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5053.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2164–001.

Applicants: Tolna Power, LLC.

Description: Compliance filing: Tolna Power Compliance Filing to be effective 9/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5057.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2505–001.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: Refile WDAT Energy Storage to be effective 10/30/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5130.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2687–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–27 Transferred Frequency Response Agreement with Tacoma Power to be effective 12/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5101.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2688–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 5459; Queue No. AE1–041 to be effective 7/29/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5106.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2689–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–27 Transferred Frequency Response Agreement with PUD No. 2 Grant Co. to be effective 12/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5117.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2690–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–27 Transferred Frequency Response Agreement with PUD No. 1 Chelan Co. to be effective 12/1/2019.

Filed Date: 8/27/19.

Accession Number: 20190827–5119.

Comments Due: 5 p.m. ET 9/17/19.

Docket Numbers: ER19–2691–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: GIA and Distribution Service Agmt SCEBESS–021 Project to be effective 8/29/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5001.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2692–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–28 Transferred Frequency Response Agreement with Bonneville Power Admin to be effective 12/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5098.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2693–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–28 Transferred Frequency Response Agreement with City of Seattle to be effective 12/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5103.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2694–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2019–08–28 Transferred Frequency Response Agreement with Powerex to be effective 12/1/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5105.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2695–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Clarify Trading Hub Modification Process Language to be effective 10/28/2019.

Filed Date: 8/28/19.

Accession Number: 20190828–5108.

Comments Due: 5 p.m. ET 9/18/19.

Docket Numbers: ER19–2696–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5159 and ICSA, SA No. 5189; Queue No. AB2–040 (amend) to be effective 8/8/2018.

Filed Date: 8/28/19.

Accession Number: 20190828–5116.

Comments Due: 5 p.m. ET 9/18/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19036 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. CP19–488–000]

Columbia Gulf Transmission, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Louisiana Xpress Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Session

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Louisiana Xpress Project involving construction and operation of facilities by Columbia Gulf Transmission, LLC (Columbia Gulf) in Evangeline, East Carroll, Catahoula, and Rapides Parishes, Louisiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to

discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on September 27, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on the project to the Commission before the opening of the docket on July 15, 2019, you will need to file those comments in Docket No. CP19–488–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing lists for the project. State and local government representatives should notify their constituents of the proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Columbia Gulf provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the docket/project to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–488–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426;

(4) In lieu of sending written comments, the Commission invites you to attend the public scoping session its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Wednesday, September 11, 2019, 4–8 p.m.	Holiday Inn, 701 4th St., Alexandria, LA, 71301, 318–541–8333.

The primary goal of the scoping session is to have you identify the specific environmental issues and concerns that should be considered in the EA. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

The scoping session is scheduled from 4:00 p.m. to 8:00 p.m. CST. You may arrive at any time after 4:00 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 8:00 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7:00 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by a court reporter (with FERC staff or representative present) and become part of the public record for these proceedings. Transcripts will be publicly available on FERC's eLibrary system (see the last page of this notice for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided verbally at a scoping session. Although there will not be a formal presentation, Commission staff will be available throughout the scoping session to answer your questions about the environmental review process. Representatives from Columbia Gulf will also be present to answer project-specific questions.

Summary of the Proposed Project

Columbia Gulf proposes to construct and operate three new greenfield compressor stations, and modify one existing compressor station. According to Columbia Gulf, its project would provide open access firm transportation from a primary receipt point at

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Columbia Gulf's Mainline Pool to a primary delivery point at an interconnection with KMLP in Evangeline Parish, Louisiana.

Each new compressor station (Shelburn Compressor Station in East Carroll Parish, Red Mountain Compressor Station in Catahoula Parish, and Chicot Compressor Station in Evangeline Parish) would include two 23,470 horsepower (hp) Solar Turbine Titan 130 natural gas turbine driven compressors (totaling 46,940 hp), filter/separators, gas cooling bays, 48-inch-diameter suction and 42-inch-diameter discharge piping, and related appurtenant facilities.

Modifications to the existing Alexandria Compressor Station in Rapides Parish would include additional cooling bays with associated piping and appurtenant facilities.

The general location of the Louisiana Xpress Project facilities is shown in appendix 2.

Land Requirements for Construction

Construction of the proposed facilities would disturb about 167.4 acres of land for the aboveground facilities. Following construction, Columbia Gulf would maintain about 35.8 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [2] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of the project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for these project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties, newspapers and local libraries. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 3).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–488). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: August 28, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19066 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–484–000]

Kinder Morgan Louisiana Pipeline, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Acadiana Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an

environmental assessment (EA) that will discuss the environmental impacts of the Acadiana Project involving construction and operation of facilities by Kinder Morgan Louisiana Pipeline, LLC (KMLP) in Acadia and Evangeline Parishes, Louisiana. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on September 27, 2019.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on the project to the Commission before the opening of the docket on June 28, 2019, you will need to file those comments in Docket No. CP19–484–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for the project. State and local government representatives should notify their constituents of the proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

KMLP provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the docket/project to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. To sign up go to *www.ferc.gov/docs-filing/esubscription.asp.*

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is also on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP19–484–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

KMLP proposes to construct and operate three new natural gas-fired compressor units at its existing compressor station, make modifications to meter piping and new control valves at its existing meter station, as well as install auxiliary facilities at both locations. The Acadiana Project would increase the north-south natural gas delivery capacity on its pipeline system by approximately 894,000 dekatherms per day. According to KMLP, its project would meet the needs of Sabine Pass Liquefaction, LLC at its liquefied natural gas export terminal in Cameron Parish, Louisiana.

The Acadiana Project would consist of the installation of the following facilities:

- Three new 31,900 horsepower Solar Titan 250 natural gas-fired turbine driven compressor units at KMLP's existing Compressor Station 760, in Acadia Parish, Louisiana. Additionally, KMLP would install natural gas cooling equipment, two compressor buildings, two master control buildings, a switchgear building, two emergency generators (requiring an extension of the existing auxiliary building), filter separators, fuel gas skids, fuel gas heaters, and re-wheel the two existing compressor units at Compressor Station 760; and
- Piping modifications and new control valves at KMLP's existing Columbia Gulf Transmission, LLC Meter Station in Evangeline Parish, Louisiana.

The general location of the Acadiana Project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 88.5 acres of land for all project facilities. Following construction, KMLP would maintain about 3.14 acres for permanent operation of the project's facilities; the

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

remaining acreage would be restored and revert to former uses. About 21.2 acres of the project would occur within KMLP's existing facilities.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staffs' independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary [2] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of the project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for the project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties, and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number in the Docket Number field, excluding the last three digits (*i.e.,* CP19–484). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: August 28, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19063 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14968–000]

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications: Lock+™ Hydro Friends Fund XV, LLC

On March 1, 2019, Lock+™ Hydro Friends Fund XV, 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 the Francis Walter Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' (Corps) Francis Walter Dam on the Lehigh River in Luzerne 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 project would consist of the following: (1) A new 30-foot-wide, 30-foot-deep, 160-foot-tall modular frame structure to be installed at the intake for the outlet pipe adjacent to the outlet tower, containing two turbine-generator units with a rated capacity of 2,400 kilowatts each; (2) a new switchgear and control room located in the modular structure; and (3) a new 13-kilovolt transmission line connecting the modular structure with a nearby existing electrical grid. The proposed project would have an annual generation of 20,000 megawatt-hours.

Applicant Contact: Wayne Crouse, Lock+™ Hydro Friends Fund XV, LLC, PO Box 43796, Birmingham, AL 35243; phone: 877–556–6566, ext. 709.

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–14968–000.

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–14968) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 28, 2019

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19070 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. ER19–2626–000]

Rosewater Wind Farm LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Rosewater Wind Farm 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 September 9, 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: August 20, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–18970 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1922–052]

Ketchikan Public Utilities; 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.:* 1922–052.

c. *Date Filed:* July 16, 2019.

d. *Submitted By:* Ketchikan Public Utilities (KPU).

e. *Name of Project:* Beaver Falls Hydroelectric Project.

f. *Location:* On Beaver Falls Creek in Ketchikan Gateway Borough, Alaska. The project occupies 478.4 acres of United States lands administered by U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Jennifer Holstrom, Senior Project Engineer, Ketchikan Public Utilities, 1065 Fair Street, Ketchikan, Alaska 99901; (907) 228–4733; or email at *jenniferh@ktn-ak.us.*

i. *FERC Contact:* Julia Kolberg at (202) 502–8261; or email at *julia.kolberg@ferc.gov.*

j. Ketchikan Public Utilities filed its request to use the Traditional Licensing Process on July 16, 2019. KPU provided public notice of its request on July 13, 2019. In a letter dated August 19, 2019, the Director of the Division of Hydropower Licensing approved BCB'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 under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the Alaska State Historic Preservation Office, 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 KPU 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. KPU 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. 1922. 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 October 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: August 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19064 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–2684–000]

Palmer Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Palmer 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 September 17, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 28, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–19042 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14969–000]

Lock+™ Hydro Friends Fund XVI, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On March 1, 2019, Lock+™ Hydro Friends Fund XVI, 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 the Crooked Creek Dam Hydropower Project to be located at the U.S. Army Corps of Engineers' (Corps) Crooked Creek Dam on Crooked Creek in Armstrong 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 project would consist of the following: (1) A new 30-foot-wide, 30-foot-deep, 160-foot-tall modular frame structure to be installed at the intake for the outlet pipe adjacent to the outlet tower, containing two turbine-generator units with a rated capacity of 1,450 kilowatts each; (2) a new switchgear and control room located in the modular structure; and (3) a new 13-kilovolt transmission line connecting the modular structure with a nearby existing electrical grid. The proposed project would have an annual generation of 12,750 megawatt-hours.

Applicant Contact: Wayne Crouse, Lock+™ Hydro Friends Fund XVI, LLC, PO Box 43796, Birmingham, AL 35243; phone: 877–556–6566, ext. 709.

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–14969–000.

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–14969) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: August 28, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–19065 Filed 9–3–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2019–0411; 9999–30–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is given of a proposed consent decree in *Center for Biological Diversity, et al.,* v. *Wheeler,* No. 4:18–cv–03544 (N.D. Cal.). On June 4, 2018, the Center for Biological Diversity, Center for Environmental Health, and Sierra Club filed a complaint in the United States District Court for the Northern District of California, and filed an amended complaint on December 17, 2018, alleging that the Administrator of the United States Environmental Protection Agency (''EPA'') failed to perform non-discretionary duties to take final action to approve or disapprove, in whole or in part, certain state implementation plans (''SIPs'') submitted to meet attainment requirements under the 2010 primary sulfur dioxide (''SO_2'') national ambient air quality standard (''NAAQS''), and to make findings of failure to submit SIPs for certain areas for the 1971 or 2010 primary SO_2 NAAQS. The proposed consent decree would establish deadlines for EPA to take specified actions.

DATES: Written comments on the proposed consent decree must be received by October 4, 2019.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2019–0411, online at *www.regulations.gov* (EPA's preferred method). For comments submitted at *www.regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mike Thrift, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency, c/o U.S. Environmental Protection Agency San Diego Border Office, 610 W Ash Street, Suite 905, San Diego, CA, 92101; telephone: (619) 321–1960; email address: *thrift.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The consent decree would resolve a lawsuit filed by the Center for Biological Diversity, Center for Environmental Health and Sierra Club seeking to compel the Administrator to take action under the Clean Air Act to approve or disapprove several submitted SO_2 SIPs under CAA sections 110(k)(2)–(4), and to issue findings of failure to submit SO_2 SIPs for several areas under CAA section 110(k)(1)(B). Specifically, the lawsuit seeks to compel EPA action under CAA section 110(k)(2)–(4) on SO_2 SIPs submitted for the Indianapolis, Indiana; Morgan County, Indiana; Southwest Indiana; Terre Haute, Indiana; Muscatine, Iowa; Detroit, Michigan; Jackson County, Missouri; Lake County, Ohio; Muskingum River, Ohio; Steubenville, Ohio-West Virginia; Rhinelander, Wisconsin; Hayden, Arizona; Miami, Arizona; Jefferson County, Kentucky; Allegheny, Pennsylvania; Beaver, Pennsylvania; Indiana, Pennsylvania; and Marshall, West Virginia SO_2 nonattainment areas. The lawsuit also seeks to compel EPA action under CAA section 110(k)(1)(B) to find failure to submit SO_2 SIPs for the New Jersey portion of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region; Alton Township, Illinois; Williamson County, Illinois; Anne Arundel County and Baltimore County, Maryland; and St. Clair, Michigan SO_2 nonattainment areas.

The EPA has already taken final action to approve the submitted SO_2 SIPs or elements thereof for the Indianapolis, Indiana; Terre Haute, Indiana; Jackson County, Missouri; Lake County, Ohio; Miami, Arizona; Marshall, West Virginia; and Jefferson County, Kentucky SO_2 nonattainment areas. See, 84 FR 10692 (March 22, 2019), 84 FR 3703 (February 13, 2019); 84 FR 3986 (February 14, 2019); 84 FR 8813 (March 12, 2019); 80 FR 45613 (July 31, 2015); and 84 FR 30920 (June 28, 2019). EPA has also found that SO_2 SIP submitted for the Alton Township, Illinois nonattainment area is complete. See, letter from EPA Region 5 Director of Air and Radiation Division to Director of Illinois Environmental Protection Agency (June 5, 2019). In addition, EPA previously approved some submitted elements for the New Jersey portion of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region. 61 FR 38591 (July 25, 1996), and 82 FR 44099 (September 21, 2017); see also, letter from Director of New Jersey Department of Environmental Protection, Division of Air Quality to Chief, Air Programs Branch, EPA Region 2 (July 23, 2019). On August 21, 2019, EPA published a final Clean Data Determination for the New Jersey portion of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region, concluding that the area had attained the 1971 SO_2 NAAQS and thereby suspending the State's obligation to submit a nonattainment SIP for the area. 84 FR 43504 (August 21, 2019). Therefore, the lawsuit's claims regarding these areas are moot.

Under the terms of the proposed consent decree, EPA shall take actions regarding the remaining areas by the deadlines established in the proposed consent decree, unless EPA or the relevant state takes action that would automatically terminate EPA's obligations for individual areas under the proposed consent decree.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose

facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2019–0411) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. *How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: August 26, 2019.

Gautam Srinivasan,

Acting Associate General Counsel.

[FR Doc. 2019–19100 Filed 9–3–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9999–25–Region 2]

Proposed CERCLA Cost Recovery Settlement Regarding the Lightman Drum Company Superfund Site, Camden County, New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to CERCLA between EPA and Air Products and Chemicals, Inc.; Alco Industries Inc.; Bayer CropScience, Inc.; Colonial Heights Packaging Inc.; Continental Holdings Inc.; Croda Inks Corp.; Forenco, Inc.; Henkel US Operations Corporation, for itself and on behalf of Amchem Products, Inc,; LANXESS Sybron Chemicals, Inc.; Reynolds Metals Company, LLC; The Hillshire Brands Company; Sonoco Products Company; Stepan Company; Union Carbide Corporation; and USG Corporation (''Settling Parties'') regarding the Lightman Drum Company Superfund Site, Winslow Township, Camden County, New Jersey (''Site''). Pursuant to the proposed cost recovery settlement agreement, the Settling Parties will pay $13,526.88 to resolve the Settling Parties' civil liability under Section 107(a) of CERCLA for past response costs and will pay future response costs for the Site.

DATES: Comments must be submitted on or before October 4, 2019.

ADDRESSES: The proposed settlement agreement is available for public inspection at EPA's Region 2 offices. To request a copy of the proposed settlement agreement, please contact the EPA employee identified in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Amelia Wagner, Assistant Regional Counsel, U.S. Environmental Protection Agency, Region 2, Office of Regional Counsel, 290 Broadway–17th Floor, New York, New York 10007–1866. Email: *wagner.amelia@epa.gov.* Telephone: (212) 637–3141.

SUPPLEMENTARY INFORMATION: For 30 days following the date of publication of this notice, EPA will receive written comments concerning the proposed cost recovery settlement agreement. Comments to the proposed settlement agreement should reference the Lightman Drum Company Superfund Site, U.S. EPA Index No. CERCLA–02–2019–2004. EPA will consider all comments received during the 30-day public comment period and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement agreement is inappropriate, improper, or inadequate. EPA's

response to comments will be available for public inspection at EPA's Region 2 offices located at 290 Broadway, New York, NY 10007–1866.

Dated: August 6, 2019.

Pat Evangelista,

Acting Director, Superfund and Emergency Management Division, Region 2.

[FR Doc. 2019–19098 Filed 9–3–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0091; FRL–9998–99]

Product Cancellation Order for Certain Pesticide Registrations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a cancellation order in the **Federal Register** of August 14, 2019, concerning the cancellations voluntarily requested by the registrants and accepted by the Agency. This notice is being issued to correct the cancellation order in Table 1, of Unit II., to remove three entries that the registrant inadvertently requested be cancelled.

DATES: The **Federal Register** of August 14, 2019, announced the order to voluntarily cancel three registrations in Table 1, of Unit II., that the registrant inadvertently requested.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0091, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What does this correction do?

EPA is correcting the cancellation order issued in the **Federal Register** of August 14, 2019 (84 FR 40405; FRL–9996–70), by removing three entries in Table 1, of Unit II., because the registrant of those registrations inadvertently requested the voluntary cancellations. As such, this correction removes registration numbers 1043–87, 1043–91 and 1043–92 from the cancellation order.

On page 40405, in Table 1, of Unit II., please remove the entries for registration numbers 1043–87, 1043–91 and 1043–92.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 26, 2019.

Hamaad A. Syed,

Acting Director, Information Technology and Resource Management Division, Office of Pesticide Programs.

[FR Doc. 2019–19031 Filed 9–3–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0879; FRL–9998–60]

Environmental Modeling Public Meeting; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: An Environmental Modeling Public Meeting (EMPM) will be held on Wednesday October 16, 2019. This Notice announces the location and time for the meeting and provides tentative agenda topics. The EMPM provides a public forum for EPA and its stakeholders to discuss current issues related to modeling pesticide fate, transport, exposure, and ecotoxicity for pesticide risk assessments in a regulatory context.

DATES:

Meeting: The meeting will be held on October 16, 2019 from 9:00 a.m. to 4:30 p.m.

Requests to participate: Requests to participate in the meeting must be made or received on or before September 23, 2019.

Requests for special accommodation: Requests for accommodation of a disability should be submitted at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

ADDRESSES:

Meeting: The meeting will be held at the Environmental Protection Agency, Office of Pesticide Programs (OPP), One Potomac Yard (South Building), First Floor Conference Center (S–1200), 2777 S. Crystal Drive, Arlington, VA 22202.

Requests to participate and requests for special accommodations: Submit requests to participate in the meeting and requests for special accommodations to the person listed under **FOR FURTHER INFORMATION CONTACT** by the deadline identified in the **DATES** section.

FOR FURTHER INFORMATION CONTACT: Rebecca Lazarus or Zoe Ruge, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0520 and (703) 347–0111; fax number: (703) 305–0204; email address: *lazarus.rebecca@epa.gov* and *ruge.zoe@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. 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:

- Agriculture, Forestry, Fishing and Hunting NAICS code 11.
- Utilities NAICS code 22.
- Professional, Scientific and Technical NAICS code 54.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0879, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

On a biannual interval, an EMPM is held for presentation and discussion of current issues related to modeling pesticide fate, transport, and exposure for risk assessment in a regulatory context. Meeting dates and abstract requests are announced through the ''empmlist'' forum on the LYRIS list server at *https://lists.epa.gov/read/all_forums/.*

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT** by the deadline identified in the **DATES** section. Do not submit any information in your request that is considered CBI.

IV. Tentative Theme for the Meeting

The 2019 Fall EMPM will provide a forum for presentations on incorporation of pesticide usage data into environmental exposure and ecological risk assessments. Potential topics include sources of usage data (relating to the actual application of pesticides, in terms of the quantity applied or units treated), spatial applications of usage data, model parameterization, extrapolation of available usage data to fill gaps, and temporal variability of usage. Updates on ongoing topics will also be provided.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 22, 2019.

Marietta Echeverria,

Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 2019–19067 Filed 9–3–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9999–10–OW]

Open Meeting of the Environmental Financial Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a public meeting on October 16–18, 2019 in the Kansas City, Missouri metropolitan area. The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities.

The purpose of this meeting is to discuss recommendations from EFAB work products; to discuss changes to the EFAB's process of selecting new topics and developing recommendations; and to discuss stormwater funding and financing. The meeting is open to the public; however, seating is limited. All members of the public who wish to attend the meeting must register in advance, no later than Monday, September 30, 2019 at *https://epaefaboctober2019.eventbrite.com.*

DATES: A workgroup of the board, the Stormwater Infrastructure Taskforce/Workgroup will meet on Wednesday, October 16, 2019 from 9 a.m.–5 p.m. The full board meeting will be held Thursday, October 17, 2019 from 9 a.m.–5 p.m. and Friday, October 18, 2019 from 9 a.m.–12 p.m.

ADDRESSES: The Fontaine—A Kansas City Hotel, 901 W. 48th Place, Kansas City, MO 64112.

FOR FURTHER INFORMATION CONTACT: For information on access or services for individuals with disabilities, or to request accommodations for a disability, please contact Tara Johnson at (202) 564–6186 or *johnson.tara@epa.gov* at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Dated: August 21, 2019.

Andrew Sawyers,

Director, Office of Wastewater Management, Office of Water.

[FR Doc. 2019–19093 Filed 9–3–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1227]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 4, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1227.

Title: Sections 80.233, Technical requirements for Automatic

Identification System Search and Rescue Transmitter (AIS–SART) equipment, 80.1061 Special requirements for 406.0–406.1 MHz EPIRB stations, 95.2987 Additional PLB and MSLD certification requirements

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 80 respondents; 80 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third party disclosure requirement and on-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154, 303 unless otherwise noted.

Total Annual Burden: 80 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The information collections contained in these rule sections require manufacturers of certain emergency radio beacons to include supplemental information with their equipment certification application which are due to the information collection requirements. Manufacturers of Automatic Identification System Search and Rescue Transmitters (AIS–SARTS), 406 MHz Emergency Position Indicating RadioBeacons (EPIRBs), and Maritime Survivor Locating Device (MSLDs) must provide a copy of letter from the U.S. Coast Guard stating their device satisfies technical requirements specified in the IEC 61097–17 technical standard for AIS–SARTs, or Radio Technical Commission for Maritime Services (RTCM) Standard 11000 for 406 MHz EPIRBs, or RTCM Standard 11901 for MSLDs. They must also provide a copy or the technical test data, and the instruction manual(s). For 406 MHz PLBs manufacturers must include documentation from COSPAS/SARSAT recognized test facility that the PLB satisfies the technical requirements specified in COSPAS–SARSAT Standard C/S T.001 and COSPAS–SARSAT Standard C/S T.007 standards and documentation from an independent test facility stating that the PLB complies RTCM Standard 11010.2. The information is used by Telecommunications Certification Bodies (TCBs) to determine if the devices meets the necessary international technical standards and insure compliance with applicable rules. If this information were not available, operation of marine safety equipment could be hindered threatening the ability of rescue personnel to locate vessels in distress.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–19026 Filed 9–3–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0262]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before November 4, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0262.

Title: Section 90.179, Shared Use of Radio Stations.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, non-for-profit institutions, and state, local and tribal government.

Number of Respondents and Responses: 43,000 respondents, 43,000 responses.

Estimated Time per Response: .25 up to .75 hours.

Frequency of Response: Recordkeeping requirement and On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

Total Annual Burden: 43,000 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission was directed by the United States Congress, in the Balanced Budget Act of 1997, to dedicate 2.4 MHz of electromagnetic spectrum in the 746–806 MHz band for public safety services. Section 90.179 requires that Part 90 licensees that share use of their private land mobile radio facility on non-profit, cost-sharing basis to prepare and keep a written sharing agreement as part of the station records. Regardless of the method of sharing, an up-to-date list of persons who are sharing the station and the basis of their eligibility under Part 90 must be maintained. The requirement is necessary to identify users of the system should interference problems develop. This information is used by the Commission to investigate interference complaints and resolve interference and operational complaints that may arise among the users.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–19028 Filed 9–3–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0754]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 4, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0754.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule H.

Form Number: FCC Form 2100, Schedule H.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents: 1,758 respondents; 1,758 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: Recordkeeping requirement: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,580 hours.

Total Annual Cost: $1,054,800.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with respect to this collection of information.

Needs and Uses: Commercial full-power and Class A television broadcast stations are required to file FCC Form 2100, Schedule H (formerly FCC Form 398) (Children's Television Programming Report) within 30 days after the end of each calendar year. FCC Form 2100, Schedule H is a standardized form that: (a) Provides a consistent format for reporting the children's educational television programming aired by licensees to meet their obligation under the Children's Television Act of 1990 (CTA), and (b) facilitates efforts by the public and the FCC to monitor compliance with the CTA.

Commercial full-power and Class A television stations are required to complete FCC Form 2100, Schedule H within 30 days after the end of each calendar year and file the form with the Commission. The Commission places the form in the station's online public inspection file maintained on the Commission's database (*www.fcc.gov*). Stations use FCC Form 2100, Schedule H to report, among other things, the Core Programming (*i.e.,* children's educational and informational programming) the station aired the previous calendar year. FCC Form 2100, Schedule H also includes a ''Preemption Report'' that must be completed for each Core Program that was preempted during the year. This ''Preemption Report'' requests information on the reason for the preemption, the date of each preemption, the reason for the preemption and, if the program was rescheduled, the date and time the program was re-aired.

On July 10, 2019, the Commission adopted a *Report and Order* in MB Docket Nos. 18–202 and 17–105, FCC 19–67, *In the Matter of Children's Television Programming Rules; Modernization of Media Regulation Initiative,* which modernizes the children's television programming rules in light of changes to the media landscape that have occurred since the rules were first adopted. Among other revisions, the *Report and Order* revises the children's television programming rules to expand the Core Programming hours to 6:00 a.m. to 10:00 p.m.; modify the safe harbor processing guidelines for determining compliance with the children's programming rules; require that broadcast stations air the substantial majority of their Core Programming on their primary program streams, but permit broadcast stations to air up to 13 hours per quarter of regularly scheduled weekly programming on a multicast stream; eliminate the additional processing guideline applicable to stations that multicast; and modify the rules governing preemption of Core Programming. In addition, the *Report and Order* revises the children's television programming reporting requirements by requiring that Children's Television Programming Reports (FCC Form 2100, Schedule H) be filed on an annual rather than quarterly basis, within 30 days after the end of the calendar year; eliminating the requirements that the reports include information describing the educational and informational purpose of each Core Program aired during the current reporting period and each Core Program that the licensee expects to air during the next reporting period; eliminating the requirement to identify the program guide publishers who were sent information regarding the licensee's Core Programs; and streamlining the form by eliminating certain fields. The *Report and Order* also eliminates the requirement to publicize the Children's Television Programming Reports. The *Report and Order* directs the Media Bureau to make modifications to FCC Form 2100, Schedule H as needed to conform the form with the revisions to the children's programming rules, including the changes to the processing guidelines and preemption policies.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–19027 Filed 9–3–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 18, 2019.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Donna Richards Foster, Darla Janice Richards, and Debbie R. Leinenbach, all of Throckmorton, Texas*; as a group acting in concert, to retain voting shares of Woodson Bancshares, Inc., and thereby indirectly retain shares of First State Bank, both of Graham, Texas.

2. *Edwin M. Payne, Pharr, Texas*; to retain voting shares of Greater State Bancshares Corp., and thereby indirectly retain shares of Greater State Bank, both of McAllen, Texas.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Jerry R. and Dorothy J. Cater Children's Trust U/T/A dated November 29, 1989 (''Trust''), and Robert M. Cater and Craig H. Plaster, both of Moberly, Missouri, as trustees of the Trust*; to acquire voting shares of RMB Bancshares, Inc., and thereby indirectly acquire shares of Regional Missouri Bank, both of Marceline, Missouri.

Board of Governors of the Federal Reserve System, August 29, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–19057 Filed 9–3–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 30, 2019.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *First Guaranty Bancshares, Inc., Hammond, Louisiana, and Smith & Hood Holding Company, L.L.C., Amite, Louisiana;* to acquire 100 percent of the voting shares of Union Bancshares, Incorporated, and thereby indirectly acquire The Union Bank, both of Marksville, Louisiana.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *JGS, Jr. Family Holding Corporation, Salt Lake City, Utah;* to become a bank holding company by acquiring 60.86 percent of Home Credit Corporation, and thereby indirectly acquiring Home Savings Bank, both of Salt Lake City, Utah.

2. *DCB Family Holding Corporation, Salt Lake City, Utah;* to become a bank holding company by acquiring 27.64 percent of Home Credit Corporation, and thereby indirectly acquiring Home Savings Bank, both of Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, August 29, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–19052 Filed 9–3–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott- Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED MAY 1, 2019 THRU MAY 31, 2019

05/01/2019		
20191137	G	Ford Motor Company; Rivian Automotive, Inc.; Ford Motor Company.

EARLY TERMINATIONS GRANTED MAY 1, 2019 THRU MAY 31, 2019—Continued

		05/02/2019
20191165	G	Wind Point Partners VIII–A, L.P.; Mason Wells Buyout Fund III, LP; Wind Point Partners VIII–A, L.P.
20191176	G	1982 Smith Children's Trust; Klondike Holdings, LLC; 1982 Smith Children's Trust.
20191177	G	1982 Hemingway Family Trust; Klondike Holdings, LLC; 1982 Hemingway Family Trust.
20191199	G	Starwood Energy Infrastructure Fund III U.S. Investor, L.P.; Volt Parent, LP; Starwood Energy Infrastructure Fund III U.S. Investor, L.P.
20191201	G	KKR Americas Fund XII, L.P.; Oregon Dental Service; KKR Americas Fund XII, L.P.
		05/03/2019
20190383	G	International Business Machines Corporation; Red Hat, Inc.; International Business Machines Corporation.
20191203	G	Macquarie Group Limited; The Independent Order of Foresters; Macquarie Group Limited.
20191207	G	salesforce.com, inc.; MapAnything, Inc.; salesforce.com, inc.
20191208	G	Best Buy Co., Inc.; Critical Signal Technologies, Inc.; Best Buy Co., Inc.
20191209	G	Seminole HR Holdings, LLC; Mr. Daniel B. Gilbert; Seminole HR Holdings, LLC.
20191211	G	Unilever N.V.; Olly Public Benefit Corporation; Unilever N.V.
20191213	G	Siris Partners IV, L.P.; Electronics For Imaging, Inc.; Siris Partners IV, L.P.
20191214	G	Mitsubishi Heavy Industries, Ltd.; Wijnand Nicolaas Pon; Mitsubishi Heavy Industries, Ltd.
20191215	G	AP IX First Street Holdings, L.P.; Smart & Final Stores, Inc.; AP IX First Street Holdings, L.P.
20191219	G	Butterfly Generis Co-Invest, LP; Campbell Soup Company; Butterfly Generis Co-Invest, LP.
20191220	G	Tailwind Capital Partners III, L.P.; Linsalata Capital Partners Fund VI, L.P.; Tailwind Capital Partners III, L.P.
20191223	G	DCP Capital Partners, L.P.; American Industrial Partners Capital Fund V, L.P.; DCP Capital Partners, L.P.
20191228	G	William K. Reagan; GTCR Fund XI/B LP; William K. Reagan.
		05/07/2019
20190924	G	Warburg Pincus Private Equity XII, L.P.; Dr. David Stern; Warburg Pincus Private Equity XII, L.P.
20191227	G	MiddleGround Partners I, L.P.; Gary Wendorff; MiddleGround Partners I, L.P.
		05/08/2019
20190958	G	Thoma Bravo Discover Fund II, L.P.; Louis C. Werderich; Thoma Bravo Discover Fund II, L.P.
20191216	G	Goldman Sachs Renewable Power LLC; Macquarie Infrastructure Corporation; Goldman Sachs Renewable Power LLC.
20191218	G	Temasek Holdings (Private) Limited; MIP Penn Terminals Holdings, LLC; Temasek Holdings (Private) Limited.
		05/09/2019
20191103	G	Halmont Properties Corporation; Oaktree Capital Group Holdings, L.P.; Halmont Properties Corporation.
20191166	G	Green Equity Investors Side VII, L.P.; Catalent, Inc.; Green Equity Investors Side VII, L.P.
20191167	G	Green Equity Investors VII, L.P.; Catalent, Inc.; Green Equity Investors VII, L.P.
20191170	G	Catalent, Inc.; Paragon Bioservices, Inc.; Catalent, Inc.
20191204	G	salesforce.com, Inc.; salesforce.org; salesforce.com, Inc.
20191221	G	Generate Capital, Inc.; AMP Americas, LLC; Generate Capital, Inc.
20191222	G	Jacobs Engineering Group Inc.; The KeyW Holding Corporation; Jacobs Engineering Group Inc.
		05/13/2019
20191232	G	Shanghai RAAS Blood Products Co., Ltd.; Grifols, S.A.; Shanghai RAAS Blood Products Co., Ltd.
20191235	G	DIF Infrastructure V Cooperatief U.A.; Macquarie Infrastructure Corporation; DIF Infrastructure V Cooperatief U.A.
20191237	G	Marquee Brands Partners, LP; Sequential Brands Group, Inc.; Marquee Brands Partners, LP.
20191238	G	John Bean Technologies Corporation; Robert J. Hargreaves; John Bean Technologies Corporation.
20191239	G	John Bean Technologies Corporation; Stephen M. Malone; John Bean Technologies Corporation.
20191242	G	PAI Europe VII–1 SCSp; Elior Group SA; PAI Europe VII–1 SCSp.
20191243	G	Deutsche Borse AG; Axioma, Inc.; Deutsche Borse AG.
20191247	G	The Resolute Fund IV, L.P.; Dr. Babak Daneshrad; The Resolute Fund IV, L.P.
20191252	G	Peppertree Capital Fund VII QP, LP; William G. Davis; Peppertree Capital Fund VII QP, LP.
20191253	G	Yeung Family Trust V; Safanad Limited; Yeung Family Trust V.
20191258	G	John Laing Group plc; ENGIE S.A.; John Laing Group plc.
20191262	G	Bain Capital Fund XII, L.P.; Audax Private Equity Fund V–A, L.P.; Bain Capital Fund XII, L.P.
20191263	G	PayPal Holdings, Inc.; Uber Technologies, Inc.; PayPal Holdings, Inc.
20191264	G	Marathon Petroleum Corporation; James D. Newman; Marathon Petroleum Corporation.
20191265	G	Marathon Petroleum Corporation; Michael F. Newman; Marathon Petroleum Corporation.
20191272	G	H.I.G. Capital Partners V, L.P.; Riveron Holdings, LP; H.I.G. Capital Partners V, L.P.
		05/14/2019
20191268	G	True Wind Capital, L.P.; Zix Corporation; True Wind Capital, L.P.
		05/15/2019
20191230	G	New Lux SCSp; iContracts, Inc.; New Lux SCSp.
		05/17/2019
20191026	G	Black Ridge Acquisition Corp.; Ourgame International Holdings Limited; Black Ridge Acquisition Corp.

EARLY TERMINATIONS GRANTED MAY 1, 2019 THRU MAY 31, 2019—Continued

20191234	G	HCA Healthcare, Inc.; Isleworth Partners, Inc.; HCA Healthcare, Inc.
20191270	G	Post Holdings, Inc.; TreeHouse Foods, Inc.; Post Holdings, Inc.
20191276	G	Principal Financial Group, Inc.; Wells Fargo & Company; Principal Financial Group, Inc.
20191277	G	Sealed Air Corporation; APS Holding Company, Inc.; Sealed Air Corporation.
20191278	G	Jeffrey O. Spiegel; Pou Chen Corporation; Jeffrey O. Spiegel.
20191279	G	Astorg VI SLP; Merz Holding GmbH & Co. KG; Astorg VI SLP.
20191283	G	Thoma Bravo Fund XIII–A, L.P.; KKR North America Fund XI, L.P.; Thoma Bravo Fund XIII–A, L.P.
20191286	G	Rocket Internet Capital Partners (Euro) SCS; JRSK, Inc.; Rocket Internet Capital Partners (Euro) SCS.
20191287	G	Rocket Internet Capital Partners SCS; JRSK, Inc.; Rocket Internet Capital Partners SCS.
20191289	G	Cable One, Inc.; Fidelity Communications Co.; Cable One, Inc.
20191290	G	Gauge Capital II, L.P.; Genossenschaft Constanter; Gauge Capital II, L.P.
20191292	G	Kali P. Chaudhuri, trustee; Verity Health System of California, Inc.; Kali P. Chaudhuri, trustee.
20191295	G	Xilinx, Inc.; Solarflare Communications, Inc.; Xilinx, Inc.
20191299	G	Genstar Capital Partners IX, L.P.; Pegasus Global Enterprise Holdings, LLC; Genstar Capital Partners IX, L.P.
20191300	G	Clearlake Capital Partners V, L.P.; Dude Solutions Holdings, Inc.; Clearlake Capital Partners V, L.P.
20191303	G	General Atlantic Partners 100, L.P.; Alkami Technology, Inc.; General Atlantic Partners 100, L.P.
20191309	G	Confluent Health Holdings L.P.; Confluent Health, LLC; Confluent Health Holdings L.P.
20191310	G	H.I.G. Capital Partners V, L.P.; Centerbridge Credit Partners Master, L.P.; H.I.G. Capital Partners V, L.P.
		05/20/2019
20191301	G	Francisco Partners V, L.P.; Perforce Software Investment Holdings, L.P.; Francisco Partners V, L.P.
20191304	G	Francisco Partners V–A, L.P.; Perforce Software Investment Holdings, L.P.; Francisco Partners V–A, L.P.
20191307	G	Glencore plc; PolyMet Mining Corp; Glencore plc.
20191312	G	Mountaingate Capital Fund I, L.P.; Meritdirect LLC; Mountaingate Capital Fund I, L.P.
		05/21/2019
20191259	G	Genossenschaft Constanter; Daniel S. O'Connell; Genossenschaft Constanter.
		05/22/2019
20191250	G	RWE Aktiengesellschaft; E.ON SE; RWE Aktiengesellschaft.
20191260	G	Longleaf Partners Funds Trust; CNX Resources Corporation; Longleaf Partners Funds Trust.
20191273	G	Blackstone Energy Partners II Q L.P.; PDC Energy, Inc.; Blackstone Energy Partners II Q L.P.
20191275	G	The Lundbeck Foundation; CHP III, L.P.; The Lundbeck Foundation.
20191282	G	WaterBridge Holdings LLC; PDC Energy, Inc.; WaterBridge Holdings LLC.
20191293	G	DSV A/S; Panalpina Welttransport (Holding) AG; DSV A/S.
		05/31/2019
20191249	G	E.ON SE; RWE Aktiengesellschaft; E.ON SE.
20191255	G	Murphy Oil Corporation; Gerald A. Boelte; Murphy Oil Corporation.
20191261	G	Publicis Groupe S.A.; Alliance Data Systems Corporation; Publicis Groupe S.A.
20191288	G	Rocket Internet SE; JRSK, Inc.; Rocket Internet SE.
20191297	G	KWOR Holdings, L.P.; Aquiline Worley Parent LLC; KWOR Holdings, L.P.
20191315	G	KPS Special Situations Fund IV, LP; Brunswick Corporation; KPS Special Situations Fund IV, LP.
20191316	G	Serent Capital III, L.P.; Collections Acquisition Company, Inc. d/b/a Payliance, Inc.; Serent Capital III, L.P.
20191317	G	Samuel A. Calagione III; C. James Koch; Samuel A. Calagione III.
20191318	G	C. James Koch; Samuel A. Calagione III; C. James Koch.
20191326	G	Francisco Partners III (Cayman), L.P.; Greg E. Lindberg; Francisco Partners III (Cayman), L.P.
20191331	G	KKR Americas Fund XII, L.P.; Vector Capital II/III Extension, L.P.; KKR Americas Fund XII, L.P.
20191334	G	William G. Davis; LCM Investments Holdings II, LLC; William G. Davis.
20191335	G	Perrigo Company plc; Susan R. Kiphart; Perrigo Company plc.
20191336	G	Shell Midstream Partners, L.P; Colonial Pipeline Company; Shell Midstream Partners, L.P.
20191337	G	Shell Midstream Partners, L.P; Explorer Pipeline Company; Shell Midstream Partners, L.P.
20191338	G	Relo Group Inc.; Halmont Properties Corporation; Relo Group Inc.
20191339	G	American Express Company; Benjamin Leventhal; American Express Company.
20191341	G	LG Household & Health Care Ltd.; Cleveland NA Investor LLC; LG Household & Health Care Ltd.
20191342	G	Horizon Group Holdings, L.P.; Oak Hill Capital Partners III, L.P.; Horizon Group Holdings, L.P.
20191353	G	Midstates Petroleum Company, Inc.; Amplify Energy Corp.; Midstates Petroleum Company, Inc.
20191356	G	MIP IV (ECI) AIV, L.P.; COSCO Shipping Holdings Co., Ltd.; MIP IV (ECI) AIV, L.P.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19009 Filed 9–3–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the

Hart-Scott- Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED JULY 1, 2019 THRU JULY 31, 2019

07/01/2019		
20191450	G	DC Capital Partners Fund II, L.P.; Pond Holdings, Inc.; DC Capital Partners Fund II, L.P.
20191539	G	Solaris Midstream Holdings, LLC; Concho Resources Inc.; Solaris Midstream Holdings, LLC.
20191546	G	Nordic Capital IX Beta, L.P.; Deepak Abbhi; Nordic Capital IX Beta, L.P.
07/03/2019		
20191554	G	James M. Moran Intervivos Trust Number Two; Trilantic Capital Partners V (North America) L.P.; James M. Moran Intervivos Trust Number Two.
07/05/2019		
20191538	G	Anthem, Inc.; BVO Holdings, LLC; Anthem, Inc.
07/08/2019		
20191557	G	Eastdil Secured Holdings LLC; Wells Fargo & Company; Eastdil Secured Holdings LLC.
20191562	G	Vera Bradley, Inc.; Paul Goodman; Vera Bradley, Inc.
20191567	G	THL Equity Fund VIII Investors (Automate), L.P.; EQT VII (No. 1) LP; THL Equity Fund VIII Investors (Automate), L.P.
20191571	G	Mondelez International, Inc.; New Perfect Bar Corporation; Mondelez International, Inc.
20191576	G	Rond Point Immobilier SAS; Medidata Solutions, Inc.; Rond Point Immobilier SAS.
20191577	G	Appointive Distributing Trust A c/u Samuel C. Johnson 1988; Sun Bum Holdings, LLC; Appointive Distributing Trust A c/u Samuel C. Johnson 1988.
20191586	G	PPC Fund II LP; Wind Point Partners VIII–A, L.P.; PPC Fund II LP.
20191587	G	Anna Reilly; Lamar Advertising Company; Anna Reilly.
20191590	G	New Enterprise Associates 16, L.P.; Banjo, Inc.; New Enterprise Associates 16, L.P.
20191607	G	Mitsubishi Corporation; Chiyoda Corporation; Mitsubishi Corporation.
07/10/2019		
20191534	G	Intel Corporation; Barefoot Networks, Inc.; Intel Corporation.
20191579	G	Aurora Equity Partners V L.P.; SGS SA; Aurora Equity Partners V L.P.
20191588	G	TPG Pace Holdings Corp.; Accel Entertainment, Inc.; TPG Pace Holdings Corp.
20191595	G	Partners Group Access 1098, L.P.; Blue River PetCare, L.L.C.; Partners Group Access 1098, L.P.
20191596	G	dormakaba Holding AG; James Bret Armatas; dormakaba Holding AG.
20191597	G	Mr. Patrick Drahi; Sotheby's; Mr. Patrick Drahi.
20191600	G	Ashford Inc.; Archie Bennett, Jr.; Ashford Inc.
20191601	G	Ashford Inc.; Monty J. Bennett; Ashford Inc.
20191602	G	Monty J. Bennett; Ashford Inc.; Monty J. Bennett.
20191603	G	Archie Bennett, Jr.; Ashford Inc.; Archie Bennett, Jr.
20191611	G	Trian Partners Co-Investment Opportunities Fund, LLC; Ferguson plc; Trian Partners Co-Investment Opportunities Fund, LLC.
07/11/2019		
20191517	G	NXP Semiconductors N.V.; Marvell Technology Group Ltd.; NXP Semiconductors N.V.
20191572	G	Zoonie, LLC; Summit Medical Group, P.A.; Zoonie, LLC.
20191573	G	WP CityMD Topco LLC; Summit Medical Group, P.A.; WP CityMD Topco LLC.
20191574	G	WP CityMD Topco LLC; Zoonie, LLC; WP CityMD Topco LLC.
07/12/2019		
20191614	G	Sharon Credit Union; Crescent Credit Union; Sharon Credit Union.
20191619	G	New Residential Investment Corp.; Ditech Holding Corporation; New Residential Investment Corp.
20191620	G	Ruby Topco LLC; Kaman Corporation; Ruby Topco LLC.
20191621	G	Archrock, Inc.; Jeffery D. Hildebrand; Archrock, Inc.
20191623	G	Lovell Minnick Equity Partners V LP; New Omaha Holdings, L.P.; Lovell Minnick Equity Partners V LP.
20191625	G	Jeffery D. Hildebrand; Archrock, Inc.; Jeffery D. Hildebrand.
20191629	G	Basilisk Holdings, Inc; Carswell Family Irrevocable Trust; Basilisk Holdings, Inc.
20191631	G	First Financial Bancorp.; Bannockburn Global Forex, LLC; First Financial Bancorp.

EARLY TERMINATIONS GRANTED JULY 1, 2019 THRU JULY 31, 2019—Continued

20191633	G	Canyon State Credit Union; Deer Valley Credit Union; Canyon State Credit Union.
20191634	G	2003 TIL Settlement; Capital Confirmation, Inc.; 2003 TIL Settlement.
20191635	G	Nidec Corporation; Omron Corporation; Nidec Corporation.
		07/15/2019
20191632	G	AIF IX (PMC Equity AIV), L.P.; Cox Family Voting Trust u/a/d 7/26/13; AIF IX (PMC Equity AIV), L.P.
20191641	G	Cox Family Voting Trust u/a/d 7/26/13; AIF IX (PMC Equity AIV), L.P.; Cox Family Voting Trust u/a/d 7/26/13.
20191645	G	EQT VII (No. 1) Limited Partnership; Acumatica International, Ltd.; EQT VII (No. 1) Limited Partnership.
20191647	G	Aurora Equity Partners V L.P.; Lawrence Gordon; Aurora Equity Partners V L.P.
20191649	G	US Ecology, Inc.; JFL AIV Investors III–JA, L.P.; U.S. Ecology, Inc.
		07/16/2019
20191563	G	The Veritas Capital Fund V, L.P.; David H. Kellogg & Twila B. Kellogg; The Veritas Capital Fund V, L.P.
20191643	G	Extreme Networks, Inc.; Aerohive Networks, Inc.; Extreme Networks, Inc.
20191651	G	JFL AIV Investors III–JA, L.P.; US Ecology, Inc.; JFL AIV Investors III–JA, L.P.
20191653	G	Reyes Holdings, L.L.C.; David B. Ingram and Sarah L. Ingram; Reyes Holdings, L.L.C.
		07/17/2019
20190772	G	New Omaha Holdings L.P.; Fiserv, Inc.; New Omaha Holdings L.P.
20190773	G	Fiserv Inc.; New Omaha Holdings L.P.; Fiserv Inc.
20191344	G	The Greenbrier Companies, Inc.; ITE Rail Fund L.P.; The Greenbrier Companies, Inc.
20191561	G	AP IX Sherwood Holdings, L.P.; Shutterfly, Inc.; AP IX Sherwood Holdings, L.P.
20191648	G	Arsenal Capital Partners V LP; Dhu C. and Mary Ellen Thompson; Arsenal Capital Partners V LP.
		07/18/2019
20191598	G	Keane Group, Inc.; C&J Energy Services, Inc.; Keane Group, Inc.
20191612	G	BDT Sunrise Holdings LLC; Tres Aguilas Enterprises LLC; BDT Sunrise Holdings LLC.
20191622	G	Frontier Cooperative Company; Midwest Farmers Cooperative; Frontier Cooperative Company.
20191642	G	Quad-C Partners IX, L.P.; The Resolute Fund III, L.P.; Quad-C Partners IX, L.P.
		07/19/2019
20191650	G	Elliott International Limited; Insight Venture Partners VIII, L.P.; Elliott International Limited.
20191652	G	Tenex Capital Partners II, L.P.; Big Bolt Corporation; Tenex Capital Partners II, L.P.
20191656	G	KENE Holdings, L.P.; General Atlantic Partners AIV–1 B, L.P.; KENE Holdings, L.P.
20191657	G	NexPhase Capital Fund III, L.P.; New Harbor Capital Fund, LP; NexPhase Capital Fund III, L.P.
20191658	G	Nippon Telegraph & Telephone Corporation; Great Hill Equity Partners IV, LP; Nippon Telegraph & Telephone Corporation.
20191670	G	AMETEK, Inc.; Pacific Design Technologies, LLC; AMETEK, Inc.
20191675	G	Harry B. Matthews, Jr., Revocable Trust; SCR-Sibelco N.V.; Harry B. Matthews, Jr., Revocable Trust.
20191679	G	Giant Network Group Co., Ltd.; Seriously Holding Corp.; Giant Network Group Co., Ltd.
		07/23/2019
20191460	G	Marvell Technology Group Ltd.; Mubadala Investment Company PJSC; Marvell Technology Group Ltd.
20191585	G	Century Casinos, Inc.; Eldorado Resorts, Inc.; Century Casinos, Inc.
		07/26/2019
20191682	G	Stanley C. Middleman; Joseph C. Lewis; Stanley C. Middleman.
20191685	G	Insight Enterprises, Inc.; PCM, Inc.; Insight Enterprises, Inc.
20191686	G	Sekisui Chemical Co., Ltd.; AIM Aerospace Holdings, LLC; Sekisui Chemical Co., Ltd.
20191694	G	UGI Corporation; TC Energy Corporation; UGI Corporation.
20191695	G	General Atlantic Partners AIV–1 B, L.P.; Elevate Brandpartners, L.P.; General Atlantic Partners AIV–1 B, L.P.
20191696	G	FS Investment Corporation II; FS Investment Corporation III; FS Investment Corporation II.
20191697	G	FS Investment Corporation II; FS Investment Corporation IV; FS Investment Corporation II.
20191698	G	FS Investment Corporation II; Corporate Capital Trust II; FS Investment Corporation II.
20191701	G	Albert H. Nahmad; Brian G. Peirce; Albert H. Nahmad.
20191702	G	ABRY Partners IX, L.P.; KAMC Holdings, Inc.; ABRY Partners IX, L.P.
20191703	G	Permira VI L.P. 1; Yael Aflalo; Permira VI L.P. 1.
		07/29/2019
20191661	G	CCP III AIV IV, L.P.; Catalyst Institute, Inc.; CCP III AIV IV, L.P.
20191665	G	HealthEquity, Inc.; WageWorks, Inc.; HealthEquity, Inc.
20191690	G	DeOro Foods LLC; JHT Family 2009 Trust; DeOro Foods LLC.
20191691	G	Nexus Special Situations II, L.P.; FTD Companies, Inc.; Nexus Special Situations II, L.P.
20191700	G	TCV X L.P.; Amalco; TCV X L.P.
20191712	G	Lindsay Goldberg IV L.P.; Creation Technologies Inc.; Lindsay Goldberg IV L.P.

EARLY TERMINATIONS GRANTED JULY 1, 2019 THRU JULY 31, 2019—Continued

07/30/2019		
20190482	S	Amas Holding SPF; Quaker Chemical Corporation; Amas Holding SPF.
07/31/2019		
20191424	G	DC Front Range Holdings I, LP; Zayo Group Holdings, Inc.; DC Front Range Holdings I, LP.
20191425	G	EQT Infrastructure IV (B) SCSp; Zayo Group Holdings, Inc.; EQT Infrastructure IV (B) SCSp.
20191529	G	Infineon Technologies AG; Cypress Semiconductor Corporation; Infineon Technologies AG.
20191616	G	Linden Capital Partners IV–A LP; CMI Holdings L.P.; Linden Capital Partners IV–A LP.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19014 Filed 9–3–19; 8:45 am]

BILLING CODE 6750–01–P

Federal Trade Commission

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott- Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED JUNE 1, 2019 THRU JUNE 30, 2019

06/03/2019		
20191340	G	Mitsubishi Electric Corporation; Russell L. Agrusa; Mitsubishi Electric Corporation.
20191359	G	Ding Shui Po; Song Soo Park; Ding Shui Po.
20191362	G	New Mountain Partners V, L.P.; W20 Holdings, LP; New Mountain Partners V, L.P.
20191370	G	Chart Industries, Inc.; Harsco Corporation; Chart Industries, Inc.
20191371	G	Harsco Corporation; Compass Diversified Holdings; Harsco Corporation.
20191372	G	Hitachi, Ltd.; Crestview Partners III, L.P.; Hitachi, Ltd.
20191384	G	Occidental Petroleum Corporation; Anadarko Petroleum Corporation; Occidental Petroleum Corporation.
20191387	G	RCP Artemis Co-Invest, L.P.; Lightyear Fund III, L.P.; RCP Artemis Co-Invest, L.P.
20191389	G	Stone Canyon Industries Holdings LLC; Centerbridge Capital Partners II, L.P.; Stone Canyon Industries Holdings LLC.
20191391	G	Franciscan Missionaries of Our Lady Health System, Inc.; St. Dominic Health Services, Inc.; Franciscan Missionaries of Our Lady Health System, Inc.
20191395	G	Summit Partners Growth Equity Fund IX–A, L.P.; Andrew Bialecki; Summit Partners Growth Equity Fund IX–A, L.P.
20191405	G	KIA X (Watchtower), L.P.; Lovell Minnick Equity Partners IV LP; KIA X (Watchtower), L.P.
06/04/2019		
20181978	G	Amcor Limited; Bemis Company, Inc.; Amcor Limited.
20190985	G	Marfrig Global Foods S.A.; Sysco Corporation; Marfrig Global Foods S.A.
20191369	G	Elliott International Limited; Affinion Group Holdings, Inc.; Elliott International Limited.
20191390	G	Equinor ASA; Royal Dutch Shell plc; Equinor ASA.
06/05/2019		
20191323	G	Benjamin Horowitz; Okta, Inc; Benjamin Horowitz.
20191396	G	Eagle Parent Holdings, LLC; Amber Road, Inc.; Eagle Parent Holdings, LLC.
06/07/2019		
20191406	G	Thoma Bravo Discover Fund II Global L.P.; Wells Fargo & Company; Thoma Bravo Discover Fund II Global L.P.
20191409	G	FirstService Corporation; Delos Investment Fund, L.P.; FirstService Corporation.
20191410	G	JPMorgan Chase & Co.; InstaMed Holdings, Inc.; JPMorgan Chase & Co.
20191413	G	Informa plc; IHS Markit Ltd.; Informa plc.
20191416	G	Vista Equity Partners Fund VII–A, L.P.; Trident VI, L.P.; Vista Equity Partners Fund VII–A, L.P.
20191426	G	Wells Fargo & Company; Mark S. Moussa; Wells Fargo & Company.
20191440	G	Evolent Health, Inc.; University Health Care, Inc.; Evolent Health, Inc.

EARLY TERMINATIONS GRANTED JUNE 1, 2019 THRU JUNE 30, 2019—Continued

		06/10/2019
20191415	G	Milliken & Company; Versa Capital Fund I, L.P.; Milliken & Company.
20191419	G	Amit Bhandari; Karman D. Parker; Amit Bhandari.
		06/11/2019
20191328	G	Hellman & Friedman Capital Partners VIII, L.P.; Control4 Corporation; Hellman & Friedman Capital Partners VIII, L.P.
20191404	G	Roger S. Penske; Adam Buzz Warner; Roger S. Penske.
20191411	G	Trilantic Capital Partners VI (North America) L.P.; Oaktree Power Opportunities Fund III, L.P.; Trilantic Capital Partners VI (North America) L.P.
20191446	G	Fortive Corporation; IT Parent Holdco Ltd.; Fortive Corporation.
		06/12/2019
20191325	G	Sinocare Inc.; Shenzhen Xinnuo Health Industry Investment Limited; Sinocare Inc.
20191436	G	CCP X No. 2 LP; Tarsus Group plc; CCP X No. 2 LP.
		06/13/2019
20191423	G	KPS Special Situations Fund IV, LP; Colfax Corporation; KPS Special Situations Fund IV, LP.
		06/14/2019
20191442	G	Pamlico Capital IV, L.P.; Dr. David W. Shoemaker; Pamlico Capital IV, L.P.
20191448	G	Joseph Mansueto; Ratings Acquisition Corp.; Joseph Mansueto.
20191454	G	Armistice Capital Offshore Fund Ltd.; Cerecor Inc.; Armistice Capital Offshore Fund Ltd.
20191455	G	Dr. Fritz Faulhaber GmbH & Co. KG; Ping Pan Faulhaber; Dr. Fritz Faulhaber GmbH & Co. KG.
20191456	G	CVC Capital Partners VII (A) L.P.; Frank Vitiello; CVC Capital Partners VII (A) L.P.
20191457	G	Pivotal Acquisition Corp.; CEOF II DE I AIV, L.P.; Pivotal Acquisition Corp.
20191459	G	Rhone Partners V L.P.; Schlumberger N.V. (Schlumberger Limited); Rhone Partners V L.P.
20191462	G	RF Parent, Inc.; Recorded Future, Inc.; RF Parent, Inc.
20191464	G	Golden Gate Capital Opportunity Fund, L.P.; Bon Secours Mercy Health; Golden Gate Capital Opportunity Fund, L.P.
20191465	G	Palo Alto Networks, Inc.; Twistlock Ltd.; Palo Alto Networks, Inc.
20191472	G	West Street Capital Partners VII, L.P.; MED ParentCo, LP; West Street Capital Partners VII, L.P.
20191475	G	Thomas H. Lee Parallel Fund VIII, L.P.; Francisco Partners III (Domestic AIV), L.P.; Thomas H. Lee Parallel Fund VIII, L.P.
20191477	G	GI Partners Fund V LP; Huskies Parent, Inc.; GI Partners Fund V LP.
20191478	G	The Goldman Sachs Group, Inc.; United Capital Financial Partners, Inc.; The Goldman Sachs Group, Inc.
20191479	G	Letterone Investment Holdings S.A.; ICG Europe Fund V No. 1 LP; Letterone Investment Holdings S.A.
20191480	G	Warburg Pincus Global Growth, L.P.; Olympus Growth Fund V, L.P.; Warburg Pincus Global Growth, L.P.
20191482	G	Leeds Equity Partners VI, L.P.; Rubicon Technology Partners II L.P.; Leeds Equity Partners VI, L.P.
20191484	G	Gesa Credit Union; Inspirus Credit Union; Gesa Credit Union.
20191485	G	Axel och Margaret Ax:son Johnsons stiftelse; David T. and Joanne S. Davis; Axel och Margaret Ax:son Johnsons stiftelse.
		06/18/2019
20191469	G	Nagase & Co., Ltd.; Ronald Juergens; Nagase & Co., Ltd.
20191473	G	Valence ST LP; TCFI CP LLC; Valence ST LP.
		06/19/2019
20191467	G	Green Equity Investors Side VII, L.P.; Dr. Abram Schumacher; Green Equity Investors Side VII, L.P.
20191468	G	Green Equity Investors Side VII, L.P.; Dr. Shikhar Saxena; Green Equity Investors Side VII, L.P.
		06/20/2019
20191476	G	Genstar Capital Partners IX, L.P.; CS Parent LLC; Genstar Capital Partners IX, L.P.
		06/21/2019
20191494	G	EQT VIII Co-Investment (D) SCSp; Nestle S.A.; EQT VIII Co-Investment (D) SCSp.
20191497	G	Searchlight Capital II OPT Co-Invest Partners, L.P.; Frontier Communications Corporation; Searchlight Capital II OPT Co-Invest Partners, L.P.
20191502	G	Gauge Capital II, L.P.; Schlesinger Holdings, Inc.; Gauge Capital II, L.P.
20191504	G	H&R Block, Inc.; Wave Financial Inc.; H&R Block, Inc.
20191511	G	SoftBank Vision Fund L.P.; Katerra Inc.; SoftBank Vision Fund L.P.
20191525	G	Michael S.Dell; Avi Networks, Inc.; Michael S. Dell.
		06/25/2019
20191427	G	Trinity Ventures XII, L.P.; Auth0, Inc.; Trinity Ventures XII, L.P.
20191429	G	Serco Group plc; The Veritas Capital Fund V, L.P.; Serco Group plc.
20191433	G	TPG Growth IV, L.P.; AG Growth Capital Partners I, L.P.; TPG Growth IV, L.P.
20191470	G	LNK Partners III, L.P.; LTF Holdings, Inc.; LNK Partners III, L.P.

EARLY TERMINATIONS GRANTED JUNE 1, 2019 THRU JUNE 30, 2019—Continued

20191483	G	Michael S. Dell; LTF Holdings, Inc.; Michael S. Dell.
20191495	G	CD Clean Energy and Infrastructure VII JV, LLC; William O. Perkins, III; CD Clean Energy and Infrastructure VII JV, LLC.
20191503	G	Aberdeen Standard Carlsbad LP; Stonepeak Infrastructure Fund (Orion AIV) LP; Aberdeen Standard Carlsbad LP.
20191510	G	Rubicon Technology Partners II, L.P.; The AES Corporation; Rubicon Technology Partners II, L.P.
20191519	G	Oaktree Opportunities Fund Xb AIF, L.P; Martin Midstream Partners L.P.; Oaktree Opportunities Fund Xb AIF, L.P.
20191520	G	Samurai Holdings, LLC; Blackstone Capital Partners VI–NQ/NF L.P.; Samurai Holdings, LLC.
		06/26/2019
20191474	G	Global Payments Inc.; Total System Services, Inc.; Global Payments Inc.
20191513	G	Cedar Fair, L.P.; Bahn Consolidated, Inc.; Cedar Fair, L.P.
20191531	G	Azalea Parent Holdings LP; EQT VII (No. 1) Limited Partnership; Azalea Parent Holdings LP.
		06/28/2019
20191226	G	Vista Equity Partners Fund VII–A, L.P.; VEPF IV AIV VIII, L.P.; Vista Equity Partners Fund VII–A, L.P.
20191493	G	Lovell Minnick Equity Partners IV LP; Piper Jaffray Companies; Lovell Minnick Equity Partners IV LP.
20191535	G	Accel-KKR Growth Capital Partners II, LP; Charles and Robin Deyo; Accel-KKR Growth Capital Partners II, LP.
20191542	G	Unilever N.V.; Tatcha LLC; Unilever N.V.
20191545	G	DCPF VI Oil and Gas Coinvestment Fund LP; Arkoma Drilling, L.P.; DCPF VI Oil and Gas Coinvestment Fund LP.
20191547	G	CPP Group Holdings LLC; Warburg Pincus Private Equity X, L.P.; CPP Group Holdings LLC.
20191548	G	Arkoma Drilling, L.P.; DCPF VI Oil and Gas Coinvestment Fund LP; Arkoma Drilling, L.P.
20191551	G	Stewart Butterfield; Slack Technologies, Inc.; Stewart Butterfield.
20191552	G	Accel-KKR Capital Partners V, LP; Sandata Holdings, Inc.; Accel-KKR Capital Partners V, LP.
20191555	G	Carlyle U.S. Equity Opportunity Fund II, L.P.; Alpine Investors V, LP; Carlyle U.S. Equity Opportunity Fund II, L.P.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2019–19008 Filed 9–3–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day-19–0739; Docket No. CDC–2019–0076]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled CDC Oral Health Management Information System. The collection aims to monitor the performance of states funded to implement evidence-based prevention strategies to improve oral health, determine and tailor technical assistance to the states, and share quality improvement findings.

DATES: CDC must receive written comments on or before November 4, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0076 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: 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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

CDC Oral Health Management Information System (OMB Control No. 0920–0739)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Tooth decay is one of the most common chronic conditions among children. More than 23% of children ages 2–11 have untreated decay, which can cause pain and infection and may lead to problems in eating, speaking, and learning. Children from low-income households are more than twice as likely to have untreated tooth decay as children from high-income households. Similar disparities exist for racial/ethnic minorities. By age 15, nearly 60% of all adolescents will have experienced dental decay. Approximately 51.7 million school hours annually are missed due to a dental problem or visit.

More than 40% of adults have felt pain in their mouth in the last year and more than $6 billion in productivity is lost each year. Among dentate adults aged 65 years and older, 25% have lost all their teeth. The nation spends $117.5 billion annually on costs related to dental care. Individuals and families bear much of the burden, spending $30 billion out-of-pocket on dental services, which ranks second only to prescription drug expenditures.

Most oral diseases and conditions are preventable. Underutilized evidence-based preventive interventions exist to prevent cavities and save money. They remain underutilized because implementation barriers exist such as: Lack of state basic capacity to support oral health; costs associated with sustaining preventive programs; low awareness of effectiveness and safety of interventions; and lack of dental insurance and access to clinical and community preventive services.

CDC seeks to improve the oral health of the nation by strengthening and enhancing state programs to monitor their population's oral health status and behaviors; reducing oral health disparities among high-risk groups; and supporting the development of effective programs. The Division of Oral Health provides $1.85 to $2.85 million in funding per state to 20 state health programs through Cooperative Agreement DP18–1810, *State Actions to Improve Oral Health Outcomes* for five years.

This information collection aims to enable CDC to monitor states' progress, tailor technical assistance, facilitate continuous quality improvement, and share findings. The request also revises the web-based platform to reduce the collection burden on states for several fields and monitor outcomes more efficiently, and revises the burden to reflect all of the forms in the platform rather than only the reporting form. The revision requests 1195 burden hours from the current 171 hours and extends the request for an additional three years.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State Health Department	Action Plan	20	1.33	12	319
	Program Information	20	1.33	1	27
	Planning	20	1.33	20	532
	Annual Performance Report	20	1.33	24	638
	Financial Information	20	1.33	.5	13
	Resources	20	1.33	2.25	60
Total Hours					1,195

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–19011 Filed 9–3–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–0852]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Prevalence Survey of Healthcare-Associated Infections and Antimicrobial Use in U.S. Acute Care Hospitals to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 10, 2019 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Prevalence Survey of Healthcare-Associated Infections and Antimicrobial Use in U.S. Acute Care Hospitals (OMB Control No. 0920–0852, Exp. 12/31/2019)—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Preventing healthcare-associated infections (HAIs) and improving antimicrobial use (AU) are CDC and national priorities. An essential step in reducing the occurrence of HAIs is to estimate accurately the burden of these infections in U.S. acute care hospitals and to describe the types of HAIs and causative pathogens. Periodic assessments of the magnitude and types of HAIs and AU occurring in all patient populations within acute care hospitals are needed to inform decisions by policy makers and hospital infection control personnel (ICP) regarding appropriate targets and strategies for HAI prevention and antimicrobial stewardship.

Since 2009, CDC has conducted four prevalence surveys (*i.e.,* pilot survey in 2009, limited-scale survey in 2010, and two full-scale surveys in 2011 and 2015) in partnership with the CDC's Emerging Infections Program (EIP) sites. Findings from the most recent survey showed a reduction in the percentage of patients with healthcare-associated infections compared with 2011.

Minor adjustments to data collection instruments since the previous 2016 OMB approval have been made. These adjustments were made to enhance future analyses and utility of the survey data. These changes are non-substantive and are not expected to increase the public reporting burden. An Extension of the prevalence survey's existing OMB approval is sought to allow a repeat HAI and AU Prevalence Survey to be performed in 2020. A repeat survey will allow assessment of changes in HAI and AU prevalence, pathogen distribution, and quality of antimicrobial prescribing. These data will also allow CDC and its partners to continue to monitor HAI and AU trends, to measure progress in meeting national targets, and to further refine prevention strategies.

In the 2020 survey, data collection will occur within acute care general hospitals of varying size in each of the 10 EIP sites (*i.e.,* CA, CO, CT, GA, MD, MN, NM, NY, OR, & TN). ICP in participating hospitals may assist EIP site personnel in collecting demographic and limited clinical data from the electronic or paper-based medical records of a sample of randomly selected patients on a single day in 2020. Patients will not be interviewed, and no direct interaction with patients will occur. Hospital and patient-level data will be collected using unique identification codes. EIP site personnel will submit hospital and patient-level data to CDC using a secure data management system. Based on experiences from previous surveys, the time required to complete the Healthcare Facility Assessment Form (HFA) and Patient Information Form (PIF) is estimated to be 45 and 17 minutes, respectively. To conduct the full-scale survey in a three-year approval period, 100 hospital respondents will complete the HFA 1x and the PIF on average 63 × per year. The total estimated annualized public burden is 1,860 hours, which represents no change from the 2016 OMB approval.

To assess changes in HAIs and AU over time, EIP sites will seek participation from the same hospitals that participated in prior surveys. These hospitals were originally selected for participation using a stratified random sampling scheme based on the number of staffed acute care beds (*i.e.,* small: <150 staffed beds; medium: 151–399 staffed beds; large: >400 staffed beds). Each site will also have the option to recruit additional hospitals for a total of up to 30 in each site. As in previous surveys, hospital participation will remain voluntary. Within each participating hospital, EIP site personnel will establish patient sample size targets based on the number of staffed acute care beds (*e.g.,* up to 75 patients in small hospitals, 75 patients in medium hospitals, and 100 patients in large hospitals). The estimated annual burden hours are 1860. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Hospital Staff (i.e., Infection Preventionist)	HFA *	100	1	45/60	75
	PIF **	100	63	17/60	1785

* HFA: Healthcare Facility Assessment.
** PIF: Patient Information Form.

Jeffrey M. Zirger,

Acting Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–19018 Filed 9–3–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–19–1011; Docket No. CDC–2019–0075]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a request for extension of an approved information collection titled *Emergency Epidemic Investigation Data Collections* (OMB Control No. 0920–1011). CDC will use the information collected to identify prevention and control measures in response to outbreaks and other public health events.

DATES: CDC must receive written comments on or before November 4, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0075 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: 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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Emergency Epidemic Investigation Data Collections (OMB Control No. 0920–1011, Exp. 01/31/2020)—Extension—Division of Scientific Education and Professional Development (DSEPD), Center for Surveillance, Education, and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC previously conducted Emergency Epidemic Investigations (EEIs) under Office of Management and Budget (OMB) Control Number 0920–0008. In 2013, CDC received OMB approval (OMB Control Number 0920–1011) for a new OMB generic clearance for a 3-year period to collect vital information during EEIs in response to urgent outbreaks or events (*i.e.,* natural, biological, chemical, nuclear, radiological) characterized by undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors. This generic clearance was approved for a three-year extension, which expires on 1/31/2020. CDC seeks OMB approval for an extension of this generic clearance for a three-year period.

Supporting effective emergency epidemic investigations is one of the most important ways that CDC protects the health of the public. CDC is frequently called upon to conduct EEIs at the request of local, state, or international health authorities seeking support to respond to urgent outbreaks or urgent public health-related events. In response to external partner requests, CDC provides necessary epidemiologic support to identify the agents, sources, modes of transmission, or risk factors to effectively implement rapid prevention and control measures to protect the public's health. Data collection is a critical component of the epidemiologic support provided by CDC; data are analyzed to determine the agents, sources, modes of transmission, or risk factors so that effective prevention and control measures can be implemented. During an unanticipated outbreak or event, immediate action by CDC is necessary to minimize or prevent public harm. The legal justification for EEIs are found in the Public Health Service Act (42 U.S.C. Sec. 301 [241] (a)).

Successful investigations are dependent on rapid and flexible data collection that evolves during the investigation and is customized to the unique circumstances of each outbreak or event. Data collection elements will be those necessary to identify the agents, sources, mode of transmission, or risk factors. Examples of potential data collection methods include telephone or face-to-face interview; email, web or other type of electronic questionnaire; paper-and-pencil questionnaire; focus groups; medical record review; laboratory record review; collection of clinical samples; and environmental assessment. Respondents will vary depending on the nature of the outbreak or event. Examples of potential respondents include health care professionals, patients, laboratorians, and the general public. Participation in EEIs is voluntary and there are no anticipated costs to respondents other than their time. CDC will use the information gathered during EEIs to rapidly identify and effectively implement measures to minimize or prevent public harm.

CDC projects 60 EEIs in response to outbreaks or events characterized by

undetermined agents, undetermined sources, undetermined transmission, or undetermined risk factors annually. The projected average number of respondents is 200 per EEI, for a total of 12,000 respondents. CDC estimates the average burden per response is 0.5 hours and each respondent will be asked to respond once. Therefore, the total estimated annual burden hours are 6,000. These estimates are based on the reported burden for EEIs that have been performed during the previous two years. OMB approval is requested for three years. There are no costs to respondents.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours (in hours)
Emergency Epidemic Investigation Participants.	Emergency Epidemic Investigation Data Collection Instruments.	12,000	1	30/60	6,000
Total					6,000

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–19019 Filed 9–3–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–19–19BOI; Docket No. CDC–2019–0074]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Diabetes Prevention Program (DPP) Introductory Session Project. This information collection aims to help CDC determine the prevalence and types of introductory sessions being offered as a recruitment strategy to increase enrollment in the National Diabetes Prevention Program lifestyle change program (National DPP LCP) (Phase 1: Introductory Session Landscape Assessment) and to evaluate a behaviorally-focused intervention known as Be Your Best (BYB) Discovery Session compared with other already occurring introductory sessions.

DATES: CDC must receive written comments on or before November 4, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2019–0074 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: *Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: 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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

National Diabetes Prevention Program (DPP) Introductory Session Project—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention's (CDC) National Diabetes Prevention Program Lifestyle Change Program (National DPP LCP) is focused on helping participants adopt healthier behaviors (*e.g.,* improving diet, increasing physical activity, reducing stress) to prevent or delay the

development of type 2 diabetes. This proposed project's primary purposes are to (1) increase knowledge of recruitment strategies, specifically introductory sessions, used by CDC-recognized organizations to increase enrollment in the National DPP LCP (Phase 1), and (2) evaluate introductory sessions, specifically a CDC-developed behaviorally-informed introductory session known as the Be Your Best (BYB) Discovery Session, on enrollment compared with other types of introductory sessions that organizations currently use (Phase 2).

CDC is requesting OMB approval to collect information needed for this evaluation. For Phase 1 of this project, the Introductory Session Landscape Assessment, CDC is seeking approval to disseminate a brief Landscape Assessment (survey) to all National DPP CDC-recognized organizations (approximately 1,700) and their affiliate class locations (up to 540). The survey will initially be disseminated electronically (web-based survey), and then a hard copy will be mailed to non-respondents. The overall evaluation objectives of the Introductory Session Landscape Assessment are to increase knowledge of recruitment strategies (specifically introductory sessions) used by CDC-recognized organizations to increase enrollment in LCPs; understand how CDC-recognized organizations are using introductory sessions (including session content and delivery); and inform the subsequent Phase 2 Introductory Session Evaluation that will evaluate the BYB Discovery Session compared with other types of introductory sessions.

For the Phase 2 Introductory Session Evaluation, CDC is seeking approval to disseminate the following data collection tools: (1) Pre-Session Survey (to be completed by up to 2,640 introductory session attendees), (2) Post-Session Survey (to be completed by up to 2,640 introductory session attendees), (3) Registration and Attendance Tracking Form (to be completed by up to 132 LCP staff), and (4) Discovery Session Implementation Fidelity Checklist (to be completed by up to 66 LCP staff). The Pre-Session and Post-Session Surveys will be distributed as hard copies to introductory session attendees. The BYB Discovery Session Implementation Fidelity Checklist and the Registration and Attendance Tracking Form will be designed in Microsoft Excel and distributed to participating LCP staff using secure FTP upload for LCP personnel to complete electronically.

Information collected will be analyzed to evaluate the effectiveness of the BYB Discovery Session intervention in increasing enrollment in the National DPP LCP compared with already occurring introductory sessions (*i.e.,* standard care), with a secondary aim of better understanding how it is implemented and the context of its implementation. This data collection is important because if the BYB Discovery Session is determined to be an effective recruitment strategy compared with other existing introductory sessions, it should be promoted to maximize the National DPP's potential to reduce type 2 diabetes incidence. CDC requests approval for 1,572 Burden Hours annually. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
LCP Staff	Landscape Assessment	2,240	1	15/60	560
Introductory Session Attendees (Individuals).	Pre-Session Survey	2,640	1	10/60	440
Introductory Session Attendees (Individuals).	Post-Session Survey	2,640	1	10/60	440
LCP Staff	Registration Attendance and Tracking Form.	132	1	15/60	33
LCP Staff	BYB Discovery Session Implementation Fidelity Checklist.	66	1	90/60	99
Total					1,572

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–19017 Filed 9–3–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0242]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practices for Positron Emission Tomography Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 4, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0667. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice (CGMP) for Positron Emission Tomography (PET) Drugs

OMB Control Number 0910–0667—Extension

PET is a medical imaging modality involving the use of a unique type of radiopharmaceutical drug product. Our CGMP regulations at part 212 (21 CFR part 212) are intended to ensure that PET drug products meet the requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act) regarding safety, identity, strength, quality, and purity. The CGMP requirements for PET drugs are issued under the provisions of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115). These CGMP requirements are designed according to the unique characteristics of PET drugs, including their short half-lives, and the fact that most PET drugs are produced at locations close to the patients to whom the drugs are administered.

The CGMP regulations require the establishment of written procedures as well as recordkeeping related to ongoing manufacturing of individual PET drugs, testing, and product release activities, including any third-party disclosure requirements for producing PET drugs. To estimate time spent to comply with the requirements, we relied on informal communications with PET producers, FDA staff visits to PET facilities, our familiarity with PET and general pharmaceutical manufacturing practices with application and supplement submissions, and various reports FDA received from 2016 through 2018.

I. Investigational and Research PET Drugs

Section 212.5(b) provides that for investigational PET drugs produced under an investigational new drug application (IND) and research PET drugs produced with approval of a Radioactive Drug Research Committee (RDRC), the requirement (FD&C Act) to follow CGMP is met by complying with the regulations under part 212 or complying with United States Pharmacopeia (USP) 32 Chapter 823. We believe that PET production facilities producing drugs under INDs and RDRCs are already substantially complying with the recordkeeping requirements of USP 32 Chapter 823 (see section 121(b) of FDAMA). Some IND and RDRC PET facilities also produce approved NDA (new drug application) and abbreviated new drug application (ANDA) PET drugs. While we do not have sufficient information to estimate burdens for all IND and RDRC PET facilities, our estimates have included those facilities that also produce NDA and ANDA PET drugs. Those facilities are included under academic and small firms.

II. Recordkeeping Burden

A. One-Time Burden for Corporate Firms

We estimate corporate firms will have to employ one-time and ongoing annual recordkeeping. There are three major PET manufacturing corporations and most of the quality, manufacturing, and testing procedures are developed at the corporate level and then issued to the individual sites located in various States across the country. There are an estimated 115 such sites under three major corporations. Thus, the burden has been calculated for 3 recordkeepers instead of 115 individual sites.

It would take approximately 8 hours for each corporate firm to create one master batch record per drug, and an average of three PET drugs have been taken into consideration. We also estimate that approximately 3 firms will create and maintain approximately 27 records associated with production and quality testing for an average of 3 drugs, with a total recordkeeping burden of approximately 216 hours.

Sections 212.20(c), 212.30(b), 212.50(d), and 212.60(f) (21 CFR 212.20(c), 212.30(b), 212.50(d), and 212.60(f)) contain standard operating procedures (SOPs) dealing with equipment operation, maintenance, and cleaning, including maintenance of physical facilities.

It would take approximately 5 hours for each corporate firm to establish and maintain procedures for equipment and facility maintenance. We estimate that the 3 corporate firms will establish and maintain 39 procedures, with a total recordkeeping burden of approximately 195 hours.

Sections 212.20(c) and 212.40(a) and (b) contain requirements on SOPs regarding receiving, testing, and accepting components. We estimate that the burden for corporate firms to create procedures for acceptance of raw materials and components would be approximately 8 hours and that there will be approximately three corporate firms performing these activities, with a total recordkeeping burden of approximately 48 hours. The burden for corporate firms to create component specification data sheets would be approximately 2 hours with approximately 3 corporate firms performing these activities, with a total recordkeeping burden of approximately 150 hours for approximately 25 component specification sheets for each firm.

Sections 212.20(c) and 212.71(a) and (b) require that PET drug firms establish procedures for investigating ''deviations'' and ''out of specifications failures'' of products during manufacturing and testing that do not conform to specifications and to conduct these investigations and record them as needed. We estimate that it will take approximately 8 hours for three corporate firms to establish one procedure, with a total recordkeeping burden of approximately 24 hours.

Sections 212.20(c) and 212.90(a) require that written procedures regarding distribution of PET drug products be established and maintained. We estimate that it will take approximately 8 hours for each corporate firm to establish written procedures regarding distribution of PET drugs with a total of approximately three records, with a total recordkeeping burden of approximately 24 hours.

Sections 212.20(c) and 212.100(a), (b), and (c) require that PET drug firms establish and maintain written procedures for handling complaints and procedures for field alert reports (FARs). We estimate that each corporate firm will create three written procedures to establish complaints and FARs process and it will take approximately 24 hours for each corporate firm. A total of 72 hours will be required to create 27 procedures by 3 corporate firms.

B. One-Time Burden for Academia, Small Firms, and Precursors

There is a total of 52 sites combined for academic and small commercial firms, including some IND and RDRC sites. There are nine starting material/precursors/sterile raw material manufacturing entities who are required to follow selected regulations from part 212, according to the PET drug definition under section 121(a) of FDAMA and codified in section 201(ii)(1)(A) of the FD&C Act (21 U.S.C. 321(ii)(1)(A)). We will refer to them as high-risk component manufacturing firms in the tables and other sections of this document.

It would take approximately 8 hours for each firm to perform the same activities as corporate firms regarding creating master batch records and manufacturing and quality procedures. We estimate that there will be a total of approximately 488 records, with a total recordkeeping burden of approximately 3,904 hours.

It would take approximately 8 hours for each firm to create equipment and facility related procedures as corporate firms. We also estimate that there will be a total of approximately 793 records, with a total recordkeeping burden of approximately 6,344 hours.

We also estimate that the burden for each firm to create and maintain specification sheets would be approximately 2 hours and that there will be a total of approximately 61 firms performing these activities, with a total recordkeeping burden of approximately 3,050 hours. Furthermore, the burden for these firms to create and maintain procedures for acceptance of raw materials and components would be approximately 8 hours and that there will be a total of approximately 61 firms performing these activities, with a total recordkeeping burden of approximately 976 hours.

It would take approximately 8 hours for each firm to perform the same activities as corporate firms. We estimate that there will be a total of approximately 61 records, with a total recordkeeping burden of approximately 488 hours.

We estimate that 61 academia, small firms, and high-risk component manufacturers will create about one procedure related to deviations and out of specifications and that each firm will expend approximately 8 hours, for a total of 488 hours. Similarly, 488 hours will be spent for procedures on distribution of PET drugs. There will be 3 procedures created by each firm related to customer complaints, recalls, and FARs, with a total of 156 records from 52 sites and a total of 1,248 hours.

C. Annual Burden for Corporate Firms

In this section, we considered 115 individual corporate sites under the 3 major corporations in our estimates. These activities will be related to individual PET drugs manufactured at each of the sites located across the country. We estimate that it would take 30 minutes each to fill 144 batches (approximately 4 batches/month), for a total of 8,280 hours. In the second row of table 3, we have also estimated that on an annual basis, some new batch records or quality records may have to be created for newly introduced or existing drugs. It would take each firm approximately 24 hours for three new quality procedure/master batch records, with a total recordkeeping burden of approximately 216 hours for nine records from three corporate organizations.

We estimate that 115 individual corporate sites belonging to 3 major corporate entities will create 164 records for equipment maintenance, cleaning, calibration, and facilities maintenance records, with a total recordkeeping burden of 9,430 hours.

Sections 212.20(c) and 212.40(a) and (b) also set out requirements for raw material and component shipments received at the manufacturing facility on an ongoing basis. We estimate that the burden for each firm to create incoming raw material acceptance records for 2 shipments per month and 30 minutes per shipment will be 1,380 hours for 2,760 records from 115 sites.

Sections 212.60(g), 212.61(b), and 212.70(d)(2) and (3) set out requirements for documenting laboratory testing results from each PET drug manufactured referred to in laboratory testing, including final release testing. Each firm must keep records of different tests for each of their products. We estimate that approximately 115 corporate sites will document 144 records of cumulative quality control (QC) test results (one record with 5 to 6 tests included), with a total recordkeeping burden of approximately 8,280 hours.

We estimate that each firm will take approximately 1 hour to record out-of-specification (OOS) events and perform investigations for each incident. We also estimate an average of 2 ''Out of Specification'' investigations per firm, with a total of 230 records for ''OOS'' investigations from 115 sites, which results in a burden of 460 hours. This estimate includes any reprocessing or special release events, which are very rare.

Section 212.100(b) and (c) requires that PET drug firms document how each complaint is handled. We estimate that this will take approximately 2 hours for each site to document and investigate one complaint. We estimated 2 complaints per year per site, with a total expended hour of 460 hours for 115 individual sites. We believe the estimate is appropriate since not all sites receive complaints.

We also estimate annual recordkeeping for PET drug firms to perform quality assurance (QA) and release of manufactured PET drugs from the 115 corporate sites to be 4,140 hours, for a total of 144 released batches estimating 15 minutes per batch.

Section 212.90(b) requires that corporate firms maintain distribution records. We estimate that it will take each firm approximately 15 minutes to create a distribution record for each batch of PET drug products, with a total burden of approximately 4,140 hours for 144 released batches from 115 sites.

D. Annual Burden for Academia and Small Firms

It is estimated that each firm will expend the same amount of time to perform the same activities as corporate firms. Approximately 52 academia and small firms will fill 1,248 batch and production records, totaling 624 hours. For any new master batch record or quality procedures we have estimated 156 total records (3 per site), with a total of 1,248 hours.

For calibration and cleaning records like filling information in log books for each piece of equipment and documenting calibration records in each PET production firm, we estimate approximately 30 minutes on average for each piece of equipment for all firms. The calibration efforts are once per year per equipment, with estimated 10 pieces of equipment per site. We estimate that 52 academic and small firms will record a total of 884 hours for 34 records per site and a total of 1,768 records.

For §§ 212.20(c) and 212.40(a) and (b), approximately 1,768 raw material and component acceptance records will be filled on an ongoing annual basis. We estimate that the burden for each firm to create incoming raw material acceptance records for 12 shipments per year and 30 minutes per shipment will be 312 hours for 624 records from 52 sites.

We also estimate that approximately 52 academia and small firms will document 1,248 laboratory QC tests for 24 batches of drugs, with a total recordkeeping burden of approximately 624 hours.

We estimate that each firm will take approximately 1 hour each to record OOS and customer complaint events and perform investigations. We also estimate that an average of two ''Out of Specification'' and customer complaints and investigations per firm, with a total of 208 hours for each category. This estimate has included any reprocessing or special batch release events, which have been rarely observed.

We also estimate annual recordkeeping for PET drug firms to perform QA and release of manufactured PET drugs from 52 sites to be 312 hours, for a total of 24 batches per site released if estimating 15 minutes per batch.

Section 212.90(b) requires that corporate firms maintain distribution records. We estimate that it will take approximately 15 minutes to create a distribution record for each batch of PET drug products, with a total burden of approximately 312 hours for 24 batches per site.

E. Annual Burden for High-Risk Component Manufacturers

According to section 121(a) of FDAMA, the PET drug definition includes any non-radioactive or radioactive reagents, kits, nuclidic generators, target materials, synthesizers, and so forth. FDA performs risk assessments of each manufacturer and inspects such manufacturers. Sterile manufacturers and complex labels fall under this category, including sterile raw material or reagent manufactures. We have estimated nine such facilities based on inspections so far and have included them in this section. These manufacturers must comply with selected sections of part 212 since they are not final PET drug manufacturers. We will refer to them as high-risk component manufacturers in general in this document.

We estimate that it would take 9 high-risk component manufacturers about 30 minutes to fill each manufacturing batch records (12 per year) and that there will be a total of approximately 108 records, with a total recordkeeping burden of approximately 54 hours.

We also estimate that it will take nine component manufacturers 30 minutes to fill and create equipment and facilities related records, with a total recordkeeping burden of 72 hours.

We estimate that 9 high-risk component manufacturers will document 54 components, containers, and closures for incoming acceptance tests, with a total recordkeeping burden of approximately 27 hours.

We estimate that 9 high-risk component manufacturers will document 12 QC records related to 12 batches, with a total recordkeeping burden of approximately 54 hours.

We also estimate annual recordkeeping for PET drug firms to perform QA and release manufactured PET drugs from 9 sites to be 27 hours, for a total of 108 batches released, estimating 15 minutes per batch.

We further estimate that it would take each precursor 15 minutes to create and maintain distribution records and that there will be approximately 108 records, with a total recordkeeping burden of approximately 27 hours.

III. Process Verification

Section 212.50(f)(2) requires that any process verification activities and results be recorded. Process verification is usually performed as a one-time activity before a product is approved or if any major manufacturing process or equipment changes are made. This effort to conduct process verification has been estimated under annual new creation of master batch records and manufacturing and quality procedures in section II of this document.

IV. Conditional Final Releases

Section 212.70(f) requires PET drug producers to document any conditional final releases of a product. We believe that conditional final releases will be uncommon, and we have them estimated under annual ''OOS'' investigations and final QA release efforts for each manufactured batch.

V. Reprocessing Procedures

Sections 212.20(c) and 212.71(d) require PET drug producers to establish and document procedures for reprocessing PET drugs. We rarely see any reprocessing option being submitted for application of such drugs and, if reprocessing occurs, we have estimated such rare events under annual QA release efforts.

VI. Third-Party Disclosure Burden

Section 212.70(e) requires that PET drug producers notify all receiving facilities if a batch fails sterility tests. FDA receives FARs reports based on confirmed sterility failures of released PET drugs. Based on our experience of such reporting, we estimated a total of 12 failures from all 167 sites (corporate, small firms, and academia). Therefore, we have estimated that 12 PET drug producers will file 2 reports to FDA and send a notification to the affected clinical/receiving site per year. PET drug producers would transmit the notice by email or Fax and submit the FARs notice to FDA electronically, with 2.5 hours per incident in total.

In the **Federal Register** of November 30, 2018 (83 FR 61653), FDA published a 60-day notice requesting public comment on the proposed collection of information. Three comments were received and are summarized here.

One comment questioned the necessity of this proposed collection. One comment suggested that FDA allow both paper recordkeeping and simplified electronic report submission. Two comments questioned some of FDA's burden collection estimates. Two comments questioned whether Annual Product Review (APR) is being required by the regulations. Two comments pertained to an inadvertent oversight in section VI. Third-Party Disclosure.

FDA believes that this proposed collection is necessary in keeping with the Agency's mission of ensuring the safety and efficacy of human drugs. Regarding the estimates included, FDA has taken a generalized approach for these estimates, assuming that corporate firms will take on certain burdens for all facilities under their purview, rather than calculating all burdens per facility, and understanding that due to variation among facilities the number of batches and products being produced will vary. We have also only included estimates for tasks that are included within part 212 and note that some of the comments referenced tasks, such as APR, that are outside that scope. Electronic recordkeeping is also outside the scope of this regulation. Regarding the typographical error in section VI. Third Party Disclosure, on page 9350, we estimate that it will take PET drug producers 2 hours to submit to FDA notices of sterility test failures. We intended to estimate 2.5 hours as accurately shown in Table 6, page 9352. In section VI of this document, we have included this change. We appreciate these comments and will continue to consider the burden estimate. If commenters believe certain estimates are insufficient, we request comments on specific estimates for these requirements and why alternative estimates would be more accurate.

The estimated burden of the information collection, therefore, is as follows:

TABLE 1—ESTIMATED ONE-TIME RECORDKEEPING BURDEN FOR CORPORATE FIRMS [1]

Activity/type of respondent/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	One-time records	Average burden per recordkeeper	Total hours [2]
Batch Production and Control Records (§§ 212.20(c) and (e) and 212.50(a) and (b))	3	9	27	8	216

TABLE 1—ESTIMATED ONE-TIME RECORDKEEPING BURDEN FOR CORPORATE FIRMS [1]—Continued

Activity/type of respondent/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	One-time records	Average burden per recordkeeper	Total hours [2]
Equipment and Facilities Records (SOP) (§§ 212.20(c), 212.30(b) 212.50(d), and 212.60(f))	3	13	39	5	195
Records of Components, Containers, and Closures (SOP) (§§ 212.20(c) and 212.40(a) and (b))	3	2	6	8	48
Records of Components, Containers, and Closures (specifications data sheets) (§§ 212.20(c) and 212.40(a) and (b))	3	25	75	2	150
Out-of-Specification Investigations (SOP) (§§ 212.20(c) and 212.71(a))	3	1	3	8	24
Distribution Records (SOP) (§§ 212.20(c) and 212.90(a))	3	1	3	8	24
Complaints, Recalls (§§ 212.20(c) and 212.100(a))	3	3	9	8	72
Total					729

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number rounded to the nearest whole number.

TABLE 2—ESTIMATED ONE-TIME RECORDKEEPING BURDEN FOR ACADEMIA, SMALL FIRMS, AND HIGH-RISK COMPONENT MANUFACTURERS [1]

Activity/type of respondent/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	One-time records	Average burden per recordkeeper	Total hours [2]
Batch Production and Control Records (§§ 212.20(c) and (e) and 212.50(a) and (b))	61	8	488	8	3,904
Equipment and Facilities Records (SOP) (§§ 212.20(c), 212.30(b) 212.50(d), and 212.60(f))	61	13	793	8	6,344
Records of Components, Containers, and Closures (specification only) (§§ 212.20(c) and 212.40(a) and (b))	61	25	1,525	2	3,050
Records of Components, Containers, and Closures (SOP) (§§ 212.20(c) and 212.40(a) and (b))	61	2	122	8	976
Out-of-Specification Investigations (SOP) (§§ 212.20(c) and 212.71(a))	61	1	61	8	488
Distribution Records (SOP) (§§ 212.20(c) and 212.90(a))	61	1	61	8	488
Complaints, Recalls (§§ 212.20(c) and 212.100(a))	52	3	156	8	1,248
Total					16,498

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number rounded to the nearest whole number.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR CORPORATE FIRMS [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours [2]
Batch Production (Creating Manufacturing Records (creating batch-related records per year) (§§ 212.20(c) and (e) and 212.50(a) and (b))	115	144	16,560	*0.50	8,280
Creating Any New Batch Records/Quality Records for New or Existing Drugs (§§ 212.20(c) and (e) and 212.50(a) and (b))	3	9	27	8	216
Equipment and Facilities Records (calibration and cleaning records systems) (§§ 212.30(b), 212.50(d), and 212.60(f))	115	164	18,860	*0.50	9,430
Records of Components, Containers, and Closures (§§ 212.20(c) and 212.40(a) and (b))	115	24	2,760	*0.50	1,380
Laboratory Testing Records (record laboratory test results) (§§ 212.60(g), 212.61(b), and 212.70(d)(2) and (3))	115	144	16,560	*0.50	8,280
Out-of-Specification Investigations (record events and investigations) (§ 212.71(b))	115	2	230	2	460
Complaints (§§ 212.100(b) and (c))	115	2	230	2	460
QA and Release of Batches	115	144	16,560	+0.25	4,140
Distribution Records (§ 212.90(b))	115	144	16,560	+0.25	4,140
Total					36,786

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number rounded to the nearest whole number.

* (30 minutes).
+ (15 minutes).

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR ACADEMIA AND SMALL FIRMS [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours [2]
Batch Production (creating manufacturing records) (filling batch related records per year) (§§ 212.20(c) and (e) and 212.50(a) and (b))	52	24	1,248	* 0.50	624
Creating Any New Batch Records/Procedures for New Drugs (§§ 212.20(c) and (e) and 212.50(a) and (b))	52	3	156	8	1,248
Equipment and Facilities Records (calibration and cleaning records) (§§ 212.30(b), 212.50(d), and 212.60(f))	52	34	1,768	* 0.50	884
Records of Components, Containers, and Closures (incoming acceptance tests) (§§ 212.20(c) and 212.40(a) and (b))	52	12	624	* 0.50	312
Laboratory Testing Records (QC test results) (§§ 212.60(g), 212.61(b) and 212.70(d)(2) and (3))	52	24	1,248	* 0.50	624
Out-of-Specification Investigations (record events and investigations) (§ 212.71(b))	52	2	104	2	208
Complaints (Record events and investigations) (§§ 212.100(b) and (c))	52	2	104	2	208
QA and Release of Batches	52	24	1,248	+ 0.25	312
Distribution Records (§ 212.90(b))	52	24	1,248	+ 0.25	312
Total					4,732

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number rounded to the nearest whole number.
* (30 minutes).
+ (15 minutes).

TABLE 5—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR HIGH RISK COMPONENT MANUFACTURERS [1]

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours [2]
Batch Production (creating manufacturing records and batch related records per year) (§§ 212.20(c) and (e) and 212.50(a) and (b))	9	12	108	* 0.50	54
Equipment and Facilities Records (calibration and cleaning records systems) (§§ 212.30(b), 212.50(d), and 212.60(f))	9	16	144	* 0.50	72
Records of Components, Containers, and Closures (incoming acceptance test) (§§ 212.20(c) and 212.40(a) and (b))	9	6	54	* 0.50	27
Laboratory Testing Records (record QC test results) (§§ 212.60(g), 212.61(b) and 212.70(d)(2) and (3))	9	12	108	* 0.50	54
Out-of-Specification Investigations (Record events and investigations) (§ 212.71(b))	9	1	9	1	9
QA and Release of Batches	9	12	108	+ 0.25	27
Distribution Records (§ 212.90(b))	9	12	108	+ 0.25	27
Total					270

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Number rounded to the nearest whole number.
* (30 minutes).
+ (15 minutes).

TABLE 6—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of sterility failure incidents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Sterility Test Failure Notices (§ 212.70(e))	12	[2] 3	36	2.5	90

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] There are two reports sent to FDA per incident and notification to receiving site.

These burden estimates reflect adjustments since last OMB approval. Previously we had based the estimated number of respondents on the number of individual production sites, however we believe using the number of registered organizations better reflects the burden attributable to information collection. This results in an overall decrease to the collection.

Dated: August 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19030 Filed 9–3–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Docket No. FDA–2019–N–1517]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Abbreviated New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 4, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0669. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Abbreviated New Animal Drug Applications—Section 512(b)(2) and (n)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)(2) and (n)(1))

OMB Control Number 0910–0669—Extension

Under section 512(b)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), any person may file an abbreviated new animal drug application (ANADA) seeking approval of a generic copy of an approved new animal drug. The information required to be submitted as part of an ANADA is described in section 512(n)(1) of the FD&C Act. Among other things, an ANADA is required to contain information to show that the proposed generic drug is bioequivalent to, and has the same labeling as, the approved new animal drug. We allow applicants to submit a complete ANADA or to submit information in support of an ANADA for phased review. Applicants may submit Form FDA 356v with a complete ANADA or a phased-review submission to ensure efficient and accurate processing of information. We use the information submitted, among other things, to assess bioequivalence to the originally approved drug and thus, the safety and effectiveness of the generic new animal drug.

We believe the demonstration of bioequivalence required by the statute does not need to be established on the basis of in vivo studies (blood level bioequivalence or clinical endpoint bioequivalence) for soluble powder oral dosage form products and certain Type A medicated articles. We are adding to this information collection applicant requests to waive the requirement to establish bioequivalence through in vivo studies (biowaiver requests) for soluble powder oral dosage form products or certain Type A medicated articles based upon either of two methods. We will consider granting a biowaiver request if it can be shown that the generic soluble powder oral dosage form product or Type A medicated article contains the same active and inactive ingredient(s) and is produced using the same manufacturing processes as the approved comparator product or article. Alternatively, we will consider granting a biowaiver request without direct comparison to the pioneer product's formulation and manufacturing process if it can be shown that the active pharmaceutical ingredient(s) (API) is the same as the pioneer product, is soluble, and that there are no ingredients in the formulation likely to cause adverse pharmacologic effects. We use the information submitted by applicants in the biowaiver request as the basis for our decision whether to grant the request.

Additionally, we have found that various uses of veterinary master files have increased the efficiency of the drug development and drug review processes for both us and the animal pharmaceutical industry. A veterinary master file is a repository for submission to FDA's Center for Veterinary Medicine of confidential detailed information about facilities, processes, or articles used in the manufacturing, processing, packaging, and storing of one or more veterinary drugs. Veterinary master files are used by the animal pharmaceutical industry in support of information being submitted for new animal drug applications (NADAs), ANADAs, investigational new animal drug (INAD) files, and generic investigational new animal drug (JINAD) files. In previous information collection requests, we included the time necessary to compile and submit such information to veterinary master files within the burden estimates provided for applications and amended applications (for NADAs and INAD files) and abbreviated applications and amended abbreviated applications (for ANADAs and JINAD files), respectively. We recently combined the time necessary to compile and submit such information to veterinary master files within the burden estimates provided in the collection of information supporting new animal drug applications (OMB control number 0910–0032).

The reporting associated with ANADAs and related submissions is necessary to ensure that new animal drugs are in compliance with section 512(b)(2) of the FD&C Act. As noted, we use the information submitted, among other things, to assess bioequivalence to the originally approved drug and thus, the safety and effectiveness of the generic new animal drug.

Description of Respondents: The respondents for this collection of information are veterinary pharmaceutical manufacturers.

In the **Federal Register** of April 18, 2019 (84 FR 16270), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
ANADA	356v	18	1	18	159	2,862
Phased Review with Administrative ANADA	356v	3	5	15	31.8	477
Biowaiver request for soluble powder oral dosage form product, using same formulation/manufacturing process approach	N/A	1	1	1	5	5
Biowaiver request for soluble powder oral dosage form product, using same API/solubility approach	N/A	5	1	5	10	50
Biowaiver request for Type A medicated article, using same formulation/manufacturing process approach	N/A	2	1	2	5	10
Biowaiver request for Type A medicated article, using same API/solubility approach	N/A	10	1	10	20	200
Total				51		3,604

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimates on our records of generic drug applications. We estimate that we will receive 21 ANADA submissions per year over the next 3 years and that 3 of those submissions will request phased review. We estimate that each applicant that uses the phased review process will have approximately five phased reviews per application. We estimate that an applicant will take approximately 159 hours to prepare either an ANADA or the estimated five ANADA phased review submissions and the administrative ANADA. Our estimates of the burden of biowaiver requests for generic soluble powder oral dosage form products and Type A medicated articles differ based on the type of product and the basis for the request, as shown in table 1. We estimate that an applicant will take between 5 and 20 hours to prepare a biowaiver request.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our previous estimate of the number of respondents submitting generic drug applications. However, as discussed, the burden for this information collection was increased by 265 hours and 18 responses since the last OMB approval. This is due to adding to this collection burden hours and responses for biowaiver requests.

Dated: August 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19078 Filed 9–3–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0879]

Agency Information Collection Activities; Proposed Collection; Comment Request; Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with safe and sanitary processing and importing of fish and fishery products.

DATES: Submit either electronic or written comments on the collection of information by November 4, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 4, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 4, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–0879 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m., 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products—21 CFR Part 123

OMB Control Number 0910–0354—Extension

This information collection supports regulations in part 123 (21 CFR part 123), which mandate the application of hazard analysis and critical control point (HACCP) principles to the processing of seafood. HACCP is a preventive system of hazard control designed to help ensure the safety of foods. The regulations were issued under FDA's statutory authority to regulate food safety, including section 402(a)(1) and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(1) and (4)).

Certain provisions in part 123 require that processors and importers of seafood collect and record information. The HACCP records compiled and maintained by a seafood processor primarily consist of the periodic observations recorded at selected monitoring points during processing and packaging operations, as called for in a processor's HACCP plan (*e.g.,* the values for processing times, temperatures, acidity, etc., as observed at critical control points). The primary purpose of HACCP records is to permit a processor to verify that products have been produced within carefully established processing parameters (critical limits) that ensure that hazards have been avoided.

HACCP records are normally reviewed by appropriately trained employees at the end of a production lot or at the end of a day or week of production to verify that control limits have been maintained, or that appropriate corrective actions were taken if the critical limits were not maintained. Such verification activities are essential to ensure that the HACCP system is working as planned. A review of these records during the conduct of periodic plant inspections also permits FDA to determine whether the products have been consistently processed in conformance with appropriate HACCP food safety controls.

Section 123.12 requires that importers of seafood products take affirmative steps and maintain records that verify that the fish and fishery products they offer for import into the United States were processed in accordance with the HACCP and sanitation provisions set forth in part 123. These records are also to be made available for review by FDA as provided in § 123.12(c).

The time and costs of these recordkeeping activities will vary considerably among processors and importers of fish and fishery products, depending on the type and number of products involved, and on the nature of the equipment or instruments required to monitor critical control points. The burden estimate in table 1 includes only those collections of information under the seafood HACCP regulations that are not already required under other statutes and regulations. The estimate also does not include collections of

information that are a usual and customary part of businesses' normal activities. For example, the tagging and labeling of molluscan shellfish (21 CFR 1240.60) is a customary and usual practice among seafood processors. Consequently, the estimates in table 1 account only for information collection and recording requirements attributable to part 123.

Description of Respondents: Respondents to this collection of information include processors and importers of seafood.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section [2]	Number of recordkeepers	Number of records per recordkeeper [3]	Total annual records	Average burden per recordkeeping [4]	Total hours
123.6(a), (b), and (c); Prepare hazard analysis and HACCP plan.	50	1	50	16	800
123.6(c)(5); Undertake and prepare records of corrective actions.	15,000	4	60,000	0.30 (18 minutes)	18,000
123.8(a)(1) and (c); Reassess hazard analysis and HACCP plan.	15,000	1	15,000	4	60,000
123.12(a)(2)(ii); Verify compliance of imports and prepare records of verification activities.	4,100	80	328,000	0.20 (12 minutes)	65,600
123.6(c)(7); Document monitoring of critical control points.	15,000	280	4,200,000	0.30 (18 minutes)	1,260,000
123.7(d); Undertake and prepare records of corrective actions due to a deviation from a critical limit.	6,000	4	24,000	0.10 (6 minutes)	2,400
123.8(d); Maintain records of the calibration of process-monitoring instruments and the performing of any periodic end-product and in-process testing.	15,000	47	705,000	0.10 (6 minutes)	70,500
123.11(c); Maintain sanitation control records.	15,000	280	4,200,000	0.10 (6 minutes)	420,000
123.12(c); Maintain records that verify that the fish and fishery products they offer for import into the United States were processed in accordance with the HACCP and sanitation provisions set forth in part 123.	4,100	80	328,000	0.10 (6 minutes)	32,800
123.12(a)(2); Prepare new written verification procedures to verify compliance of imports.	41	1	41	4	164
Total					1,930,264

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] These estimates include the information collection requirements in the following sections: § 123.16—Smoked Fish—process controls (see § 123.6(b)); § 123.28(a)—Source Controls—molluscan shellfish (see § 123.6(b)); § 123.28(c) and (d)—Records—molluscan shellfish (see § 123.6(c)(7).
[3] Based on an estimated 280 working days per year.
[4] Estimated average time per 8-hour work day unless one-time response.

Based on a review of the information collection since our last OMB approval, we have made no adjustments to our burden estimate. We base this hour burden estimate on our experience with the application of HACCP principles in food processing. Further, the burdens have been estimated using typical small seafood processing firms as a model because these firms represent a significant proportion of the industry. The hour burden of HACCP recordkeeping activities will vary considerably among processors and importers of fish and fishery products, depending on the size of the facility and complexity of the HACCP control scheme (*i.e.,* the number of products and the number of hazards controlled); the daily frequency that control points are monitored and values recorded; and also on the extent that data recording time and cost are minimized by the use of automated data logging technology. The burden estimate does not include burden hours for activities that are a usual and customary part of businesses' normal activities. For example, the tagging and labeling of molluscan shellfish (§ 1240.60) is a customary and usual practice among seafood processors.

Dated: August 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18987 Filed 9–3–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3793]

General Hospital and Personal Use Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice, establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee

meeting of the General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on November 6 and 7, 2019, from 8 a.m. to 6 p.m.

ADDRESSES: DoubleTree by Hilton, Washington DC North/Gaithersburg, Grand Ballroom, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900. *https://doubletree3.hilton.com/en/hotels/maryland/doubletree-by-hilton-washington-dc-north-gaithersburg-GAIGWDT/index.html.* Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/advisory-committees/about-advisory-committees/common-questions-and-answers-about-fda-advisory-committee-meetings.* You may submit comments as follows:

FDA is establishing a docket for public comments on this meeting. The docket number is FDA–2019–N–3793. The docket will close on December 6, 2019. Submit either electronic or written comments on this public meeting to the docket by December 6, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 6, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 6, 2019. Comments received by mail/hand delivery/courier (for written/paper submission) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before October 21, 2019, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments 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 Submission'' 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–2019–N–3793 for ''The General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The FDA 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 or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Patricio Garcia, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66 Rm. G610, Silver Spring, MD 20993–0002, *patricio.garcia@fda.hhs.gov,* (301) 796–6875, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/advisory-committees* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On November 6 and 7, 2019, the committee will discuss the topic of industrial ethylene oxide (EtO) sterilization of medical devices and its role in maintaining public health as

well as the risks of infection with reprocessed duodenoscopes. Subject matter of the panel meeting will include potential methods and expert assessment of how to reduce EtO emissions to the environment from medical device sterilization processes without compromising assurance of sterility or effective processing of medical devices. The panel will also discuss recommendations to reduce the risk of infection from reprocessed duodenoscopes.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be publicly available at the location of the advisory committee meeting and the background material will be posted on FDA's website after the meeting. Background material will be available at *https://www.fda.gov/advisory-committees/advisory-committee-calendar.* Scroll down to the appropriate advisory committee meeting link.

FDA plans to provide a live webcast of the November 6 and 7, 2019, meeting of the General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee. While CDRH is working to make webcasts available to the public for all advisory committee meetings, there are instances where the webcast transmission is not successful; staff will work to re-establish the transmission as soon as possible. The link for the webcast is available at: *https://collaboration.fda.gov.* Webcast information, including the website address for the webcast, are the following, for their respective days:

November 6, 2019: *http://fda.yorkcast.com/webcast/Play/eeed34f9b1f448f9a1f6ad05a4b98d7d1d*

November 7, 2019: *http://fda.yorkcast.com/webcast/Play/49c5a76d5d1c422d8da028441ab557de1d*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Written submissions may be made to the contact person on or before October 22, 2019. Oral presentations from the public will be scheduled on November 6, 2019, between approximately 1:30 p.m. and 2 p.m. and from 3:50 p.m. to 4:20 p.m. and on November 7, 2019, between approximately 1:20 p.m. and 1:50 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 16, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 17, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities . If you require accommodations due to a disability, please contact Artair Mallett, at *Artair.Mallett@fda.hhs.gov* or 301–796–9638 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings.*

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 29, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–19079 Filed 9–3–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Meeting of the Advisory Committee on Training in Primary Care and Dentistry

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Training in Primary Care and Dentistry (ACTPCMD) has scheduled a public meeting. Information about ACTPCMD and the agenda for this meeting can be found on the ACTPCMD website at: *https://www.hrsa.gov/advisory-committees/primarycare-dentist/index.html.*

DATES: October 31, 2019, 10:00 a.m.–5:00 p.m. Eastern Time.

ADDRESSES: This meeting will be held by webinar.

- *Webinar link: https://hrsa.connectsolutions.com/ACTPCMD.*
- *Conference Call in number:* (888) 455–0640; Passcode: HRSA COUNCIL (voice response).

FOR FURTHER INFORMATION CONTACT: Kennita Carter, MD, Senior Advisor and Designated Federal Official, Division of Medicine and Dentistry, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; phone (301) 945–3505; or email *BHWACTPCMD@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACTPCMD provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under section 747 of Title VII of the Public Health Service (PHS) Act, as it existed upon the enactment of Section 749 of the PHS Act in 1998.

At this meeting, ACTPCMD will discuss matters concerning innovations in training in primary care medicine and dentistry as well as ACTPCMD's upcoming report and recommendations. Agenda items are subject to change as priorities dictate. Refer to the ACTPCMD website for any updated information concerning the meeting. An agenda will be posted on the website at least 14 calendar days before the meeting. Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to ACTPCMD should be sent to Kennita Carter using the contact information above at least three business days prior to the meeting.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Kennita Carter at the address and phone number listed above at least 10 business days before the meeting.

Maria G. Button,

Director, Division of the Executive Secretariat.

[FR Doc. 2019–19035 Filed 9–3–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Clinical Care Commission

AGENCY: Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The National Clinical Care Commission (the Commission) will conduct a virtual meeting on September 27, 2019. The Commission is charged to evaluate and make recommendations to the U.S. Department of Health and Human Services (HHS) Secretary and Congress regarding improvements to the coordination and leveraging of federal programs related to awareness and clinical care for complex metabolic or autoimmune diseases that result from issues related to insulin that represent a significant disease burden in the United States, which may include complications due to such diseases.

DATES: The meeting will take place on September 27, 2019, from 2:00 p.m. to approximately 5:30 p.m. Eastern Time (ET).

ADDRESSES: The meeting will be held online via webinar. To register to attend the meeting, please visit the registration website at *https://kauffmaninc.adobeconnect.com/nccc_sept_2019/event/event_info.html.*

FOR FURTHER INFORMATION CONTACT: Clydette Powell, Designated Federal Officer, National Clinical Care Commission, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Suite LL–100, Rockville, MD 20852, telephone: 240–453–8239, Email: *OHQ@hhs.gov.* Additional information may be obtained at *https://health.gov/hcq/national-clinical-care-commission.asp.*

SUPPLEMENTARY INFORMATION: The National Clinical Care Commission Act (Pub. L. 115–80) requires the HHS Secretary to establish the National Clinical Care Commission. The Commission consists of representatives of specific federal agencies and non-federal individuals and entities who represent diverse disciplines and views. The Commission will evaluate and make recommendations to the HHS Secretary and Congress regarding improvements to the coordination and leveraging of federal programs related to awareness and clinical care for complex metabolic or autoimmune diseases that result from issues related to insulin that represent a significant disease burden in the United States, which may include complications due to such diseases.

The inaugural meeting of the Commission was held on October 31, 2018, during which non-federal Commission members were sworn-in, and various federal interagency efforts surrounding diabetes program were presented. This virtual meeting will consist of an update on the Data Call to federal agencies and Commission discussion on key topics for secondary research in support of the Report to Congress.

The final meeting agenda will be available prior to the meeting at *https://health.gov/hcq/national-clinical-care-commission.asp.*

Public Participation at Meeting: The Commission invites public comment on issues related to the Commission's charge. There will be no opportunity for oral comments at this virtual meeting. Written comments are welcome throughout the entire development process of the Commission's recommendation and may be emailed to *OHQ@hhs.gov,* or by mail to the following address: Public Commentary, National Clinical Care Commission, 1101 Wootton Parkway, Suite LL–100, Rockville, MD 20852. Written comments should not exceed three pages in length.

To virtually attend the Commission meeting, individuals must pre-register at the registration website at *https://kauffmaninc.adobeconnect.com/nccc_sept_2019/event/event_info.html.*

Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should indicate the special accommodation when registering online or by notifying Jennifer Gillissen at *jennifer.gillissen@kauffmaninc.com* by September 20.

Authority: The National Clinical Care Commission is required under the National Clinical Care Commission Act (Pub. L. 115–80). The Commission is governed by provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C., App.) which sets forth standards for the formation and use of federal advisory committees.

Dated: August 20, 2019.

Donald Wright,

Deputy Assistant Secretary for Health.

[FR Doc. 2019–18953 Filed 9–3–19; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office of Infectious Disease Policy.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services is hereby giving notice that a meeting is scheduled to be held for the National Vaccine Advisory Committee (NVAC). The meeting will be open to the public; public comment sessions will be held during the meeting.

DATES: The meeting will be held on September 17 and 18, 2019. The meeting times and agenda will be posted on the NVAC website at *https://www.hhs.gov/vaccines/nvac/meetings/index.html* as soon as they become available.

ADDRESSES: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, The Great Hall, 200 Independence Avenue SW, Washington, DC 20201.

The meeting can also be accessed through a live webcast on both days of the meeting. For more information, visit *https://www.hhs.gov/webforms/nvac/index.html.*

Pre-registration is required for members of the public who wish to attend the meeting and who wish to participate in a public comment session. Individuals who wish to attend the meeting and/or participate in a public comment session should register at *https://www.hhs.gov/webforms/nvac/index.html.* Participants may also register by emailing *nvac@hhs.gov* or by calling (202) 795–7697 and providing their name, organization, and email address.

FOR FURTHER INFORMATION CONTACT: Ann Aikin, Acting Designated Federal Officer, Office of Infectious Disease Policy, U.S. Department of Health and Human Services, Room L001, Switzer Building, 330 C Street SW, Washington, DC 20201. Phone: (202) 795–7697; email: *nvac@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Health Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve

optimal prevention against adverse reactions to vaccines. The NVAC was established to provide advice and make recommendations to the Director of the National Vaccine Program on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

During the September 2019 NVAC meeting, sessions will consist of presentations on immunization equity, immunity, vaccines for small populations and uncommon diseases, and influenza safety monitoring, and evidence-based tools for improving influenza vaccination efforts. Please note that agenda items will be related to the charges of the Committee and are subject to change as priorities dictate. Information on the final meeting agenda will be posted prior to the meeting on the NVAC website: *https://www.hhs.gov/vaccines/nvac/meetings/index.html.*

Public attendance at the meeting is limited to the available space. Individuals who plan to attend in person and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Office of Infectious Disease Policy at the address/phone number listed above at least one week prior to the meeting. For those unable to attend in person, a live webcast will be available. More information on registration and accessing the webcast can be found at *https://www.hhs.gov/vaccines/nvac/meetings/index.html.*

Members of the public will have the opportunity to provide comments at the NVAC meeting during the public comment periods designated on the agenda. Public comments made during the meeting will be limited to three minutes per person to ensure time is allotted for all those wishing to speak. Individuals are also welcome to submit their written comments. Written comments should not exceed three pages in length. Individuals submitting written comments should email their comments to the Office of Infectious Disease Policy (*nvac@hhs.gov*) at least five business days prior to the meeting.

Dated: August 16, 2019.

Ann Aikin,

Acting Designated Federal Officer, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2019–19201 Filed 9–3–19; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee MID–B Chartered Committee.

Date: September 24–25, 2019.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 28, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18960 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases 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/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID 2019 Omnibus BAA (HHS–NIH–NIAID–BAA2019–1) Research Area 003: Advanced Development of Vaccine Candidates for Antibiotic Resistant Bacteria.

Date: September 18, 2019.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Reed Solomon Shabman, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 301–761–6433, *reed.shabman@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44), Clinical Trial Implementation Cooperative Agreement (U01), and Clinical Trial Planning Grant (R34).

Date: September 24, 2019.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Yong Gao, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3G13B, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–7616, (240) 669–5048, *gaoL2@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: *August 28, 2019.*

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18959 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cancer Informatics.

Date: November 7–8, 2019.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, 9609 Medical Center Drive, Room 7W264, Division of Extramural Activities, Research Technology and Contract Review Branch, National Cancer Institute, NIH, Rockville, MD 20850, (240) 276–6384, *gravesr@mail.nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee I—Transition to Independence SEP.

Date: November 19, 2019.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute. NIH, 9609 Medical Center Drive, Room 7W602 MSC 9750, Bethesda, MD 20892, (240) 276–6456, *tangd@mail.nih.govx.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 28, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18956 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: October 1–2, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, *nadis@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 28, 2019.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18955 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS INBRE Grant Applications.

Date: October 18, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ruth Grossman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 435–2409, *grossmanrs@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 27, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18961 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Biomarkers of Aging.

Date: September 19, 2019.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301.402.7706, *markowsa@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 27, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18957 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; T35 Review.

Date: October 28, 2019.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–480–1266, *neuhuber@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 27, 2019.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–18958 Filed 9–3–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS–2019–0043]

Agency Information Collection Activities: Generic Clearance for the Collection of Certain Information on Immigration and Foreign Travel Forms

AGENCY: Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; new collection, 1601–NEW.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other Federal agencies to comment upon this proposed new collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding proposed modifications to certain DHS immigration and foreign travel forms. This collection of information is necessary to comply with Section 5 of the Executive Order (E.O.) 13780, ''*Protecting the Nation from Foreign Terrorist Entry into the United States*'' to establish screening and vetting standards and procedures to enable DHS to assess an alien's eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. This data collection also is used to validate an applicant's identity information and to determine whether such travel or grant of a benefit poses a law enforcement or national security risk to the United States.

DATES: Comments are encouraged and will be accepted until November 4, 2019. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number Docket Number DHS–2019–0043, at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments. The draft supporting statement for this new collection is posted in the docket for review.

Instructions: All submissions received must include the agency name and docket number Docket Number DHS–2019–0043. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Background

Executive Order (E.O.) 13780, ''Protecting the Nation from Foreign Terrorist Entry into the United States'' requires the implementation of uniform vetting standards and the proper collection of all information necessary for a rigorous evaluation of all grounds of inadmissibility or bases for the denial of immigration-related benefits. *See* 82 FR 13209 (Mar. 9, 2017). The E.O. requires the Department of Homeland Security (DHS) to collect standard data on immigration and foreign traveler forms and/or information collection systems. This data will be collected from certain populations on applications for entrance into the United States or immigration-related benefits and is necessary for identity verification, vetting and national security screening and inspection conducted by DHS.

This collection of information is necessary to comply with Section 5 of the E.O. to establish screening and vetting standards and procedures to enable DHS to assess an alien's eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. This data collection also is used to validate an applicant's identity information and to determine whether such travel or grant of a benefit poses a law enforcement or national security risk to the United States.

DHS will collect biographic information on immigration and foreign traveler information collection instruments and systems. DHS will update its forms and systems to collect information from individuals who seek

admissibility or other benefits when that information is not already collected.

New Information To Be Collected

U.S. Government departments and agencies involved in screening and vetting, to include DHS, identified 15 data elements that would constitute a new baseline threshold of data to be collected for identity verification and national security vetting. For DHS, these data elements will be added to certain immigration benefit request or traveler forms where the information was not already collected. The 15 core data elements are as follows:

The following six (6) data elements are biographic identifiers used to confirm both a subject's identity as it relates to the submitted application and to DHS historic records. These biographic identifiers are also used internally by U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS) and screening partners to confirm or disprove an association between an applicant and information of interest and the strength of that association in the context of the underlying information.

1. Name
2. Sex/Gender
3. Date of Birth
4. City/Region and Country of Birth
5. Country/Countries of Citizenship
6. Country of Residence

The following data element is a unique numeric identifier issued to a single individual that DHS uses to confirm both a person's identity and for DHS records. It is also used internally by CBP, USCIS, and screening partners to find, confirm, or disprove an association between an applicant, the strength of that association, or to provide other information about the person that may be important in the adjudication. Applicants will be asked to provide current passport/travel/national identity document information, country of issuance; issue date and expiration date, as applicable. Other DHS forms request more information on passports or travel documents to include expired documents and passports containing a U.S. visa. The questions related to passport information requested depend on benefit eligibility and national security needs. If additional information is needed for this data element, DHS will revise the applicable OMB approved information collection under the form's control number and not add the additional questions using this generic approval.

7. Passport/Travel Document or National ID
1. Country of issuance
2. Issue date
3. Expiration date

The following eight (8) data elements are used to provide official correspondence from CBP or USCIS to an applicant. They are also used as secondary data elements to confirm a subject's identity as it relates to the submitted application and to DHS historic records. They are also used internally by CBP, USCIS, and screening partners to confirm or disprove an association between an applicant and information of interest and the strength of that association in the context of the underlying information.

8. Telephone Number(s)
9. Email address(es)
10. U.S. Address: Residence or Destination city
11. U.S. Address: Residence or Destination state
12. Foreign Address city
13. Foreign Address state
14. U.S. Point of Contact Name, if applicant is located outside of the United States
15. U.S. Point of Contact Telephone Number, if applicant is located outside of the United States

Programs Affected, OMB Control Numbers and Legal Authorities for the Collections

DHS plans to collect the data elements for three programs/forms administered by U.S. Customs and Border Protection (CBP). The three CBP programs/forms, and the applicable statutory and regulatory authorities to collect the additional information are as follows:

- OMB No. 1651–0111—Electronic System for Travel Authorization (ESTA): Collection of data through this form is authorized by Section 711 of The Secure Travel and Counterterrorism Partnership Act of 2007 (part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the ''9/11 Act,'' Pub. L. 110–53). The authorities for the maintenance of this system are found in: Title IV of the Homeland Security Act of 2002, 6 U.S.C. 201 *et seq.,* the Immigration and Nationality Act, as amended, including 8 U.S.C. 1187(a)(11) and (h)(3); 8 CFR part 217; the Travel Promotion Act of 2009, Public Law 111–145, 22 U.S.C. 2131.
- OMB No. 1651–0111—Form I–94W, Nonimmigrant Visa Waiver Arrival/Departure Record: Collection of data through this form is authorized by 8 U.S.C. 1103, 1187 and 8 CFR 235.1, 264, and 1235.1.
- OMB No. 1651–0139—Electronic Visa Update System (EVUS): Collection of data through this form is authorized by INA section 104(a) (8 U.S.C. 1104(a)). The authorities for the maintenance of this system are found in: Title IV of the Homeland Security Act of 2002, 6. U.S.C. 201 *et seq.,* the Immigration and National Act, as amended, including sections 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201); 8 CFR part 2; the Travel Promotion Act of 2009, Public Law 111–145, 22 U.S.C. 2131; and 8 CFR parts 212, 214, 215, and 273.

DHS plans to collect the new data elements for nine programs administered by U.S. Citizenship and Immigration Services (USCIS). The nine USCIS programs, and the applicable statutory and regulatory authorities to collect the additional information area as follows:

USCIS has the following statutory and regulatory authorities to collect additional biographic data information on the following forms:

- OMB No. 1615–0052—Form N–400, Application for Naturalization: Collection of data through this form is authorized by INA section 337 [8 U.S.C. 1448]; 8 U.S.C. 1421; 8 CFR 316.4 and 8 CFR 316.10.
- OMB No. 1615–0013—Form I–131, Application for Travel Document: Collection of data through this form is authorized by INA sections 103, 208, 212, 223 and 244; 8 CFR 103.2(a) and (e); 8 CFR 208.6; 8 CFR 244.16; Section 303 of Public Law 107–173.
- OMB No. 1615–0017—Form I–192, Application for Advance Permission to Enter as a Nonimmigrant: Collection of data through this form is authorized by INA 212 [8 U.S.C. 1182].
- OMB No. 1615–0023—Form I–485, Application to Register Permanent Residence or Adjust status: Collection of data through this form is authorized by INA section 245, 8 U.S.C. 1255, Public Law 106–429, and section 902 of Public Law 105–277.
- OMB No. 1615–0067—Form I–589, Application for Asylum and for Withholding of Removal: Collection of data through this form is authorized by INA sections 101(a)(42), 208(a) and (b), and 241(b)(3) and 8 CFR 208.6 and 1208.6.
- OMB No. 1615–0068—Form I–590, Registration for Classification as Refugee: This information collection is authorized by INA section 207 (8 U.S.C. 1157) for a person who seeks refugee classification and resettlement in the United States. A refugee is defined in 8 U.S.C. 1101(a)(42) and Section 101(a)(42) of the Act.
- OMB No. 1615–0037—Form I–730, Refugee/Asylee Relative Petition: This information collection is authorized by

section 207(c)(2), and 208(c) of the INA (8 U.S.C. 1157 and 1158) for an asylee or refugee to request accompanying or following-to-join benefits for his or her spouse and unmarried minor child(ren).

• OMB No. 1615–0038—Form I–751, Petition to Remove Conditions on Residence: Collection of data through this form is authorized by INA section 216, 8 U.S.C. 1186(a); 8 CFR part 216.

• OMB No. 1615–0045—Form I–829, Petition by Entrepreneur to Remove Conditions on Permanent Resident Status: Collection of data through this form is authorized by INA section 203(b)(5), 8 U.S.C. 1153, and INA section 216(a),8 U.S.C. 1186(b)].

Applicant information is collected to maintain a record of persons applying for specific immigration and other travel benefits, and to determine whether these applicants are eligible to receive the benefits for which they are applying. The information provided through DHS forms is also analyzed—along with other information that the Secretary of Homeland Security determines is necessary, including information about other persons included on the DHS forms —against various security and law enforcement databases to identify those applicants who may pose a security risk to the United States. To obtain approval for a collection that meets the conditions of this generic clearance, a standardized form will be submitted to OMB along with supporting documentation (*e.g.,* a copy of the updated application form). OMB will grant approval only if the agency demonstrates the collection of information complies with the specific circumstances laid out in this supporting statement.

Confidentiality

No assurance of confidentiality is provided. All data submitted under this collection will be handled in accordance with applicable U.S. laws and DHS policies regarding personally identifiable information.

• Public Law 107–347, ''E-Government Act of 2002,'' as amended, Section 208 [44 U.S.C. 3501 note].

• Title 5, United States Code (U.S.C.), Section 552a, ''Records maintained on individuals'' [The Privacy Act of 1974, as amended].

• Title 6, U.S.C., Section 142, ''Privacy officer.''

• Title 44, U.S.C., Chapter 35, Subchapter II, ''Information Security'' [The Federal Information Security Modernization Act of 2014 (FISMA)].

• DHS Directive 047–01, ''Privacy Policy and Compliance'' (July 25, 2011).

• DHS Instruction 047–01–001, ''Privacy Policy and Compliance'' (July 25, 2011).

• Privacy Policy Guidance Memorandum 2008–01/Privacy Policy Directive 140–06, ''The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security.'' (December 29, 2008).

• Privacy Policy Guidance Memorandum 2017–01, DHS Privacy Policy Regarding Collection, Use, Retention, and Dissemination of Personally Identifiable Information. (April 25, 2017).

• Refugees and asylees are protected by the confidentiality provisions of 8 CFR 208.6; 8 U.S.C. 1103. Aliens in TPS status have the confidentiality protections described in 8 CFR 244.16; 8 U.S.C. 1254a(c)(6). There are no confidentiality assurances for other aliens applying for the benefit.

• The system of record notices associated with this information collection are:

○ DHS/USCIS/ICE/CBP–001—Alien File, Index, and National File Tracking System of Records, September 18, 2017, 82 FR 43556 (all USCIS forms).

○ DHS/USCIS–007—Benefits Information System, October 19, 2016, 81 FR 72069 (Forms N–400, I–131, I–192, I–485, I–590, I–730, I–751, I–829).

○ DHS/USCIS–010—Asylum Information and Pre-Screening System of Records November 30, 2015, 80 FR 74781 (Form I–589).

○ DHS/CBP–006—Automated Targeting System, May 22, 2012, 77 FR 30297 (Form I–192).

○ DHS/USCIS–017—Refugee Case Processing and Security Screening Information System of Records October 19, 2016, 81 FR 72075 (Forms I–730).

○ DHS/CBP—Electronic Visa Update System (EVUS) System of Records, September 1, 2016, 81 FR 60371 (EVUS Form); Final Rule for Privacy Exemptions, November 25, 2016, 81 FR 85105.

○ DHS/CBP–009—Electronic System for Travel Authorization (ESTA), September 2, 2016, 81 FR 60713 (ESTA Form); Final Rule for Privacy Act Exemptions, August 31, 2009 74 FR 45069.

○ DHS/CBP–016—Nonimmigrant Information System March 13, 2015, 80 FR 13398 (Form I–94W).

○ DHS/USCIS–015—Electronic Immigration System-2 Account and Case Management System of Records April 5, 2013 78 FR 20673 (Form I–131).

This is a new generic clearance. This request will be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs for review and approval as required by the Paperwork Reduction Act. This new collection is to meet the intent of E.O. 13780 (Section 5) to establish screening and vetting standards to assess an alien's eligibility to travel to, be admitted to, or receive an immigration-related benefit from DHS. This information will be used to validate an applicant's identity and determine whether entry to the U.S. or an immigration benefit for an individual poses a law enforcement or national security risk to the United States.

DHS is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security DHS.

Title: Generic Clearance for the Collection of Certain Information on Immigration and Foreign Travel Forms.

OMB Number: 1601–NEW.

Frequency: On Occasion.

Affected Public: Individuals.

Number of Respondents: 30,069,230.

Estimated Time per Respondent: .401.

Total Burden Hours: 12,058,798.

Melissa Bruce,

Executive Director, Business Management Office.

[FR Doc. 2019–19020 Filed 9–3–19; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA–2019–0013]

CISA Reporting Forms

AGENCY: Cybersecurity Division (CSD), Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; revision, 1670–0037.

SUMMARY: DHS CISA CSD will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until November 4, 2019.

ADDRESSES: You may submit comments, identified by docket number CISA–2019–0013, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: fed_ir_update@hq.dhs.gov.* Please include docket number CISA–2019–0013 in the subject line of the message.
- *Mail:* Written comments and questions about this Information Collection Request should be forwarded to DHS/CISA/CSD, ATTN: 1670–0037, 245 Murray Lane SW, Mail Stop 0613, Washington, DC 20598–0613.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket and comments received, please go to *www.regulations.gov* and enter docket number CISA–2019–0013.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, 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. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Lisa Barr at 703.705.6078 or at *fed_ir_update@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 2209 of the Homeland Security Act, as amended, established a national cybersecurity and communications integration center to function as ''a Federal civilian interface for the multi-directional and cross-sector sharing of information related to cyber threat indicators, defensive measures, cybersecurity risks, incidents, analysis, and warnings for Federal and non-Federal entities.'' 6 U.S.C. 659(c)(1). The Federal Information Security Modernization Act of 2014 (FISMA) establishes a federal information security incident center, and requires the Department to operate it. 44 U.S.C. 3556(a).

The Cybersecurity and Infrastructure Security Agency (CISA) operates the federal information security incident center. Through this center, FISMA requires the Department to provide technical assistance and guidance on detecting and handling security incidents, compile and analyze incident information that threatens information security, inform agencies of current and potential threats and vulnerabilities, and provide intelligence or other information about cyber threats, vulnerabilities, and incidents to agencies. 44 U.S.C. 3556(a). FISMA also requires agencies to report information security incidents, major incidents, and data breaches to the federal information security incident center. 44 U.S.C. 3556(b) (information security incidents), 44 U.S.C. 3554(b)(7)(C)(iii)(III) (major incidents); Public Law 113–283, 2(d) (2014) (codified at 44 U.S.C. 3553, note (Breaches)). The Cybersecurity Information Sharing Act of 2015 (CISA 2015) requires DHS, in consultation with interagency partners, to establish the Federal Government's capability and process for receiving cyber threat indicators and defensive measures, and directs DHS to further share cyber threat indicators and defensive measures it receives with certain federal entities in an automated and real-time manner. 6 U.S.C. 1504(c).

CISA is responsible for performing, coordinating, and supporting response to information security incidents, which may originate outside the Federal community and affect users within it, or originate within the Federal community and affect users outside of it. Often, therefore, the effective handling of security incidents relies on information sharing among individual users, industry, and the Federal Government, which may be facilitated by and through CISA.

Per the Federal Information Security Modernization Act of 2014, CISA operates the Federal information security incident center for the United States federal government. Each federal agency is required to notify and consult with CISA regarding information security incidents involving the information and information systems (managed by a federal agency, contractor, or other source) that support the operations and assets of the agency. Additional entities report incident information to CISA voluntarily.

CISA's website (at US–CERT.gov) is a primary tool used by constituents to report incident information, access information sharing products and services, and interact with CISA. Constituents, which may include anyone or any entity in the public, use forms located on the website to complete these activities.

By accepting incident reports and feedback, and interacting among federal agencies, industry, the research community, state and local governments, and others to disseminate reasoned and actionable cyber security information to the public, CISA has provided a way for citizens, businesses, and other institutions to communicate and coordinate directly with the Federal Government about cybersecurity. The information is collected via the following forms:

1. The Incident Reporting Form, DHS Cyber Threat Indicator and Defensive Measure Submission System and Malware Analysis Submission Form enable end users to report incidents and indicators as well as submit malware artifacts associated with incidents to CISA. This information is used by DHS to conduct analyses and provide warnings of system threats and vulnerabilities, and to develop mitigation strategies as appropriate. The primary purpose for the collection of this information is to allow DHS to contact requestors regarding their request.

2. The Mail Lists Form enables end users to subscribe to the National Cyber Awareness System's mailing lists, which deliver the content of and links to CISA's information sharing products. The user must provide an email address in order to subscribe or unsubscribe, though both of these actions are optional. The primary purpose for the collection of this information is to allow DHS to contact requestors regarding their request.

3. The Cyber Security Evaluation Tool (CSET) Download Form, which requests the name, email address, organization, infrastructure sector, country, and intended use of those seeking to download the CSET. All requested fields are optional. The primary purpose for the collection of this information is to allow DHS to contact requestors regarding their request.

In order to be responsive to an ever-changing cybersecurity environment, the forms may change to collect data related to current capabilities or vulnerabilities. Standards, guidelines, and requirements of the CISA are perpetually adapting to the volatile cybersecurity environment. We must retain the ability to update these forms as required, or we will be unable to collect critical incident data in support of our mission. Without the necessary tools and methods to collect this information, we will be unable to effectively satisfy mission requirements and support our stakeholders through information collection, analysis, and exchange. The general scope and purpose of the forms will remain the same.

Incident reports are primarily submitted using CISA's Automated Indicator Sharing program. Alternately, information may be collected through web-based electronic forms, email, or telephone. Web form submission is also used as the collection method for the other forms listed. These methods enable individuals, private sector entities, personnel working at other federal or state agencies, and international entities, including individuals, companies and other nations' governments to submit information.

This is a revision to an existing form. The changes to the collection since the previous OMB approval include: Updating the name of the Agency from NPPD to CISA, updating the Incident Reporting Form, removing the ICSJWG FORM, and updating the burden and cost estimates.

The Incident Reporting Form was updated to add reporting options; and updated to improve user-friendliness by having the form be directional. The changes include: Adding structured, distinct options for reporting incidents, major incidents, breaches, and events under investigation; and adding fields to collect expanded information on topics including attack vectors, indicators of compromise, communications from compromised systems, critical infrastructure sectors, memory captures, system and network logs, and unattributed cyber intrusions.

This is a revised information collection.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: CISA Reporting Forms.

OMB Control Number: 1670–0037.

Frequency: Annually.

Affected Public: State, Local, Tribal, and Territorial Governments, Private Sector, and Academia.

Number of Annualized Respondents: 139,125.

Estimated Time per Respondent: 0.3333 hours, 0.1667 hours, or 0.0167 hours.

Total Annualized Burden Hours: 13,852 hours.

Total Annualized Respondent Opportunity Cost: $504,494.

Total Annualized Respondent Out-of-Pocket Cost: $0.

Total Annualized Government Cost: $2,100,032.

Scott Libby,

Deputy Chief Information Officer.

[FR Doc. 2019–19022 Filed 9–3–19; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

RIN 1601–AA91

Designation of REAL ID Identity Documents for Citizens of the Freely Associated States; Unexpired Foreign Passport With an Approved Form I–94, Documenting the Applicant's Most Recent Admission to the United States

AGENCY: Office of Strategy, Policy, and Plans, Department of Homeland Security (DHS).

ACTION: Notice designating identity documents for citizens of the Freely Associated States applying for a REAL ID driver's license or identification card.

SUMMARY: This notice announces that the Department of Homeland Security (DHS) is designating an unexpired foreign passport and valid Form I–94 (Arrival-Departure Record) as acceptable identity documentation for purposes of obtaining a REAL ID driver's license or identification card for eligible citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands (collectively known as the Freely Associated States, or FAS).

DATES: This designation takes effect September 4, 2019.

FOR FURTHER INFORMATION CONTACT: Steve Yonkers, Director, Biometrics and Credentialing/REAL ID Program, Department of Homeland Security, Washington, DC 20528, telephone (202) 282–9708; email *realid@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. The REAL ID Act

The REAL ID Act (the Act) was enacted in 2005 in response to a recommendation from the 9/11 Commission to improve the security of forms of identification such as state-issued driver's licenses and identification cards.[1] The Act sets minimum standards for the issuance and production of state driver's licenses and identification cards in order for federal agencies to accept those documents for official purposes, which include accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes the Secretary of Homeland Security shall determine.

B. The Compacts of Free Association

The Compacts of Free Association (COFAs) between the United States and the Freely Associated States allow most citizens of the Federated States of Micronesia (FSM), the Republic of Palau, and the Republic of the Marshall Islands (RMI) to be admitted to the United States as nonimmigrants without having to obtain a visa, and to indefinitely reside, work and study in the United States.[2]

C. REAL ID Act Modification for Freely Associated States Act

In December 2018, President Trump signed the REAL ID Act Modification for Freely Associated States Act (REAL ID Modification Act).[3] The REAL ID Modification Act authorizes states to issue full-term REAL ID-compliant driver's licenses and identification cards

[1] The REAL ID Act of 2005—title II of division B of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109–13, 119 Stat. 231, 302 (May 11, 2005) (codified at 49 U.S.C. 30301 note).

[2] *See* Public Law 108–188 (48 U.S.C. 1921 note) (Republic of the Marshall Islands and Federated States of Micronesia); Public Law 99–658 (48 U.S.C. 1931 and 1931 note) (Palau).

[3] Public Law 115–323.

to FAS citizens admitted under the COFAs. Prior to the enactment of the REAL ID Modification Act, FAS citizens were only eligible for temporary REAL ID driver's licenses and identification cards, valid during the period of the applicant's authorized stay in the United States or for one year where there is no definite end to the period of authorized stay, which is the case for FAS citizens.[4] The REAL ID Modification Act amended the REAL ID Act to create a separate lawful status category for FAS citizens to make them eligible for full-term driver's licenses and identification cards. It did not, however, address the regulatory requirements regarding acceptable documentation to establish identity for purposes of obtaining a REAL ID compliant license or identification card.

D. REAL ID Identity Documents for FAS Citizens

The REAL ID regulations require applicants for REAL ID compliant licenses or identification cards to present at least one of several listed documents for purposes of establishing identity.[5] For nonimmigrants, these documents could be either an unexpired foreign passport with a valid unexpired U.S. visa affixed, and an approved I–94 form; or an unexpired employment authorization document (EAD) issued by DHS.[6]

Under the Compacts of Free Association between the United States and the FAS, most FAS citizens are eligible to be admitted to the United States as nonimmigrants without a visa, and live and work in the United States indefinitely. As such, FAS citizens who are lawfully living and working in the United States under the terms of the Compacts may not have a visa or EAD, which would be necessary to satisfy the identity requirements in order to obtain a REAL ID compliant license or identification card.[7]

II. Designation of Identity Documents for FAS Citizens

The REAL ID regulations, at 6 CFR 37.11(c)(1)(x), authorize DHS to designate additional identity documents through a **Federal Register** notice. Pursuant to that authority, DHS is designating the following documentation as acceptable evidence of identity for purposes of 6 CFR 37.11(c)(1):

A valid unexpired passport issued by the Republic of the Marshall Islands, the Republic of Palau, or the Federated States of Micronesia with an approved Form I–94,[8] documenting the applicant's most recent admission to the United States under the Compact of Free Association between the United States and the nation that issued the passport.

DHS believes it is appropriate to designate this identity documentation for FAS citizens given the unique relationship between the United States and the FAS and considering that to live and work for indefinite periods, FAS citizens are not required to obtain a visa or EAD, which are documents currently required to establish identity for REAL ID purposes. DHS also believes the designation is consistent with the intent of Congress to facilitate the issuance of REAL ID licenses and identification cards to FAS citizens as demonstrated by enactment of the REAL ID Modification Act. This accommodation for FAS citizens also is consistent with the spirit of the COFAs, although it is not required under any provision of the COFAs.

David Pekoske,

Senior Official Performing the Duties of the Deputy Secretary.

[FR Doc. 2019–19024 Filed 9–3–19; 8:45 am]

BILLING CODE 9110–9M–P

[4] REAL ID Act § 202(c)(2)(C)(ii).

[5] 6 CFR 37(c)(1).

[6] The source documents listed in 6 CFR 37.11(c)(1) are all acceptable, but most nonimmigrants do not have access to the other source documents listed. They are limited to the options of an unexpired EAD, or an unexpired foreign passport with a valid U.S. visa affixed with an approved Form I–94, per 6 CFR 37.11(c)(1)(v)–(vi). Most nonimmigrants are not eligible for an EAD (because either they are not eligible to be employed in the United States, or because they are authorized for employment with a specific employer incident to status and are not issued an EAD), but FAS nonimmigrants under the COFAs may apply for an EAD as evidence of their work authorization in the United States.

[7] Citizens of all three FAS nations admitted under the Compacts are authorized to work incident to that status, *i.e.,* they can obtain an EAD as evidence of work authorization but do not need to obtain one in order to be authorized to work. Under the amended Compacts with the Federated States of Micronesia and the Republic of the Marshall Islands, an unexpired passport and I–94 combination is acceptable evidence of identity and employment authorization. As a result, many FAS citizens do not find it necessary to obtain an EAD in order to exercise their right to work in the United States, although some may still find it more convenient to obtain and use an EAD for this purpose, since many employers are much more familiar with the EAD and/or the individual's passport may have expired. The Palau compact does not include this provision, so as a practical matter, Palau citizens are more likely to need to obtain an EAD in order to exercise their right to work in the United States.

[8] *See* 8 CFR 1.4 for a definition of Form I–94.

DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS–2019–0044]

Agency Information Collection Activities: Generic Clearance for the Collection of Social Media Information on Immigration and Foreign Travel Forms

AGENCY: Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; new collection, 1600–NEW.

SUMMARY: The Department of Homeland Security (DHS) invites the general public and other Federal agencies to comment upon this proposed new collection of information. In accordance with the Paperwork Reduction Act of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding proposed modifications to certain DHS immigration and foreign travel forms. This collection of information is necessary to comply with Section 5 of the Executive Order (E.O.) 13780, ''*Protecting the Nation from Foreign Terrorist Entry into the United States*'' to establish screening and vetting standards and procedures to enable DHS to assess an alien's eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. This data collection also is used to validate an applicant's identity information and to determine whether such travel or grant of a benefit poses a law enforcement or national security risk to the United States.

DATES: Comments are encouraged and will be accepted until November 4, 2019. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number Docket # DHS–2019–0044, at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments. The draft supporting statement for this new collection is posted in the docket for review.

Instructions: All submissions received must include the agency name and docket number Docket #DHS–2019–0044. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Background

Executive Order (E.O.) 13780, ''Protecting the Nation from Foreign Terrorist Entry into the United States'' requires the implementation of uniform vetting standards and the proper collection of all information necessary for a rigorous evaluation of all grounds of inadmissibility or bases for the denial of immigration-related benefits. *See* 82 FR 13209 (Mar. 9, 2017). The E.O. requires the Department of Homeland Security (DHS) to collect standard data on immigration and foreign traveler forms and/or information collection systems. This data will be collected from certain populations on applications for entrance into the United States or immigration-related benefits and is necessary for identity verification, vetting and national security screening and inspection conducted by DHS.

This collection of information is necessary to comply with Section 5 of the E.O. to establish screening and vetting standards and procedures to enable DHS to assess an alien's eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. This data collection also is used to validate an applicant's identity information and to determine whether such travel or grant of a benefit poses a law enforcement or national security risk to the United States.

DHS will collect biographic information on immigration and foreign traveler information collection instruments and systems. DHS will update its forms and systems to collect information from individuals who seek admissibility or other benefits when that information is not already collected.

New Information To Be Collected

U.S. Government departments and agencies involved in screening and vetting, to include DHS, identified the collection of social media user identifications (also known as usernames, identifiers, or ''handles'') and associated publicly available social media platforms used by the applicant during the past five years, as important for identity verification, immigration and national security vetting. For DHS, these data elements will be added to certain immigration benefit request or traveler forms where the information was not already collected.

For the purposes of this information collection, DHS defines publicly available social media information as any electronic social media information that has been published or broadcast for public consumption, is available on request to the public, is accessible online to the public, is available to the public by subscription or purchase, or is otherwise lawfully accessible to the public without establishing a direct relationship (*e.g.,* ''friend'', ''follow'', ''connect'').[1] Social media takes many different forms, including but not limited to web-based communities and hosted services, social networking sites, video and photo sharing sites, blogs, virtual worlds, social bookmarking and other emerging technologies.

This collection of information is necessary to enable DHS to assess an alien's eligibility to travel to or be admitted to the United States or to receive an immigration-related benefit from DHS. DHS currently uses publicly available social media information to support its vetting and adjudication programs, and to supplement other information and tools that DHS trained personnel regularly use in the performance of their duties. This process includes a labor-intensive step to validate that the identified social media is correctly associated with the applicant. The collection of applicants' social media identifiers and associated platforms will assist DHS by reducing the time needed to validate the attribution of the publicly-available posted information to the applicant and prevent mis-associations. It will provide trained DHS adjudication personnel with more timely visibility of the publicly available information on the platforms provided by the applicant.

Social media may help distinguish individuals of concern from applicants whose information substantiates their eligibility for travel or an immigration benefit. Social media can provide positive, confirmatory information to verify identity and support a beneficiary's or traveler's application, petition, or claims. It can also be used to identify potential deception, fraud, or previously unidentified national security or law enforcement concerns, such as when criminals and terrorists have provided otherwise unavailable information via social media, that identified their true intentions, including support for terrorist organizations.

DHS will collect social media user identifications (also known as usernames, identifiers, or ''handles'') and associated social media platforms used by the applicant during the past five years on certain immigration and foreign traveler collection instruments and systems identified in this supporting statement, designated from investigative and/or intelligence based criteria.[2] DHS is seeking this information, covering the previous five year period, to assist with identity verification, and consistency with other U.S. Government data collections for immigrant and non-immigrant visas. DHS will not collect social media passwords. DHS personnel will review information on social media platforms in a manner consistent with the privacy settings the applicant has chosen to adopt for those platforms. Only that information which the account holder has allowed to be shared publicly will be viewable by DHS.

DHS is committed to upholding the highest standards of conduct throughout the Department. Existing DHS policy prohibits the consideration of race or ethnicity in our investigation, screening, and enforcement activities in all but the most exceptional instances. This policy is reaffirmed in manuals, policies, directives, and guidelines.

CBP is committed to the fair, impartial and respectful treatment of all members of the trade and traveling public, and has memorialized its commitment to nondiscrimination in existing policies, including the February 2014 CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs. This policy prohibits the consideration of race or ethnicity in law enforcement, investigation, and screening activities, in all but the most exceptional circumstances.

CBP's Standards of Conduct further highlights CBP's prohibition on bias-motivated conduct and explicitly requires that ''Employees will not act or fail to act on an official matter in a manner which improperly takes into consideration an individual's race, color, age, sexual orientation, religion, sex, national origin, or disability . . .''

The USCIS Policy Manual, Chapter 1, provides guidance principles for achieving its customer service policy goals.[3] The policy provides that USCIS will:

[1] Publicly available social media does not require a user to purchase or otherwise pay for a subscription of use and does not require an invitation from a user to join or the establishment of a relationship (*e.g.,* ''friend,'' ''follow,'' ''connect'') to otherwise access information. Publicly available social media may require a user to create an account in order to access services and related content.

[2] For the purposes of this supporting statement and the associated DHS forms, ''user identifications'' are defined as usernames, handles, screen names, or other identifiers associated with an individual's online presence and social media profile. Passwords are not considered user identifications and will not be collected.

[3] *https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume1-PartA-Chapter1.html.*

• Approach each case objectively and adjudicate each case in a thorough and fair manner.
• Carefully administer every aspect of its immigration mission so that its customers can hold in high regard the privileges and advantages of U.S. immigration.
• Demonstrate respect for its customers.
• Be responsive to customers' inquiries and provide information and services that demonstrate courtesy and cultural awareness.
• Through its service, be an example of how to treat customers with respect, courtesy, and dignity.
• Administer the immigration laws, regulations, and policies in a consistent manner.

Consistent with the requirements of the Privacy Act, DHS does not maintain records ''describing how any [citizen of the United States or alien lawfully admitted for permanent residence] exercises rights guaranteed by the First Amendment, unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.'' 5 U.S.C. 552a(e)(7)

Although such collection of social media user identifications is 'mandatory' to complete the DHS forms, it is not required to obtain or retain a benefit.[4] However, for CBP's ESTA, and EVUS forms, the applicant will be unable to submit the online application if they do not provide a response to the mandatory social media field. Nonetheless, the applicant may proceed if they answer none or other. 8 CFR 103.2(a)(1) provides that forms must be completed in accordance with form instructions. CBP will continue to adjudicate a form where social media information is not answered, but failure to provide the requested data may either delay or make it impossible for CBP to determine an individual's eligibility for the requested benefit.

For USCIS, the proposed information collection for social media information is not ''mandatory'' in the sense that an application will be denied or rejected based solely on the lack of a response. USCIS will continue to adjudicate a form where social media information is not answered, but failure to provide the requested data may either delay or make it impossible for USCIS to determine an individual's eligibility for the requested benefit.

Applicants for CBP and USCIS benefits must certify on the respective forms that the information submitted is true and correct to the best of the applicant's knowledge and belief.

The following social media questions will appear on electronic forms:

Please enter information associated with your online presence over the past five years:

• Provider/Platform (dropdown bar will provide multiple choices, including ''Other'', and ''None'' for those who do not use the platforms listed):
• Social Media Identifier(s) over the past five years (free text field for applicant to enter information):

The forms will allow the applicant to provide as many platforms and identifiers as necessary.

Paper Forms

Please enter information associated with your online presence over the past five years:

Provider/Platform: (a list will be provided including ''Other'', and ''None'' for those who do not use the platforms listed)_____

Social Media Identifier(s): _____

A sufficient amount of space on the paper form will be provided to allow the applicant appropriate room to provide all necessary platforms/identifiers.

The request for social media platforms, providers, and websites will focus on those fora that the individual uses to collaborate, share information and interact with others.[5]

The initial list of social media platforms featured on DHS forms will be as follows:

ASK FM
DOUBAN
FACEBOOK
FLICKR
INSTAGRAM
LINKEDIN
MYSPACE
PINTEREST
QZONE (QQ)
REDDIT
SINA WEIBO
TENCENT WEIBO
TUMBLER
TWITTER
TWOO
VINE
VKONTAKTE (VK)
YOUKU
YOUTUBE

The platforms selected represent those which are among the most popular on a global basis. The platforms listed may be updated by the Department by adding or removing platforms in order to evolve the U.S. Government's uniform vetting with emerging communication technologies and common usage; therefore, the list will change over time. These changes will be made on a periodic basis under this generic clearance. Platform changes will be submitted to OMB for approval prior to inclusion. OMB will review to make sure that such suggested new platforms meet the description of public-facing social media handles contained above.

Programs Affected, OMB Control Numbers and Legal Authorities for the Collections

DHS plans to collect the data elements for three programs/forms administered by U.S. Customs and Border Protection (CBP). The three CBP programs/forms, and the applicable statutory and regulatory authorities to collect the additional information are as follows:

• OMB No. 1651–0111—Electronic System for Travel Authorization (ESTA): Collection of data through this form is authorized by Section 711 of The Secure Travel and Counterterrorism Partnership Act of 2007 (part of the Implementing Recommendations of the 9/11 Commission Act of 2007, also known as the ''9/11 Act,'' Pub. L. 110–53). The authorities for the maintenance of this system are found in: Title IV of the Homeland Security Act of 2002, 6 U.S.C. 201 *et seq.,* the Immigration and Nationality Act, as amended, including 8 U.S.C. 1187(a)(11) and (h)(3); 8 CFR part 217; the Travel Promotion Act of 2009, Public Law 111–145, 22 U.S.C. 2131.
• OMB No. 1651–0111—Form I–94W Nonimmigrant Visa Waiver Arrival/Departure Record: Collection of data through this form is authorized by 8 U.S.C. 1103, 1187 and 8 CFR 235.1, 264, and 1235.1.
• OMB No. 1651–0139—Electronic Visa Update System (EVUS): Collection of data through this form is authorized by INA section 104(a) (8 U.S.C. 1104(a)). The authorities for the maintenance of this system are found in: Title IV of the Homeland Security Act of 2002, 6. U.S.C. 201 *et seq.,* the Immigration and National Act, as amended, including sections 103 (8 U.S.C. 1103), 214 (8 U.S.C. 1184), 215 (8 U.S.C. 1185), and 221 (8 U.S.C. 1201); 8 CFR part 2; the Travel Promotion Act of 2009, Public

[4] Pursuant to 5 CFR 1320.8(b)(3)(iv), agencies are required to ''inform [ ] and provide reasonable notice to the potential persons to whom the collection of information is addressed of—Whether responses to the collection of information are voluntary, required to obtain or retain a benefit [ ], or mandatory [ ]'' pursuant to the authorities cited herein.

[5] Non-social media websites, such as those for applicants to carry out financial transactions, medical appointment and records, homeowner's associations, travel, and tourism are not germane to this information collection.

Law 111–145, 22 U.S.C. 2131; and 8 CFR parts 212, 214, 215, and 273.

CBP has the following statutory and regulatory authorities, as an agency of the U.S. Government, to collect social media information from applicants for travel benefits:

• CBP is responsible for preventing the entry of terrorists and instruments of terrorism into the United States, securing the borders, and enforcing the immigration laws.[6] To exercise its authority with respect to both inbound and outbound border crossings of U.S. citizens and aliens alike, CBP gathers information about individuals who may seek entry into the United States. CBP's general law enforcement authorities empower it to gather information, including information found via social media, which is relevant to its enforcement missions.[7] For example, under the Immigration and Nationality Act (INA) (Pub. L. 89–236), CBP Officers, Border Patrol Agents, and other immigration officers have authority to, among other things, ''take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States; or concerning any matter which is material or relevant to the enforcement of the [INA] and the administration of the immigration and naturalization functions of the Department.'' [8]

• Under this broad authority to take and consider ''evidence,'' CBP may use information obtained from social media where relevant to its immigration enforcement mission under Title 8 of the U.S. Code. Further, should the facts and circumstances of a particular investigation so require, CBP may also use social media in connection with its extensive customs enforcement authorities under title 19 of the U.S. Code.[9]

DHS plans to collect the new data elements for nine programs administered by U.S. Citizenship and Immigration Services (USCIS). The nine USCIS programs, and the applicable statutory and regulatory authorities to collect the additional information area as follows:

USCIS has the following statutory and regulatory authorities to collect additional biographic data information on the following forms:

• OMB No. 1615–0052—Form N–400, Application for Naturalization: Collection of data through this form is authorized by INA section 337 [8 U.S.C. 1448]; 8 U.S.C. 1421; 8 CFR 316.4 and 8 CFR 316.10.

• OMB No. 1615–0013—Form I–131, Application for Travel Document: Collection of data through this form is authorized by INA sections 103, 208, 212, 223 and 244; 8 CFR 103.2(a) and (e); 8 CFR 208.6; 8 CFR 244.16; Section 303 of Public Law 107–173.

• OMB No. 1615–0017—Form I–192, Application for Advance Permission to Enter as a Nonimmigrant: Collection of data through this form is authorized by INA 212 [8 U.S.C. 1182].

• OMB No. 1615–0023—Form I–485, Application to Register Permanent Residence or Adjust status: Collection of data through this form is authorized by INA section 245, 8 U.S.C. 1255, Public Law 106–429, and section 902 of Public Law 105–277.

• OMB No. 1615–0067—Form I–589, Application for Asylum and for Withholding of Removal: Collection of data through this form is authorized by INA sections 101(a)(42), 208(a) and (b), and 241(b)(3) and 8 CFR 208.6 and 1208.6.

• OMB No. 1615–0068—Form I–590, Registration for Classification as Refugee: This information collection is authorized by INA section 207 (8 U.S.C. 1157) for a person who seeks refugee classification and resettlement in the United States. A refugee is defined in 8 U.S.C. 1101(a)(42) and Section 101(a)(42) of the Act.

• OMB No. 1615–0037—Form I–730, Refugee/Asylee Relative Petition: This information collection is authorized by section 207(c)(2), and 208(c) of the INA (8 U.S.C. 1157 and 1158) for an asylee or refugee to request accompanying or following-to-join benefits for his or her spouse and unmarried minor child(ren).

• OMB No. 1615–0038 –Form I–751, Petition to Remove Conditions on Residence: Collection of data through this form is authorized by INA section 216, 8 U.S.C. 1186(a); 8 CFR part 216.

• OMB No. 1615–0045—Form I–829, Petition by Entrepreneur to Remove Conditions on Permanent Resident Status: Collection of data through this form is authorized by INA section 203(b)(5), 8 U.S.C. 1153, and INA section 216(a), 8 U.S.C. 1186(b)].

USCIS, as a component of DHS, has the following statutory and regulatory authorities, to collect social media information from applicants for immigration benefits:

• 8 C.FR 204.5(m)(12) and 214.2(r)(16) provide that, in the context of adjudicating an immigrant or nonimmigrant religious worker petition, USCIS may verify the supporting evidence submitted by the petitioner ''through any means determined appropriate by USCIS,'' including by ''review of any other records that the USCIS considers pertinent to the integrity of the organization'' with which the religious worker is affiliated.

• 8 CFR 103.2(a)(1) requires that every benefit request be executed and filed in accordance with the form instructions and clarifies that ''such instructions are incorporated into the regulations requiring its submission.'' [10]

DHS has additional statutory and regulatory authorities to secure the homeland and prevent terrorism, in addition to those cited above for CBP and USCIS. These include:

• The Homeland Security Act, 2002, Public Law 107–296;

• The Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, Public Law 108–458;

• Implementing Recommendations of the 9/11 Commission Act of 2007 (''The 9/11 Act''), Public Law 110–53; and

• The Immigration and Nationality Act, as amended.

Applicant information is collected to maintain a record of persons applying for specific immigration and other travel benefits, and to determine whether these applicants are eligible to receive the benefits for which they are applying. The information provided through DHS forms is also analyzed—along with other information that the Secretary of Homeland Security determines is necessary, including information about other persons included on the DHS forms—against various security and law enforcement databases to identify those applicants who may pose a security risk to the United States. To obtain approval for a collection that meets the

[6] *See* Homeland Security Act 402, 6 U.S.C. 202, and 6 U.S.C. 211.

[7] *See, e.g.,* 8 U.S.C. 1357(b).

[8] 8 CFR 287.5(a)(2); *see also id.* § 287.2 (''Whenever a special agent in charge, port director, or chief patrol agent has reason to believe that there has been a violation punishable under any criminal provision of the immigration and nationality laws administered or enforced by the Department, he or she shall immediately initiate an investigation to determine all the pertinent facts and circumstances and shall take such further action as he or she deems necessary.''). CBP Officers have the responsibility to elicit sufficient information to determine whether an applicant is legally admissible or inadmissible. If an applicant refuses to answer sufficiently for the Officer to find the individual admissible, the individual will be inadmissible.

[9] *See, e.g.,* 19 U.S.C. 1436, 1592, & 1595. As noted above with respect to the INA, CBP has authority to enforce these and other customs statutes; therefore, it may utilize social media when conducting authorized operations or investigations related to its customs enforcement mission.

[10] USCIS will modify the Applicant's Certification section on the applicable USCIS forms and petitions to include the following text: ''I also authorize USCIS to use publicly available social media information for verification purposes and to determine my eligibility for the immigration benefit that I seek. I further understand that USCIS is not requiring me to provide passwords; to log into a private account; or to take any action that would disclose non-publicly available social media information.''

conditions of this generic clearance, a standardized form will be submitted to OMB along with supporting documentation (*e.g.,* a copy of the updated application form). OMB will grant approval only if the agency demonstrates the collection of information complies with the specific circumstances laid out in this supporting statement.

Confidentiality

No assurance of confidentiality is provided. All data submitted under this collection will be handled in accordance with applicable U.S. laws and DHS policies regarding personally identifiable information.

- Public Law 107–347, ''E-Government Act of 2002,'' as amended, Section 208 [44 U.S.C. 3501 note]
- Title 5, United States Code (U.S.C.), Section 552a, ''Records maintained on individuals'' [The Privacy Act of 1974, as amended].
- Title 6, U.S.C., Section 142, ''Privacy officer.''
- Title 44, U.S.C., Chapter 35, Subchapter II, ''Information Security'' [The Federal Information Security Modernization Act of 2014 (FISMA)].
- DHS Directive 047–01, ''Privacy Policy and Compliance'' (July 25, 2011).
- DHS Instruction 047–01–001, ''Privacy Policy and Compliance'' (July 25, 2011).
- Privacy Policy Guidance Memorandum 2008–01/Privacy Policy Directive 140–06, ''The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security.'' (December 29, 2008).
- Privacy Policy Guidance Memorandum 2017–01, DHS Privacy Policy Regarding Collection, Use, Retention, and Dissemination of Personally Identifiable Information. (April 25, 2017).
- Refugees and asylees are protected by the confidentiality provisions of 8 CFR 208.6; 8 U.S.C. 1103.
- Aliens in TPS status have the confidentiality protections described in 8 CFR 244.16; 8 U.S.C. 1254a(c)(6). There are no confidentiality assurances for other aliens applying for the benefit.
- The system of record notices associated with this information collection are:

○ DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records, September 18, 2017, 82 FR 43556 (all USCIS forms).

○ DHS/USCIS–007 Benefits Information System, October 19, 2016, 81 FR 72069 (Forms N–400, I–131, I–192, I–485, I–590, I–730, I–751, I–829).

○ DHS/USCIS–010 Asylum Information and Pre-Screening System of Records November 30, 2015, 80 FR 74781 (Form I–589, Form I–730).

○ DHS/CBP–006 Automated Targeting System, May 22, 2012, 77 FR 30297 (Form I–192).

○ DHS/USCIS/ICE/CBP–001 Alien File, Index, and National File Tracking System of Records, November 21, 2013, 78 FR 69864; DHS/USCIS–010 Asylum Information and Pre-Screening System of Records, November 30, 2015, 80 FR 74781.

○ DHS/CBP–022 Electronic Visa Update System (EVUS) System of Records, September 1, 2016, 81 FR 60371 (EVUS Form); Final Rule for Privacy Exemptions, November 25, 2016, 81 FR 85105.

○ DHS/CBP–009 Electronic System for Travel Authorization (ESTA), September 2, 2016, 81 FR 60713 (ESTA Form); Final Rule for Privacy Act Exemptions, August 31, 2009 74 FR 45069.

○ DHS/CBP–016 Nonimmigrant Information System March 13, 2015, 80 FR 13398 (Form I–94W).

Applicable USCIS Privacy Impact Assessments (PIA):

○ *Refugee Case Processing PIA: https://www.dhs.gov/publication/dhsuscispia-068-refugee-case-processing-and-security-vetting* (July 21, 2017).

○ *FDNS–DS: https://www.hsdl.org/?view&did=793268,* May 18, 2016.

○ *FDNS Directorate: https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-fdns-november2016_0.pdf* (December 16, 2014).

○ *Asylum Division: https://www.dhs.gov/sites/default/files/publications/privacy-pia-uscis-asylum-july2017_0.pdf* (July 21, 2017).

Applicable CBP Privacy Impact Assessments (PIA):

○ *DHS/CBP/PIA–007 Electronic System for Travel Authorization (ESTA): https://www.dhs.gov/publication/electronic-system-travel-authorization.*

○ *DHS/CBP/PIA–033 Electronic Visa Update System (EVUS): https://www.dhs.gov/publication/dhscbppia-033-electronic-visa-update-system-evus.*

○ *DHS//CBP/PIA–006 Automated Targeting System (ATS): https://www.dhs.gov/publication/automated-targeting-system-ats-update.*

○ *DHS/CBP/PIA–016 I–94 website Application: https://www.dhs.gov/publication/us-customs-and-border-protection-form-i-94-automation.*

This is a new generic clearance. This request will be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs for review and approval as required by the Paperwork Reduction Act. This new collection is necessary to meet the intent of E.O. 13780 (Section 5) to establish screening and vetting standards to assess an alien's eligibility to travel to, be admitted to, or receive an immigration-related benefit from DHS. This information will be used to validate an applicant's identity and determine whether entry to the U.S. or an immigration benefit for an individual poses a law enforcement or national security risk to the United States.

DHS is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security DHS.

Title: Generic Clearance for the Collection of Social Media Information on Immigration and Foreign Travel Forms.

OMB Number: 1601–NEW.

Frequency: On Occasion.

Affected Public: Individuals.

Number of Respondents: 33.380,888.

Estimated Time Per Respondent: .083.

Total Burden Hours: 12,374,078.

Melissa Bruce,

Executive Director, Business Management Office.

[FR Doc. 2019–19021 Filed 9–3–19; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2019–N088; FXES11130500000–190–FF05E00000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Reviews of Seven Northeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are initiating 5-year reviews under the Endangered Species Act, as amended (ESA), for seven northeastern species. A 5-year review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the previous 5-year review for each species.

DATES: To ensure consideration, please submit your written information by October 4, 2019. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how and where to submit information, see Request for New Information and Table 2—Contacts under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: For information regarding a particular species, contact the appropriate person or office listed in Table 2—Contacts in **SUPPLEMENTARY INFORMATION**. For general information, contact Martin Miller, by U.S. mail at U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035; by telephone at 413–253–8615; or by electronic mail at martin_*miller@fws.gov.*

SUPPLEMENTARY INFORMATION: We, the Service, are initiating 5-year reviews under the ESA (16 U.S.C. 1531 *et seq.*) for seven northeastern species: The endangered Appalachian monkeyface (pearlymussel), Hay's spring amphipod, Atlantic salmon (Gulf of Maine Distinct Population Segment), and diamond darter and the threatened Virginia round-leafed birch, Virginia spiraea, and swamp pink.

A 5-year review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the most recent status review for each species.

Why do we conduct 5-year reviews and species status assessments?

Under the ESA, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h) (for wildlife) and 50 CFR 17.12(h) (for plants). Listed wildlife and plants can also be found at *http://ecos.fws.gov/tess_public/pub/listedAnimals.jsp* and *http://ecos.fws.gov/tess_public/pub/listedPlants.jsp,* respectively. Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species under active review. For additional information about 5-year reviews, refer to our fact sheet at *http://www.fws.gov/endangered/what-we-do/recovery-overview.html.*

What species are under review?

We are initiating 5-year status reviews of the species in table 1.

TABLE 1—SPECIES UNDER REVIEW

Common name	Scientific name	Status	Where listed	Listing date and citation
Animals				
Appalachian monkeyface	*Quadrula sparsa*	Endangered	Wherever found	41 FR 24062; 06/14/1976.
Hay's spring amphipod	*Stygobromus hayi*	Endangered	Wherever found	47 FR 5425; 02/05/1982.
Atlantic salmon	*Salmo salar*	Endangered	Gulf of Maine Distinct Population Segment.	74 FR 29344; 06/19/2009.
Diamond darter	*Crystallaria cincotta*	Endangered	Wherever found	78 FR 45074: 07/26/2013.
Plants				
Virginia round-leaf birch	*Betula uber*	Threatened	Wherever found	59 FR 59173; 11/16/1994.
Virginia spiraea	*Spiraea virginiana*	Threatened	Wherever found	55 FR 24241; 06/15/1990.
Swamp pink	*Helonius bullata*	Threatened	Wherever found	53 FR 35076; 09/09/1988.

What information do we consider in our 5-year reviews and species status assessments?

A 5-year review considers all new information available at the time of the review. In conducting the review, we consider the best scientific and commercial data that have become available since the most recent status review. We are seeking new information specifically regarding:

(1) Species biology, including but not limited to life history and habitat requirements and impact tolerance thresholds;

(2) Historical and current population conditions, including but not limited to population abundance, trends, distribution, demographics, and genetics;

(3) Historical and current habitat conditions, including but not limited to amount, distribution, and suitability;

(4) Historical and current threats, threat trends, and threat projections in relation to the five listing factors (as defined in section 4(a)(1) of the ESA);

(5) Conservation measures for the species that have been implemented or are planned; and

(6) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information received will be considered during the 5-year review and will also be useful in evaluating ongoing recovery programs for the species.

Request for New Information

To ensure that 5-year reviews are based on the best available scientific and commercial information, we request new information from all sources. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

Please submit your questions, comments, and materials to the appropriate contact in table 2. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so.

Materials received will be available for public inspection, by appointment, during normal business hours at the offices where the information is submitted.

Contacts

New information on the species covered in this notice should be submitted by mail or electronic mail to the appropriate contact person within the timeframe provided in **DATES.**

TABLE 2—CONTACTS

Species	Contact person, phone, email	Contact address
Appalachian monkeyface	Rose Agbalog, 276–623–1233, *rose_agbalog@fws.gov*	U.S. Fish and Wildlife Service, Southwestern Virginia Field Office, 330 Cummings Street, Abingdon, VA 24210.
Hay's spring amphipod	Julie Thompson, 410–573–4599, *julie_thompson@fws.gov*.	U.S. Fish and Wildlife Service, Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401.
Atlantic salmon	Peter Lamothe, 207–902–1556, *peter_lamothe@fws.gov*.	U.S. Fish and Wildlife Service, Maine Field Office, 306 Hatchery Road, East Orland, ME 04431.
Diamond darter	Barbara Douglas, 304–636–6586, extension 19, *barbara_douglas@fws.gov*.	U.S. Fish and Wildlife Service, West Virginia Field Office, 90 Vance Drive, Elkins, WV 26241.
Virginia round-leaf birch	Sumalee Hoskin, 804–693–6694, *sumalee_hoskin@fws.gov*.	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061.
Virginia spiraea	Jennifer Stanhope, 804–693–6694, *jennifer_stanhope@fws.gov*.	U.S. Fish and Wildlife Service, Virginia Field Office, 6669 Short Lane, Gloucester, VA 23061.
Swamp pink	Alicia Protus, 609–383–3938, *alicia_protus@fws.gov*	U.S. Fish and Wildlife Service, New Jersey Field Office, 4 East Jimmie Leeds Road, Suite 4, Galloway, NJ 08205.

Authority

We publish this document under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Wendi Weber,

Regional Director, Northeast Region.

[FR Doc. 2019–19056 Filed 9–3–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

NPS–NERO–GATE–28230; PPNEGATEB0, PPMVSCS1Z.Y00000]

Request for Nominations for the Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service, U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members of the Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee.

DATES: Written nominations must be received by October 4, 2019.

ADDRESSES: Nominations should be sent to Daphne Yun, U.S. Department of the Interior, National Park Service, Gateway National Recreation Area, Office of the Superintendent, 210 New York Avenue, Staten Island, New York 10305, or email *daphne_yun@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Daphne Yun, U.S. Department of the Interior, National Park Service, Gateway National Recreation Area, Sandy Hook Unit, 26 Hudson Road, Highlands, New Jersey 07732, or email at *daphne_yun@nps.gov,* or via telephone at (732) 872–5908.

SUPPLEMENTARY INFORMATION: The Gateway National Recreation Area Fort Hancock 21st Century Advisory Committee was established by authority of the Secretary of the Interior under 54 U.S.C. 100906, and in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The purpose of the Committee is to advise the Secretary of the Interior, through the Director of the National Park Service, on the development of a reuse plan and on matters relating to future uses of certain buildings at the Fort Hancock Historic District, located within the Sandy Hook Unit of Gateway National Recreation Area in New Jersey.

The Committee consists of representatives from among, but not limited to, the following interest groups to represent a range of interests concerned with the management of Fort Hancock within the park and its impact on the local area: The natural resource community, the business community, the cultural resource community, the real estate community, the recreation community, the education community, the scientific community, and hospitality organizations. The Committee will also include representatives from the following municipalities: Borough of Highlands, Borough of Sea Bright, Borough of Rumson, Middletown Township, Monmouth County Freeholders, and Borough of Monmouth Beach. We are currently seeking members to represent all categories.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department to contact a potential member. All documentation,

including letters of recommendation, must be compiled and submitted in one complete package. All those interested in membership, including current members whose terms are expiring, must follow the same nomination process. Members may not appoint deputies or alternates.

Members of the Committee serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Committee as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

Authority: 54 U.S.C. 100906.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2019–19062 Filed 9–3–19; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1172]

Certain Filament Light-Emitting Diodes and Products Containing Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 30, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of The Regents of the University of California of Oakland, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain filament light-emitting diodes and products containing same by reason of infringement of certain U.S. Patent No. 7,781,789 (''the '789 patent''); U.S. Patent No. 9,240,529 (''the '529 patent''); U.S. Patent No. 9,859,464 (''the '464 patent''); and U.S. Patent No. 10,217,916 (''the '916 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 28, 2019, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 3, 5, 9, 12, 13, 15, 18, 28, 31, 33, 37, 40, 41, 43, 47, and 56 of the '789 patent; claims 1, 3, 4, 6, 8–10, 12, 13, 15, 16, 18, 20, 21, and 24 of the '529 patent; claims 1, 2, 4, 5, 7–12, 14, 15, and 17–20 of the '464 patent; and claims 1, 5–9, 13, 14, 18–22, and 26 of the '916 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''light bulbs containing filament LEDs and lighting products containing light bulbs containing filament LEDs'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

The Regents of the University of California, 1111 Franklin Street, Oakland, CA 94607.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Amazon.com, Inc., 410 Terry Avenue North, Seattle, WA 98258.

Amazon.com Services, Inc., 410 Terry Avenue North, Seattle, WA 98109.

Bed Bath & Beyond Inc., 650 Liberty Avenue, Union, NJ 07083.

IKEA of Sweden AB, Tulpanvagen 8, Almhult 343 34, Sweden.

IKEA Supply AG, Grüssenweg 15, CH–4133 Pratteln, Switzerland.

IKEA Distribution Services Inc., 420 Alan Wood Road, Conshohocken, PA 19428.

IKEA North America Services, LLC, 420 Alan Wood Road, Conshohocken, PA 19428.

Target Corporation, 1000 Nicollet Mall, Minneapolis, MN 55403.

Walmart Inc., 702 SW 8th Street, Bentonville, AR 72716.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the

administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 28, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18971 Filed 9–3–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on April 24, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Countering Weapons of Mass Destruction (''CWMD'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Alpha Space Test and Research Alliance, LLC, Houston, TX; AQUILA, Albuquerque, NM; Aurora Flight Sciences Corp., Manassas, VA; Blueforce Development, Corp., Newburyport, MA; Draeger, Inc., Telford, PA; Field Forensics, Inc., Saint Petersburg, FL; Interclypse, Inc., Annapolis Junction, MD; Kansas State University, Manhattan, KS; Mirion Technologies (Canberra) Inc., Oak Ridge, TN; Mirion Technologies (MGPI), Smyrna, GA; Nucsafe, Inc., Oak Ridge, TN; Physical Optics Corporation, Torrence, CA; QRC, LLC dba QRC Technologies, Fredericksburg, VA; Rhodium Scientific, LLC, San Antonio, TX; SpectraGenetics, Inc., Pittsburgh, PA; Spectrum Photonics, Honolulu, HI; Subsystem Technologies, Inc., Arlington, VA; Surface Optics Corporation, San Diego, CA; SURVICE Engineering Company, LLC, Belcamp, MD; Teledyne Brown Engineering, Inc., Huntsville, AL; Valitus Technologies, Inc., Corona, CA; and WGS Systems, LLC, Frederick, MD, have been added as parties to this venture.

Also, EcoHealth Alliance, New York, NY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CWMD intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on April 24, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 17, 2019 (84 FR 28073).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–19075 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on August 1, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Intel, Santa Clara, CA; Mathworks, Inc., Natick, MA, and Canonical Group Limited, London, ENGLAND, have been added as parties to this venture.

Also, BMW AG, Munich, GERMANY; EWI, Columbus, OH, and Vehicle Technologies, Inc., Trenton, NJ, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on June 19, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 1, 2019 (84 FR 37680).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–19055 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on April 8, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Armaments Consortium (''NAC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 1st Edge LLC, Huntsville, AL; 300 Below, Inc., Decatur, IL; 3rd Millennium Group, LLC, Boxborough, MA; A.T. Kearney Public Sector and Defense Services, LLC, Arlington, VA; ArmorWorks Enterprises, Inc., Chandler, AZ; Black River Systems Company, Inc., Utica, NY; Converged Security Solutions, LLC, Reston, VA; Corficient Engineering Solutions Inc., Lake Hopatcong, NJ; Crossflow Technologies, Inc., Albertville, AL; DRS Network & Imaging Systems, LLC, Huntsville, AL; Eastern Auto, Inc., Farmingdale, NJ; Envention LLC, Huntsville, AL; Frontier Technology Inc., Beavercreek, OH; General Technology Systems LLC, Boston, MA; Hart Scientific Consulting International, Tucson, AZ; Heron Systems Incorporated, California, MD; Hy-Tek Manufacturing Company, Inc., Sugar

Grove, IL; IBC Materials and Technologies, LTD, Lebanon, IN; ICAMR, Inc., dba BRIDG, Kissimme, FL; IMSAR LLC, Springville, UT; ISSAC Corp., Colorado Springs, CO; ITT Enidine, Inc., Orchard Park, NY; Lone Star Aerospace, Inc., Addison, TX; MartinFederal Consulting, LLC, Huntsville, AL; Matrix Research, Inc., Dayton, OH; Maztech Industries, LLC, Irvine, CA; Metamagnetics Inc., Westborough, MA; MSI Defence Systems US Inc., Rock Hill, SC; NextGen Federal Systems, LLC, Morgantown, WV; Nu-Trek, Inc., San Diego, CA; OSS Suppressors, LLC, Murray, UT; Parker-Hannifin Corporation, Mayfield Heights, OH; Phase Electronics, Inc., Rockville, MD; Programs Management Analytics & Technologies, Inc., Norfolk, VA; QuantiTech, Inc., Huntsville, AL; Regents of New Mexico State University—Physical Science Laboratory, Las Cruces, NM; ReLogic Research, Inc., Huntsville, AL; Rolls Royce Corporation, Indianapolis, IN; SAZE Technologies, LLC, Silver Springs, CO; Scaled Power Incorporated, San Francisco, CA; Sciperio Inc., Orlando, FL; SemQuest Incorporated, Colorado Springs, CO; Sierra Circuits, Inc. (dba Sierra Proto Express), Sunnyvale, CA; Soar Technology, Inc., Ann Arbor, MI; Spear Research, LLC, Nashua, NH; Strategic Resilience Group, LLC, Stafford, VA; Summit Information Solutions, Inc., Glen Allen, VA; Swift Engineering, Inc., San Clemente, CA; Thales Defense & Security, Inc., Clarksburg, MD; The Ultra-met Company, Urbana, OH; Torrey Pines Logic, Inc., San Diego, CA; Total Technology, Inc., Cherry Hill, NJ; Troy 7, Inc., Huntsville, AL; UES, Inc., Beavercreek, OH; Universal Technology Corporation, Dayton, OH; University of Mississippi, University, MS; University of South Alabama, Mobile, AL; Vidrovr Inc., New York, NY; and Wyle Laboratories, Inc., Huntsville, AL, have been added as parties to this venture.

Also, A.F. Technologies, Inc., Arlington, TX; AECOM, Germantown, MD; American Plastic Cartridge and Shell, LLC, Philadelphia, PA; Arizona Engineering Technologies, Inc., Scottsdale, AZ; BANC3, Inc., Princeton, NJ; Barber-Nichols Inc., Arvada, CO; Boston Engineering Corporation, Waltham, MA; Central Screw Products dba Detroit Gun Works, Troy, MI; ChemImage Biothreat, LLC DBA ChemImage Sensor Systems, Pittsburgh, PA; Custom MMIC Design Services Inc., Chelmsford, MA; Decilog, Inc., Melville, NY; Digital Solid State Propulsion LLC, Reno, NV; Dynamic Matter LLC, Englewood, CO; Fantastic Data, LLC, San Francisco, CA; General Sciences, Inc., Souderton, PA; Jet Industrial Electronics, Oak Ridge, NJ; Magnesium Elektron North American, Inc., Madison, IL; Megaray LLC, New York, NY; MegaWave Corporation, Devens, MA; Optek Global Solutions, Inc., Los Angeles, CA; Projects Unlimited Inc., Dayton, OH; Pulse Aerospace, LLC, Lawrence, KS; Pyrolink International, Inc., Alexandria, VA; Resodyn Acoustic Mixers, Butte, MT; Rubix Strategies LLC, Lawrence, MS; SkyBridge Tactical, LLC, Tampa, FL; TERMA North America Inc., Warner Robins, GA; The Samraksh Company, Dublin, OH; Trex Enterprises Corporation, San Diego, CA; Triumph Structures, Los Angeles, Inc. (TSLA), City of Industry, CA; TROM Technologies, Potlach, ID; Troy Industries, Inc., West Springfield, MA; Vector ElectroMagnetics, LLC, Beavercreek, OH; and Volans-I, Inc., San Francisco, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on April 17, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 17, 2019 (84 FR 22519).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–19073 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act Of 1993—Space Enterprise Consortium

Notice is hereby given that, on August 5, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Space Enterprise Consortium (''SpEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ABL Space Systems Company, El Segundo, CA; Apollo Fusion Inc., Mountain View, CA; AST & Defense LLC, College Park, MD; Atmospheric and Environmental Research Inc., Lexington, MA; AVIAN, Inc., Lexington Park, MD; Busek Co. Inc., Natick, MA; CJ Manufacturing LLC, Daytona Beach, FL; Cobham Colorado Springs, Inc., Colorado Springs, CO; Composite Technology Development, Inc., Lafayette, CO; CONCEPTS NREC, LLC, White River Junction, VT; Cummings Aerospace, Inc., Huntsville, AL; DRS Global Enterprise Solutions, Inc., Dulles, VA; EC America, Inc., McLean, VA; EXB Solutions, Inc., Plymouth, MN; Exos Aerospace Systems & Technologies, Inc., Greenville, TX; Genesis Engineering Solutions, Inc., Lanham, MD; John Hopkins University Applied Physics Lab, Laurel, MD; Koolock, Inc., Moffett Field, CA; KPMG LLP, McLean, VA; Kubos Corporation, Denton, TX; MainStem LLC, Fulton, MD; Malin Space Science Systems, Inc., San Diego, CA; MOTIV Space Systems, Inc., Pasadena, CA; PatchPlus Consulting, Inc., Medford, NJ; Phase Four, Inc., El Segundo, CA; PreTalen, Ltd., Beavercreek, OH; QMS Consulting, Washington, DC; Scientific Systems Company, Inc., Woburn, MA; Scorpius Space Launch Company, Torrance, CA; The Stratagem Group, Inc., Aurora, CO; Tiger Innovations Incorporated, Herndon, VA; and XTAR, LLC, Ashburn, VA, have been added as parties to this venture.

Also, Additive Rockets Corporation, La Jolla, CA, and Platron Manufacturing, Pflugerville, TX, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned *COM007*activity of the group research project. Membership in this group research project remains open, and SpEC intends to file additional written notifications disclosing all changes in membership.

On August 23, 2018, SpEC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2018 (83 FR 49576).

The last notification was filed with the Department on April 29, 2019. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on May 20, 2019 (84 FR 22897).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit Antitrust Division.

[FR Doc. 2019–19074 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Border Security Technology Consortium

Notice is hereby given that, on July 25, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Border Security Technology Consortium (''BSTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Next Tier Concepts, Inc. (NT Concepts), Vienna, VA; Zolon Tech, Inc., Herndon, VA; Artel, LLC, Herndon, VA; OneGlobe LLC, Ashburn, VA; Anthem Engineering, LLC, Elkridge, MD; Perfect Sense, Inc., Reston, VA; and Cambridge International Systems, Inc., Arlington, VA, have been added as parties to this venture.

Also, TKK Electronics, LLC, Milwaukee, WI; Fairlead Integrated LLC, Portsmouth, VA; Analogic Corporation, Peabody, MA; and PwC Public Sector, McLean, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BSTC intends to file additional written notifications disclosing all changes in membership.

On May 30, 2012, BSTC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on April 18, 2019. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 17, 2019 (84 FR 22520).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–19058 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on August 12, 2019, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Schurz Communications, Inc., Mishawaka, IN; and Millicom International Cellular, S.A., Coral Gables, FL, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on February 14, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 5, 2019 (84 FR 7935).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2019–19076 Filed 9–3–19; 8:45 am]

BILLING CODE 4410–11–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–19–0011; NARA–2019–036]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by October 21, 2019.

ADDRESSES: You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov*

docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the regulations.gov portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. You may request additional information about the disposition process through the contact information listed above.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Farm Service Agency, Acreage Determinations (DAA–0145–2018–0003).
2. Department of the Army, Agency-wide, Donations Records (DAA–AU–2017–0021).
3. Department of the Army, Agency-wide, Event Registration System Master Files (DAA–AU–2017–0023).
4. Department of Defense, Office of the Secretary of Defense, Staff Action Control and Coordination Portal (DAA–0330–2016–0008).
5. Department of Health and Human Services, National Institutes of Health, Research Safety and Protection Records (DAA–0443–2019–0004).
6. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, Recovery Coordination Training Records (DAA–0468–2019–0002).
7. Department of Homeland Security, Agency-wide, Organizational Ombudsman Records (DAA–0563–2019–0001).
8. Department of Homeland Security, Transportation Security Administration, Special Mission Coverage (Quiet Skies) (DAA–0560–2019–0013).
9. Department of Homeland Security, Transportation Security Administration, Centralized Database for Revoked Airport ID Media (DAA–0560–2019–0014).
10. Department of Justice, Agency-wide, General DJ Number Files (DAA–0060–2017–0022).
11. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Forensic Science and Fire Research Labs Case Files (DAA–0436–2019–0002).
12. Department of Justice, Federal Bureau of Investigation, Pre-Universal Case File Number (pre-UCFN) Remaining Records (DAA–0065–2016–0006).
13. Department of the Navy, Agency-wide, Logistics (DAA–NU–2019–0006).
14. Department of the Treasury, Internal Revenue Service, Tax Exempt and Government Entities Records (DAA–0058–2016–0004).
15. National Archives and Records Administration, Research Services, Internal Disposal for RG 43 (N2–043–19–001).
16. National Archives and Records Administration, Research Services, Internal Disposal for RG 84 (N2–084–19–001).
17. Office of Personnel Management, Agency-wide, Combined Federal Campaign (DAA–0478–2018–0004).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2019–19033 Filed 9–3–19; 8:45 am]

BILLING CODE 7515–01–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Appointment of Members of Senior Executive Service Performance Review Board

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: Notice of appointments.

SUMMARY: The following persons have been appointed to the ONDCP Senior Executive Service Performance Review Board: Ms. Martha Gagné (as Chair), Mr. Kemp Chester, Mr. Michael Gottlieb, and Dr. Terry Zobeck.

FOR FURTHER INFORMATION CONTACT: Please direct any questions to Michael Passante, Acting General Counsel, (202) 395–6709, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503.

Dated: August 29, 2019.

Michael Passante,

Acting General Counsel.

[FR Doc. 2019–19077 Filed 9–3–19; 8:45 am]

BILLING CODE 3280–F5–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0158]

Information Collection: U.S. Nuclear Regulatory Commission Form 327, Special Nuclear Material and Source Material Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory Summary Reports

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''NRC Form 327, Special

Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory Summary Reports.''

DATES: Submit comments by November 4, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2019–0158. 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:* David Cullison, Office of the Chief Information Officer, Mail Stop: O–1 F21, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0158 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–2019–0158. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0158 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 ''*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. ML19161A296. The supporting statement is available in ADAMS under Accession No. ML19161A295.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0158 in the subject line of your comment submission, to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC Form 327, SNM and SM Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory Summary Reports.

2. *OMB approval number:* 3150–0139.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 327.

5. *How often the collection is required or requested:* Certain licensees possessing strategic SNM are required to report inventories on NRC Form 327 every six months. Licensees possessing SNM of moderate strategic significance must report every nine months. Licensees possessing SNM of low strategic significance must report annually, except one licensee (enrichment facility) that must report its dynamic inventories every two months and its static inventory annually.

6. *Who will be required or asked to respond:* Fuel facility licensees possessing SNM, *i.e.,* enriched uranium, plutonium, or U–233.

7. *The estimated number of annual responses:* 68.

8. *The estimated number of annual respondents:* 6.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 272 hours (4 hours per response × 68 responses).

10. *Abstract:* NRC Form 327 is submitted by certain fuel cycle facility licensees to account for SNM. The data is used by the NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) SNM theft or diversion. NUREG/BR–0096 provides guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 29th day of August, 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–19047 Filed 9–3–19; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before November 4, 2019.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reasonable Accommodation Request Form.

OMB Control Number: 0420-****.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 1,000.

b. *Frequency of response:* 1 time.

c. *Completion time:* 10 minutes.

d. *Annual burden hours:* 200 hours.

General Description of Collection: The Peace Corps uses the Reasonable Accommodation Request Form to collect essential information from medical providers and staff to facilitate access of accommodations as required by Section 504 of the Rehabilitation Act. Data collected will be used to validate accommodation needs. These forms are the first documented point of contact between the Peace Corps and its applicants or employees who are in need of accommodations.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on August 28, 2019.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2019–19003 Filed 9–3–19; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before November 4, 2019.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke can be contacted by telephone at 202–692–1887 or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION:

Title: RPCV Portal.

OMB Control Number: 0420–0558.

Type of Request: Renewal.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 29,331.

b. *Frequency of response:* 2 times.

c. *Completion time:* 5 minutes.

d. *Annual burden hours:* 4,888 hours.

General Description of Collection: To better serve the Returned Volunteer population and support the Third Goal, 3GL has developed an RPCV Portal that allows Returned Peace Corps Volunteers (RPCVs) to update their contact information, share stories, request official documentation, view their service history, and enroll in outreach and marketing campaigns. The RPCV Portal can only be accessed by Volunteers who have completed their Peace Corps service; neither current Volunteers, Trainees, applicants nor other members of the public will be able to access the system.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on August 28, 2019.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2019–18972 Filed 9–3–19; 8:45 am]

BILLING CODE 6051–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86794; File No. SR–NASDAQ–2019–067]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend The Nasdaq Options Market LLC ("NOM") Pricing at Options 7

August 28, 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 August 22, 2019, The Nasdaq Stock Market LLC

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') pricing at Options 7, Section 3 titled ''Nasdaq Options Market—Ports and Other Services.'' The amendment will describe the pricing with respect to an upcoming technology infrastructure migration.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on September 3, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NOM pricing at Options 7, Section 3 titled ''Nasdaq Options Market—Ports and Other Services.'' The Exchange previously filed a fee proposal to not assess a fee for duplicative FIX Ports,[3] CTI Ports[4] and FIX DROP Ports[5] to new FIX Ports, CTI Ports and FIX DROP Ports, during the month of August 2019, in connection with an upcoming technology infrastructure migration.[6] With this rule change, the Exchange proposes to not assess a fee for duplicative FIX Ports, CTI Ports and FIX DROP Ports to new FIX Ports, CTI Ports and FIX DROP Ports, during the month of September 2019 to allow additional time for the Exchange to migrate its technology.

Description of Migration and Pricing Impact

In connection with this migration, Participants may request new FIX Ports, CTI Ports and FIX DROP Ports during the month of September 2019, which are duplicative of the type and quantity of their current ports, at no additional cost to allow for testing of the new ports and allow for continuous connection to the match engine during the transition period.[7] For example, a NOM Participant with 3 FIX Ports, 1 CTI Port and 1 FIX DROP Port on September 3, 2019 could request 3 new FIX Ports, 1 CTI Port and 1 FIX DROP Port for the month of September 2019 at no additional cost. The NOM Participant would be assessed only for the legacy market ports, in this case 3 FIX Ports, 1 CTI Port and 1 FIX DROP Port, for the month of September 2019 and would not be assessed for the new ports, which are duplicative of the current ports. A Participant may acquire any additional legacy ports during the month of September 2019 and would be assessed the charges indicated in the current Pricing Schedule. The migration does not require a Participant to acquire any additional ports, rather the migration requires a new port to replace any existing ports provided the Participant desired to maintain the same number of ports.[8] A Participant desiring to enter orders into NOM is required to obtain 1 FIX Port. A Participant may also obtain order and execution ports, such as a CTI Port and/or a FIX DROP Port, to receive clearing and execution messages. The number of additional FIX or order and execution ports obtained by a Participant is dependent on the Participant's business needs.

Applicability to and Impact on Participants[9]

The proposal is not intended to impose any additional fees on any NOM Participants. All Participants may enter orders on NOM. As noted above, a NOM Participant may enter all orders on NOM through one FIX Port. The Exchange does not require a NOM Participant to obtain more than one FIX Port, however, a Participant may obtain multiple FIX Ports, a CTI Port or a FIX DROP Port to meet its individual business needs. This proposal is intended to permit a NOM Participant to migrate its current FIX Ports, CTI Ports and FIX DROP Ports at no additional costs during the month of September 2019 to allow for continuous connection to the Exchange. Participants would only be assessed a fee for their current FIX Ports, CTI Ports and FIX DROP Ports and not be assessed a fee for any new duplicative ports they acquire in connection with the technology infrastructure migration. This proposal is not intended to have a pricing impact.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

[3] Financial Information eXchange'' or '' FIX'' is an interface that allows Participants and their Sponsored Customers to connect, send, and receive messages related to orders to and from the Exchange. Features include the following: (1) Execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. *See* Chapter VI, Section 21(a)(i)(A).

[4] Clearing Trade Interface (''CTI'') is a real-time clearing trade update message that is sent to a Participant after an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. *See* Chapter VI, Section 19(b)(1).

[5] FIX DROP is a real-time order and execution update message that is sent to a Participant after an order been received/modified or an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) Executions; (ii) cancellations; (iii) modifications to an existing order; and (iv) busts or post-trade corrections. *See* Chapter VI, Section 19(b)(3).

[6] *See* Securities Exchange Act Release No. 86507 (July 29, 2019), 84 FR 37934 (August 2, 2019) (SR–NASDAQ–2019–056).

[7] Participants would contact Market Operations to acquire new duplicative FIX Ports, CTI Ports and FIX DROP Ports. *See* Options Technical Update #2019–3.

[8] The migration is 1:1 and therefore would not require a Participant to acquire new ports, nor would it reduce the number of ports needed to connect.

[9] On May 21, 2019, the SEC Division of Trading and Markets (the ''Division'') issued fee filing guidance titled ''Staff Guidance on SRO Rule Filings Relating to Fees'' (''Guidance''). Within the Guidance, the Division noted, among other things, that the purpose discussion should address ''how the fee may apply differently (*e.g.,* additional cost vs. additional discount) to different types of market participants (*e.g.,* market makers, institutional brokers, retail brokers, vendors, etc.) and different sizes of market participants.'' *See* Guidance (available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees*). The Guidance also suggests that the purpose discussion should include numerical examples. Where possible, the Exchange is including numerical examples. In addition, the Exchange is providing data to the Commission in support of its arguments herein. The Guidance covers all aspects of a fee filing, which the Exchange has addressed throughout this filing.

of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] 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. Moreover, the Exchange believes that its proposal complies with Commission guidance on SRO fee filings that the Commission Staff issued on May 21, 2019.[12]

The Proposal is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options 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'. . . .'' [13]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange believes its proposal is reasonable because it will not cause a pricing impact on any NOM Participant, rather the proposal is intended to permit NOM Participants to migrate their FIX Ports, CTI Ports and FIX DROP Ports to new technology at no additional cost during the month of September 2019. This proposal, which offers new duplicative ports to Participants at no cost, will allow Participants to test and maintain continuous connection to the Exchange during the month of September 2019.

The Proposal Represents an Equitable Allocation and is Not Unfairly Discriminatory

The Exchange believes its proposal allocates its fees fairly among its market participants. The proposal is equitable and not unfairly discriminatory. All Participants may enter orders on NOM. As noted above, a NOM Participant may enter all orders on NOM through one FIX Port. The Exchange does not require a NOM Participant to obtain more than one FIX Port, however, a Participant may obtain multiple FIX Ports, a CTI Port or a FIX DROP Port to meet its individual business needs. This proposal is not intended to have a pricing impact to any NOM Participant.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. This proposal does not amend pricing or functionality. Rather, this technology migration will enable NOM Participants to continue to connect to NOM, as is the case today, for the entry of orders.

Intra-Market Competition

The proposal does not impose an undue burden on intra-market competition. All Participants may enter orders on NOM. As noted above, a NOM Participant may enter all orders on NOM through one FIX Port. The Exchange does not require a NOM Participant to obtain more than one FIX Port, however, a Participant may obtain multiple FIX Ports, a CTI Port or a FIX DROP Port to meet its individual business needs. This proposal is not intended to have a pricing impact to any NOM Participant.

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.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–NASDAQ–2019–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–067. 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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See* Guidance, *supra* note 8. Although the Exchange believes that this filing complies with the Guidance, the Exchange does not concede that the standards set forth in the Guidance are consistent with the Exchange Act and reserves its right to challenge those standards through administrative and judicial review, as appropriate.

[13] *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)).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–067 and should be submitted on or before September 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19005 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86782; File No. SR–ICEEU–2019–017]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, as Modified by Partial Amendment No. 1, Relating to the ICE Clear Europe CDS Clearing Back-Testing Policy (the ''Back-Testing Policy'').

August 28, 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 August 19, 2019, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been substantially prepared by ICE Clear Europe. On August 27, 2019, ICE Clear Europe filed Partial Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Partial Amendment No. 1 (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

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to revise its Back-Testing Policy to make certain clarifications, correct certain typographical errors and update governance processes.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe 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

(a) Purpose

ICE Clear Europe is proposing to modify, update and reorganize certain provisions of its Back-Testing Policy to clarify certain test strategies, procedures and methodologies, correct certain typographical errors and update governance processes.

The amendments to the Back-Testing Policy principally include various clarifications to the daily, weekly and monthly back-testing performed by the Clearing House. As discussed herein, the amendments would generally align the Back-Testing Policy with the Clearing House's current back-testing practices, and accordingly the amendments are not intended to result in significant changes in back-testing practices. ICE Clear Europe is thus proposing to make these changes in order to make the policy more accurate, clear and precise, in line with regulatory requirements applicable to back-margin back-testing and related suggestions of its regulators. Certain amendments will in particular clarify that back-testing is done at the Clearing Member account level,[4] replacing existing references to testing at the portfolio level (which was a less precise description).

The amendments would reorganize the requirements of the policy with respect to daily back-testing, but would not substantially change existing processes. As noted above, the amendments would provide for daily back-testing at the Clearing Member account level. The amendments would also provide that back-testing results would be reported to the Model Oversight Committee and CDS Risk Committee on a monthly basis, including an exceedance summary, an example of which would be included in the Back-Testing Policy.

The provisions of the Back-Testing Policy setting out portfolio construction for back-testing the production margin model using special strategy portfolios would be amended to add an additional strategy and also update strategy names and clarify the use of bought and sold protection positions in the back-testing process. The portfolio construction of the additional strategy, iTraxx Senior Financial 5Y.OTR Arb, would be the same as the construction of the existing special strategies but would relate only to the iTraxx Senior Financials 5Y index. ICE Clear Europe regularly back tests using this additional strategy in practice and is adding it to the policy to reflect this practice. The amendments would provide that with respect to each specified strategy, for completeness, the opposite strategy would be taken into consideration. The other amendments are also generally intended to better reflect current practice.

The provisions of the policy relating to back testing of the Monte Carlo (''MC') model would be revised to clarify that back-tests are performed daily on the Spread Response component of the Initial Margin using ICE Clear Europe's MC model rather than the worst among the scenario based spread response approaches and the MC approach. The back-test would be performed on individual Clearing Member accounts using the risk approach for the Spread Response Initial Margin (and accordingly references to specific quantiles for testing have been removed). The back-tested risk measures would include the sum of the MC VaR and the basis risk, interest rate and recovery rate quantities. This amendment is intended to clarify what is meant in the policy by ''Monte Carlo back-testing'', which is back-testing only the MC model and not the stress based model. There would be no change to the current practice with respect to MC model back testing. The amendments would also remove an unnecessary distinction depending on

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Partial Amendment No. 1 corrected an inaccurate statement in the initial proposed rule change but did not make any changes to the substance of the filing or the text of the proposed rule change.

[4] Account for this purpose has the meaning specified in the Rules.

whether the indices are decomposed. In ICE Clear Europe's view, this change would improve the readability of the policy by clarifying that the basis risk initial margin component is part of the back-tested initial margin components. This amendment would not change current practices.

The section regarding the full period back-testing results setting out the manner in which the back-tested component of initial margin and the profit and loss results for every back-tested day are reported for each Clearing Member for daily portfolio back-testing would be removed as the reporting requirements have been consolidated into a different section of the policy.

The amendments would make certain changes to the Basel Traffic Light System exceedance summaries. Pursuant to the amendments, back-testing results of the production model for each Clearing Member's account, special-strategy back-testing results of the production model and back-testing results of the MC model for each Clearing Member's account would be reported at least monthly to align the frequency of the reporting to the relevant regulatory requirement under Commission Rule 17Ad–22(b)(2).[5]

Various other changes would also be made to correct typographical and similar errors and to clarify use of certain defined terms and references. Certain outdated references to testing quantiles of 99% and 99.25% would be removed, as they are lower than the minimum 99.5% quantile prescribed by the European Market Infrastructure Regulation (EMIR) for over the counter (OTC) contracts.

(b) Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act[6] and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act[7] in particular requires, among other things, that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and the protection of investors, and, in general, protect investors and the public interest. The proposed amendments are designed to modify the Back-Testing Policy to clarify certain risk management practices for CDS Contracts including back-testing strategies, the application of the Monte Carlo method, and the frequency of back-testing and reporting of results. The amendments would also adopt various enhancements to the review and governance processes for those policies. In ICE Clear Europe's view, the amendments will not result in a significant change in its back-testing practices, but will improve the accuracy and clarity of the Back-Testing Policy. As such, the amendments are consistent with the continued overall risk management of the Clearing House, and with the prompt and accurate clearance of transactions and the public interest in sound operation of clearing agencies, within the meaning of Section 17A(b)(3)(F).[8] As the amendments would enhance the Back-Testing Policy as its relates to Clearing House margin models, the amendments would also be consistent with requirements relating to safeguarding of funds and securities in the custody or control of the Clearing House or for which it is responsible, within the meaning of that section. Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[9]

ICE Clear Europe also believes that the amendments for similar reasons are consistent with specific requirements of Rule 17Ad–22.[10] Through providing additional details and examples and enhancing overall clarity of the Back-Testing Policy, the amendments are consistent with Rule 17Ad–22(e)(3)(i),[11] which requires clearing agencies to have reasonably designed policies and procedures that, at a minimum, include risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by a clearing agency.

Rule 17Ad–22(e)(6)(vi)(A)[12] specifically requires clearing agencies to implement reasonably designed policies and procedures to conduct back-testing of their margin model at least once each day using standard predetermined parameters and assumptions. In compliance with these requirements, proposed amendments to the Back-Testing Policy specify that ICE Clear Europe must perform daily portfolio-level back-testing analysis at a 99.5% quantile based on the individual Clearing Member accounts as of the back-testing date. Back-testing results would also reviewed on a daily basis by the Clearing Risk Department.

Pursuant to Rule 17Ad–22(e)(6)(vi)(B)[13] a clearing agency must have policies and procedures reasonably designed to review its parameters and assumptions for back-testing its margin model on at least a monthly basis. The proposed amendments to the Back-Testing Policy, as discussed above, are consistent with these requirements, as they provide that reviews of the back-test results must be reported to the Model Oversight Committee and CDS Risk Committee on a monthly basis. As a result, ICE Clear Europe believes that these amendments to the Back-Testing Policy are in compliance with Rule 17Ad–22(e)(6)(vi)(B).[14]

Rule 17Ad–22(e)(2)[15] requires clearing agencies to establish reasonably

[5] Such change would not preclude ICE Clear Europe from sharing relevant reports with regulators more frequently as under current practice.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22.

[11] 17 CFR 240.17 Ad–22(e)(3)(i). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable:

(3) Maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which:

(i) Includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually''.

[12] 17 CFR 240.17Ad-22(e)(6)(vi)(A). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable:

(6) Cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum:

(vi) Is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by:

A. Conducting backtests of its margin model at least once each day using standard predetermined parameters and assumptions''.

[13] 17 CFR 240.17Ad–22(e)(6)(vi)(B). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable:

(6) Cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum:

(vi) Is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by:

B. Conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of the covered clearing agency's margin resources''.

[14] 17 CFR 240.17Ad–22(e)(6)(vi)(B).

[15] 17 CFR 240.17 Ad–22(e)(2). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies

designed policies and procedures to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. To facilitate compliance with this requirement, the proposed amendments to the Back-Testing Policy more clearly define the roles and responsibilities of the CDS Risk Committee and Model Oversight Committee to receive back-testing results.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments to the Back-Testing Policy apply to all CDS Contracts and are intended to strengthen risk management relating to these products. ICE Clear Europe does not believe the amendments will have any direct effect on Clearing Members, other market participants or the market for cleared products generally. As a result, ICE Clear Europe does not believe the amendments will materially affect the cost of, or access to, clearing. To the extent the amendments may have any impact on margin levels, ICE Clear Europe believes such changes will be appropriate in furtherance of the risk management of the Clearing House. Therefore, ICE Clear Europe does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2019–017 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–ICEEU–2019–017. 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 ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.* 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–ICEEU–2019–017 and should be submitted on or before September 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18997 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

and procedures reasonably designed to, as applicable:

(2) Provide for governance arrangements that:

(i) Are clear and transparent;

(ii) Clearly prioritize the safety and efficiency of the covered clearing agency;

(iii) Support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q–1) applicable to clearing agencies, and the objectives of owners and participants;

(iv) Establish that the board of directors and senior management have appropriate experience and skills to discharge their duties and responsibilities;

(v) Specify clear and direct lines of responsibility; and

(vi) Consider the interests of participants' customers, securities issuers and holders, and other relevant stakeholders of the covered clearing agency.''

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86783; File No. SR–ICEEU–2019–014]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to the ICE Clear Europe CDS Default Management Framework

August 28, 2019.

I. Introduction

On June 25, 2019, ICE Clear Europe Limited (''ICE Clear Europe,'' the ''Clearing House'' or ''ICEEU'') 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 revise its CDS Default Management Framework (the ''Framework''). The proposed rule change was published for comment in the **Federal Register** on July 16, 2019.[3] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 86340 (July 10, 2019), 84 FR 33996 (July 16, 2019) (SR–ICEEU–2019–014) (''Notice'').

II. Description of the Proposed Rule Change

ICE Clear Europe's proposed rule change would amend its Framework to be consistent with amendments to the ICE Clear Europe Clearing Rules (the ''Rules'') to address default management, recovery and wind-down for the CDS Contract Category (''Recovery Rule Amendments'').[4] The proposed changes to the Framework relate primarily to auction procedures, reduced gains distribution, partial tear-up, Clearing Member withdrawal and termination, clearing service termination, and governance during a default. The changes would incorporate, summarize, and reflect these aspects of the Recovery Rule Amendments. The proposed changes would also make various clarifying changes and corrections to typographical errors.[5]

A. Auction Procedures

In light of the Recovery Rule Amendments referenced above, the proposed rule change would revise several aspects of the Framework to adopt a set of new initial and secondary auction procedures. Specifically, the Framework amendments would do the following:

- Clarify that in determining the auction portfolios, the Clearing House would consider wrong-way risk to non-defaulting Clearing Members, among other listed factors;
- clarify that upon completion of the auction, submission of resulting trade to the Trade Information Warehouse would be done under normal Clearing House practices;
- Clearing Members would no longer be required to confirm to the Default Management Committee their intention to bid in a particular auction;
- no longer provide that the last bid submitted by the Clearing Member is the only bid considered once the bidding window is closed;
- set a range for the minimum bid requirement for Clearing Members. The Framework provides examples of the calculation of the minimum bid requirement for Clearing Members, based on their respective CDS Guaranty Fund contributions as compared to the total CDS Guaranty Fund size;
- provide several examples of the modified Dutch auction methodology used under the Proposed Auction Procedures;
- reflect the two means by which Customers would be able to participate in auctions under the Proposed Auction Procedures: (i) Via Clearing Member following mutual agreement on participation terms; and (ii) via direct participation following (subject to Customer contribution of €7.5 million to default resources (in the case of initial auctions) and certain other requirements);
- summarize key distinctions between initial auctions and secondary auctions under the Proposed Auction Procedures;
- delete the existing Clearing House approach to non-competitive bids, in light of the three tier methodology approach to juniorization of the Guaranty Fund contribution provided for in the Recovery Rule Amendments;
- remove the existing auction schedule in the Framework, as it would be superseded by the Proposed Auction Procedures; and
- remove the provisions in the existing Framework for forced portfolio allocation for positions for which ICE Clear Europe does not receive a formal bid from any Non-Defaulting Clearing Members, consistent with the Recovery Rule Amendments.

B. Reduced Gains Distribution

The amendments would also add a new section to the framework that describes the use of reduced gains distribution (''RGD'') as a recovery tool. The Framework would incorporate and summarize key aspects of the Recovery Rule Amendments relating to the use of RGD, including the methodology for applying RGD to both the house and customer accounts and the five consecutive business day limitation on the use of RGD (following which partial tear-up may be conducted). The Framework would also provide examples of the use of RGD.

C. Partial Tear-Up

The amended Framework would reflect the Recovery Rule Amendments that permit the Clearing House to proceed to partial tear-up as a final default tool where the Clearing House is unable to close out all of the defaulter's remaining positions through auctions within the Clearing House's remaining resources. In a partial tear-up, the Clearing House would terminate positions of non-defaulting Clearing Members that exactly offset those in the defaulting Clearing Member's remaining portfolio. The Framework would also describe procedures for the timing of partial tear-up and determination of the relevant termination price, in accordance with the Recovery Rule Amendments.

D. Clearing Member Withdrawal

The proposed amendments to the Framework would reflect the procedures for Clearing Member withdrawal as set out in the Recovery Rule Amendments, including both an ordinary course of business termination outside of a default and termination during a cooling off period.

E. Clearing Service Termination

The amended Framework would also reflect the Clearing House's ability, under Rule 916 as proposed to be modified by the Recovery Rule Amendments, to terminate the CDS clearing service under specified circumstances.

F. Governance

Pursuant to the proposed amendments, the CDS Risk Committee would be consulted on establishing the terms of initial and secondary auctions (including defining different auction lots) and holding additional auctions and/or accepting a partial fill of an auction during the initial auction phase. The CDS Risk Committee would be consulted, with the ultimate decision to be made by the ICE Clear Europe Board (or their delegate), with respect to a number of matters, including:

- Whether to use CDS Guaranty Fund contributions of non-defaulting Clearing Members to cover the cost of a direct liquidation outside of a default auction;
- Whether to determine that an initial default auction has failed due to insufficient default resources;
- Whether to invoke and/or continue RGD;
- Whether to hold a secondary auction, whether that auction has failed and in the event of failure, whether to hold additional secondary auctions;
- In a secondary auction, whether to reallocate default resources to a particular lot to permit a successful auction of that lot;
- In a final secondary auction, whether to accept a ''partial fill'' to the extent of available default resources for the relevant lot;
- Whether to implement a partial tear-up;
- Whether to terminate the clearing service in full; and
- Whether to bypass an initial default auction or bypass secondary default management action(s).

G. Clarifying and Conforming Amendments

The Framework would also make clarifications and fix typographical

[4] File No. SR–ICEEU–2019–003.

[5] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules or the Framework. The following description of the proposed rule change is excerpted from the Notice, 84 FR 33996.

errors. For example, the amendments would remove an unnecessary provision that hedging traders are responsible for ensuring all hedge trades are correctly reflected in the trade capture system by end of day (as the Clearing House is responsible for such matters in accordance with its current practices); remove unnecessary details about computer support for CDS Default Committee; remove an outdated trade workflow chart; clarify, consistent with current practice, that the Head of Clearing Risk may postpone the collateral sale with respect to liquidation of a defaulting Clearing Member's collateral without seeking advice of the CDS Default Committee; clarify that the risk team also consults with the CDS Default Committee with respect to establishing hedging positions with the non-defaulting Clearing Members, in addition to the Head of Clearing Risk; and removing certain parts of Appendix A such as an itemized example of auction position data and a standard bidding template.

III. Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization presenting it.[6] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] and Rules 17Ad–22(e)(2) and (e)(13) thereunder.[8]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible, and, in general, to protect investors and the public interest.[9]

As discussed above, the proposed rule change would revise the Framework in order to conform it with recent changes to the Recovery Rule Amendments. Specifically, the proposed amendments would revise the Framework to include procedures for utilizing the default rules made available by the Recovery Rule Amendments. The Commission believes that by adding default procedures such as default auctions, RGDs, Clearing Member termination, and partial tear-up, ICEEU has included in its Framework multiple methods for managing losses and preserving resources in the default context. The Commission believes that this in turn will enhance ICEEU's ability to restore a matched book and limit its exposure to potential losses from clearing member defaults. For instance, the Commission believes that by amending the Framework to clarify that in determining auction portfolios, ICEEU will consider wrong-way risk to non-defaulting clearing members, ICEEU enables its auction procedures to cope with such risk. Additionally, by providing examples of a modified Dutch auction methodology, reflecting the two means by which customers would be able to participate in an auction, and summarizing the key distinctions between initial auctions and secondary auctions, the Commission believes that the Framework is enhanced by providing customers with enhanced detail and certainty regarding the auction procedures ICEEU would utilize under the Framework.

The Commission also believes that by adding detail about RGD in the Framework, ICEEU strengthens the Framework with a tool that could limit losses in the event of a default. For instance, RGD can be utilized to obtain financial resources from non-defaulting clearing members in the event default resources are insufficient, thereby forestalling the deterioration of the clearing house's financial condition. Likewise, revising the Framework to reflect the partial tear-up tool provides ICEEU a final recovery tool in the event that it is unable to clear out a defaulter's remaining positions through auctions, which the Commission believes could reduce further utilization of clearing house resources.

Further, the Commission believes that by including updated procedures reflecting the ability of clearing members to withdraw in both ordinary course and default situations, clearing members will be better informed regarding withdrawal procedures and ICEEU will be better prepared to manage this eventuality. Likewise, the Commission believes that, by including procedures related to clearing service termination in its Framework, ICEEU will be more prepared to address general business risk and operational risk in an orderly fashion.

Taken together, the Commission believes that the proposed rule changes will enhance ICEEU's ability to preserve financial resources during default and address business and operational risk in an orderly manner, which in turn is consistent with Section 17A(b)(3)(F) of the Act's requirement for prompt and accurate settlement and safeguarding of securities and funds.

For these same reasons, the Commission also believes that the proposed rule change is, in general, consistent with the protection of investors and the public interest.

B. Consistency With Rule 17Ad–22(e)(2)

Rule 17Ad–22(e)(2) requires, in relevant part, that ICE Clear Europe establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent and that specify clear and direct lines of responsibility.[10]

The Commission believes that the proposed rule change's description of the CDS Risk Committee and Board roles during a default event provide for governance arrangements that are clear and transparent and that specify clear and direct lines of responsibility. Specifically, the proposed rule change would revise the Framework to provide that the CDS Risk Committee would be consulted on establishing the terms of initial and secondary auctions, holding additional auctions, and/or accepting a partial fill of an auction during the initial auction phase. Further, the CDS Risk Committee would be consulted (with final decision residing with the Board) with respect to a variety of default matters described above, including whether to use the Guaranty Fund contributions of non-defaulting clearing members to cover the liquidation costs outside of a default auction, to determine that an initial default has failed, to invoke or continue RGD, to hold a secondary auction, to reallocate default resources to a particular lot, to accept partial fills, to permit partial tear-ups, to terminate clearing services in full, or to bypass an initial or secondary auction management actions. Accordingly, the Commission believes that the proposed revisions to the Framework are reasonably designed to provide for governance arrangements that are clear and transparent and that specify clear and direct lines of responsibility.

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(2) and (e)(13).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(e)(2).

C. Consistency With Rule 17Ad–22(e)(13)

Rule 17Ad–22(e)(13) requires ICE Clear Europe to, in relevant part, establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that it has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations.

By amending the Framework to include the new default management and recovery tools in the Recovery Rule Amendments, the Commission believes that the proposal is consistent with Rule 17Ad–22(e)(13) because the various recovery tools give ICEEU the authority and capacity to timely contain losses and liquidity demands. In particular, by adding to the Framework a new section that authorizes the use of RGD as a recovery tool applied to customer and house accounts in the event that its remaining default resources are insufficient to ensure solvency, ICEEU would strengthen its ability to meet obligations in the event of a default by preserving its resources and limiting its obligations to clearing members. Similarly, the proposed amendments that permit ICEEU to proceed with a partial tear-up as a default tool when it is unable to close out all of a defaulter's remaining positions through auctions would also enhance ICEEU's ability to manage defaults by terminating positions of non-defaulters that exactly offset those in the defaulting clearing member's remaining portfolio and restore a matched book. The Commission believes that these tools, along with the Framework amendments discussed above, would promote ICEEU's ability to preserve its resources and timely meet its obligations in extreme default events and are therefore consistent with Rule 17Ad–22(e)(13).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[11] and Rules 17Ad–22(e)(2) and (e)(13) thereunder.[12]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[13] that the proposed rule change (SR–ICEEU–2019–014) be, and hereby is, approved.[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18998 Filed 9–3–19; 8:45 am]

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[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(2) and (e)(13).

[13] 15 U.S.C. 78s(b)(2).

[14] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86795; File No. SR–Phlx–2019–30]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Phlx Pricing at Options 7, Section 9, Titled Other Member Fees

August 28, 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 August 22, 2019, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the 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 Phlx pricing at Options 7, Section 9 titled ''Other Member Fees.'' The amendment will describe the pricing with respect to an upcoming technology infrastructure migration.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on September 3, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.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

a. Purpose

The Exchange proposes to amend Phlx pricing at Options 7, Section 9 titled ''Other Member Fees.'' During the month of September 2019, Phlx members will be required to transition from current FIX Ports[3] and CTI Ports[4] to new FIX Ports and CTI Ports in connection with an upcoming technology infrastructure migration.

Description of Migration and Pricing Impact

In connection with this migration, members will request new FIX Ports and CTI Ports during the month of September 2019, which are duplicative of the type and quantity of their current ports, at no additional cost to allow for testing of the new ports and allow for continuous connection to the match engine during the transition period.[5] For example, a a Phlx member with 3 FIX Ports and 1 CTI Port on September 3, 2019 could request 3 new FIX Ports and 1 new CTI Port for the month of September 2019 at no additional cost. The Phlx member would be assessed only for the legacy market ports, in this case 3 FIX Ports and 1 CTI Port for the month of September 2019 and would not be assessed for the new ports, which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Financial Information eXchange or ''FIX'' is an interface that allows members and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) Execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. *See* Rule 1080(a)(i)(A).

[4] Clearing Trade Interface or ''CTI'' is a real-time clearing trade update message that is sent to a member after an execution has occurred and contains trade details specific to that member. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. *See* Rule 1070(b)(1).

[5] Members would contact Market Operations to acquire new duplicative FIX Ports and CTI Ports. *See* Options Technical Update #2019–3.

are duplicative of the current ports. A member may acquire any additional legacy ports during the month of September 2019 and would be assessed the charges indicated in the current Pricing Schedule. The migration does not require a member to acquire any additional ports, rather the migration requires a new port to replace any existing ports provided the member desired to maintain the same number of ports.[6] A member desiring to enter orders into Phlx is required to obtain 1 FIX Port. A member may also obtain order and execution ports, such as a CTI Port, to receive clearing messages. The number of additional FIX or order and execution ports obtained by a member is dependent on the member's business needs.

Applicability to and Impact on Members [7]

The proposal is not intended to impose any additional fees on any Phlx members. All members may enter orders on Phlx. As noted above, a Phlx member may enter all orders on Phlx through one FIX Port. The Exchange does not require a Phlx member to obtain more than one FIX Port, however, a member may obtain multiple FIX Ports or a CTI Port to meet its individual business needs. This proposal is intended to permit a Phlx member to migrate its current FIX Ports and CTI Ports at no additional costs during the month of September 2019 to allow for continuous connection to the Exchange. Members would only be assessed a fee for their current FIX Ports and CTI Ports and not be assessed a fee for any new duplicative ports they acquire in connection with the technology infrastructure migration. This proposal is not intended to have a pricing impact.

[6] The migration is 1:1 and therefore would not require a member to acquire new ports, nor would it reduce the number of ports needed to connect.

[7] On May 21, 2019, the SEC Division of Trading and Markets (the ''Division'') issued fee filing guidance titled ''Staff Guidance on SRO Rule Filings Relating to Fees'' (''Guidance''). Within the Guidance, the Division noted, among other things, that the purpose discussion should address ''how the fee may apply differently (*e.g.,* additional cost vs. additional discount) to different types of market participants (*e.g.,* market makers, institutional brokers, retail brokers, vendors, etc.) and different sizes of market participants.'' *See* Guidance (available at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees*). The Guidance also suggests that the purpose discussion should include numerical examples. Where possible, the Exchange is including numerical examples. In addition, the Exchange is providing data to the Commission in support of its arguments herein. The Guidance covers all aspects of a fee filing, which the Exchange has addressed throughout this filing.

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. Moreover, the Exchange believes that its proposal complies with Commission guidance on SRO fee filings that the Commission Staff issued on May 21, 2019.[10]

The Proposal Is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options 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'. . . .'' [11]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange believes its proposal is reasonable because it will not cause a pricing impact on any Phlx member, rather the proposal is intended to permit Phlx members to migrate their FIX Ports and CTI Ports to new technology at no additional cost during the month of September 2019. This proposal, which offers duplicative ports to members at no cost, will allow members to test and maintain continuous connection to the Exchange during the month of September 2019.

The Proposal Represents an Equitable Allocation and Is Not Unfairly Discriminatory

The Exchange believes its proposal allocates its fees fairly among its market participants. The proposal is equitable and not unfairly discriminatory. All members may enter orders on Phlx. As noted above, a Phlx member may enter all orders on Phlx through one FIX Port. The Exchange does not require a Phlx member to obtain more than one FIX Port, however, a member may obtain multiple FIX Ports or a CTI Port to meet its individual business needs. This proposal is not intended to have a pricing impact to any Phlx member.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. This proposal does not amend pricing or functionality. Rather, this technology migration will enable Phlx members to continue to connect to Phlx, as is the case today, for the entry of orders.

Intra-Market Competition

The proposal does not impose an undue burden on intra-market competition. All members may enter orders on Phlx. As noted above, a Phlx member may enter all orders on Phlx through one FIX Port. The Exchange does not require a Phlx member to obtain more than one FIX Port, however, a member may obtain multiple FIX Ports or a CTI Port to meet its individual business needs. This proposal is not intended to have a pricing impact to any Phlx member.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] *See* Guidance, *supra* note 7. Although the Exchange believes that this filing complies with the Guidance, the Exchange does not concede that the standards set forth in the Guidance are consistent with the Exchange Act and reserves its right to challenge those standards through administrative and judicial review, as appropriate.

[11] *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

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.[12]

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–Phlx–2019–30 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–Phlx–2019–30. 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–Phlx–2019–30 and should be submitted on or before September 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19006 Filed 9–3–19; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86792; File No. SR–NASDAQ–2019–059]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt Requirements for the Nasdaq Capital and Global Markets Applicable to Direct Listings

August 28, 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 August 15, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, 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 adopt requirements for the Nasdaq Capital and Global Markets applicable to Direct Listings.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq recognizes that some companies that have sold common equity securities in private placements, which have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing, may wish to list those securities to allow existing shareholders to sell their shares. Nasdaq previously adopted requirements applicable to such Direct Listings listing on the Nasdaq Global Select Market[3] and now proposes to adopt requirements for the Nasdaq Global and Capital Markets.

The proposed Listing Rules IM–5405–1 and IM–5505–1 set forth the additional listing requirements for Direct Listings on the Nasdaq Global and Capital Markets and describe how the Exchange will calculate compliance with the Nasdaq Global and Capital Markets initial listing standards related to the requirements based on the price of a security, including the bid price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 85156 (February 15, 2019), 84 FR 5787 (February 22, 2019) (the ''2019 Rule Change''). Nasdaq proposes to insert the defined term ''Direct Listing'' into the existing language of Listing Rule IM–5315–1 and update the title without further modification to that rule section.

[4] On March 21, 2019, Nasdaq filed with the Commission a proposed rule change to revise the initial listing standards related to liquidity that,

Nasdaq also proposes to modify Nasdaq Rule 4753 to clarify that the securities listed pursuant to Listing Rules IM–5405–1 and IM–5505–1 can be launched for trading using the same crossing mechanism available for IPOs outlined in Rule 4120(c)(8) and Rule 4753 (the ''IPO Cross'').

Finally, the proposed Listing Rules IM–5405–1 and IM–5505–1 require that such securities must begin trading on Nasdaq following the initial pricing through the IPO Cross. To allow such initial pricing, the Company must: (i) Have a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed, who is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering and (ii) list upon effectiveness of a Securities Act of 1933 registration statement filed solely for the purpose of allowing existing shareholders to sell their shares.

Calculation of Price-Based Initial Listing Requirements

Direct Listings are subject to all initial listing requirements applicable to equity securities and, subject to applicable exemptions, the corporate governance requirements set forth in the Rule 5600 Series. To provide transparency to the initial listing process, the Exchange proposes to adopt Listing Rules IM–5405–1 and IM–5505–1, which will state how the Exchange calculates the initial listing requirements based on the price of a security, including the bid price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held shares for a Direct Listing on the Nasdaq Global and Capital Markets.[5]

Unless Nasdaq determines to accept evidence of the security's price based on a tender offer by the company or a third party, a third-party transaction involving the company's equity securities, or security sales by the company, as described in more detail below, under Listing Rules IM–5405–1 and IM–5505–1, Nasdaq would generally require that a company listing on the Nasdaq Global and Capital Markets through a Direct Listing provide Nasdaq an independent third-party valuation (a ''Valuation'') that meets the requirements of Listing Rules IM–5315–1(e) and (f).

Under Listing Rule IM–5315–1(e), any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the last year of audited financials included in the registration statement. Nasdaq will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. Nasdaq may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.[6]

Under Listing Rule IM–5315–1(f), Nasdaq requires that a valuation agent will not be considered independent if:

- At the time it provides such Valuation, the valuation agent or any affiliated person or persons beneficially own in the aggregate as of the date of the valuation, more than 5% of the class of securities to be listed, including any right to receive any such securities exercisable within 60 days.
- The valuation agent or any affiliated entity has provided any investment banking services to the listing applicant within the 12 months preceding the date of the Valuation. For purposes of this provision, ''investment banking services'' includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting.
- The valuation agent or any affiliated entity has been engaged to provide investment banking services to the listing applicant in connection with the proposed listing or any related financings or other related transactions.

For a security that has had sustained recent trading in a Private Placement Market[7] prior to listing, Nasdaq will determine a company's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held shares based on the lesser of: (i) The value calculable based on the Valuation[8] and (ii) the value calculable based on the most recent trading price in a Private Placement Market.

To determine compliance with the price-based requirements and suitability for listing on the Exchange, Nasdaq will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a market value in excess of Nasdaq's market value requirement. Nasdaq believes that the price from such sustained trading in a Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq.

Alternatively, in the absence of any recent sustained trading in a Private Placement Market over a period of several months,[9] Nasdaq proposes to require that a Valuation must evidence a price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares that exceed 200% of the otherwise applicable requirement. Thus, to list on the Nasdaq Global Market, the Valuation must evidence a minimum bid price of at least $8 per share; Market Value of Unrestricted Publicly Held Shares of $16 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $36 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $40 million and Market Value of Listed

among other changes, added three new definitions to define ''restricted securities,'' ''unrestricted publicly held shares'' and ''unrestricted securities.'' This rule change was approved by the Commission effective July 5, 2019 and operative August 5, 2019. *See* Securities Exchange Act Release No. 86314 (July 5, 2019), 84 FR 33102 (July 11, 2019).

[5] Substantive provisions of Listing Rules IM–5405–1 and IM–5505–1 are identical.

[6] In addition, under Listing Rule 5101 Nasdaq has broad discretionary authority to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq.

[7] Nasdaq defines ''Private Placement Market'' in Listing Rule 5005(a)(34) as a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer.

[8] As described in more detail below, under proposed Listing Rules IM–5405(a)(3) and IM–5505(a)(3), in lieu of a Valuation, Nasdaq may accept certain other compelling evidence of the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares.

[9] Limited trading in the Private Placement Market may not be sufficient for the Exchange to reach a conclusion that the company meets the applicable price-based requirements.

Securities of $150 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $40 million under the Total Assets/Total Revenue Standard.[10]

To list on the Nasdaq Capital Market, the Valuation must generally evidence a minimum bid price of at least $8 per share; Market Value of Unrestricted Publicly Held Shares of $10 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $30 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $30 million and Market Value of Listed Securities of $100 million under the Market Value Standard.[11]

Nasdaq believes that some companies that are clearly large enough to be suitable for listing on the Exchange do not have sustained trading in their securities on a Private Placement Market prior to going public and that a recent Valuation indicating that the company exceeds 200% of the otherwise applicable price-based requirement will give a significant degree of comfort that the company will meet the applicable price-based requirements upon commencement of trading. Nasdaq believes that it is unlikely that any Valuation would reach a conclusion that is incorrect to the degree necessary for a company using this provision to fail to meet the applicable requirement upon listing, in particular because any Valuation used for this purpose must be provided by a valuation agent that meets the independence requirements of proposed Listing Rule IM–5315–1(f) and has significant experience and demonstrable competence in the provision of such valuations.

Nasdaq further believes that in certain unique circumstances a company that is clearly large enough to be suitable for listing on the Exchange may provide other compelling evidence to demonstrate that it meets all applicable price-based requirements without a Valuation. In such cases, Nasdaq may accept other compelling evidence of the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares, including, a tender offer by the company or a third party, a third-party transaction involving the company's equity securities, or security sales by the Company.

In order to be considered compelling evidence of the company's value, Nasdaq proposes to require that such transactions were recent, occurring within the prior six months, and substantial in size, representing sales of at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares requirement.[12] In addition, Nasdaq expects such transactions to have been conducted at arm's-length requiring that such transactions cannot involve affiliates of the company unless such participation is of a de minimis nature, such as where any affiliate's participation was less than 5% of the transaction (and all affiliates' participation collectively was less than 10% of the transaction), such participation was suggested or required by unaffiliated investors and where the affiliates did not participate in negotiating the economic terms of the transaction. The examples of transactions that could constitute compelling evidence are not meant to be exhaustive; however, Nasdaq will consider other transactions or events as constituting compelling evidence only if such transactions or events are substantially similar to those described by this rule.

In order to list on Nasdaq based on such evidence without a Valuation, Nasdaq proposes to require such evidence to show that the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares exceed 250% of the otherwise applicable requirement. Thus, to list on the Nasdaq Global Market, the compelling evidence provided by the company must show a minimum bid price of at least $10 per share; Market Value of Unrestricted Publicly Held Shares of $20 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $45 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $50 million and Market Value of Listed Securities of $187.5 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $50 million under the Total Assets/Total Revenue Standard.[13]

To list on the Nasdaq Capital Market, such evidence must show a minimum bid price of at least $10 per share; Market Value of Unrestricted Publicly Held Shares of $12.5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $37.5 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $37.5 million and Market Value of Listed Securities of $125 million under the Market Value Standard.[14]

Nasdaq believes that such recent, substantial in size, arm's-length transactions in the Company's securities, with de minimis insider participation, indicating the company exceeds 250% of the otherwise applicable price-based requirements will give a significant degree of comfort that the company will meet the applicable price-based requirements upon commencement of trading. In addition, Nasdaq believes that the new requirement that such securities must begin trading on Nasdaq following the initial pricing through the IPO Cross will help assure these securities begin trading close to their inherent value.

Foreign Exchange Listings

For a company transferring from a foreign regulated exchange where there is a broad, liquid market for the

[10] *See* Listing Rules 5405(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million and Market Value of Listed Securities of $75 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard.

[11] *See* Listing Rules 5505(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million and Market Value of Listed Securities of $50 million under the Market Value Standard.

[12] Listing Rule 5405(b) generally requires, for a company listing on the Nasdaq Global Market, Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; Market Value of Unrestricted Publicly Held Shares of $20 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard. Listing Rule 5505(b) generally requires, for a company listing on the Nasdaq Capital Market, Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Market Value Standard.

[13] *See* Listing Rules 5405(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $8 million under the Income Standard; or Market Value of Unrestricted Publicly Held Shares of $18 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million and Market Value of Listed Securities of $75 million under the Market Value Standard; or Market Value of Unrestricted Publicly Held Shares of $20 million under the Total Assets/Total Revenue Standard.

[14] *See* Listing Rules 5505(a) and (b), which generally require minimum bid price of at least $4 per share; Market Value of Unrestricted Publicly Held Shares of $5 million under the Net Income Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million under the Equity Standard; or Market Value of Unrestricted Publicly Held Shares of $15 million and Market Value of Listed Securities of $50 million under the Market Value Standard.

company's shares, or listing on Nasdaq while trading on such exchange, Nasdaq will determine that the company has met the applicable price-based requirements based on the recent trading in such market. Nasdaq believes that the price of the issuer's securities from such broad and liquid trading is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq. While this is consistent with Nasdaq's current practice, Listing Rules IM–5405–1(a)(4) and IM–5505–1(a)(4) will clarify that a company transferring from a foreign regulated exchange where there is a broad, liquid market for the company's shares or listing on the Nasdaq Global or Capital Markets while trading on such exchange is not subject to the new requirements applicable to Direct Listings.

Clarification of the Role of a Financial Advisor in a Direct Listing

In 2014, Nasdaq first adopted rules to allow the use of the Nasdaq IPO Cross to initiate trading in securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing and described the role of financial advisors in that process.[15] At that time, the Exchange added Rule 4120(c)(9)[16] to set forth the process by which trading commences in such securities. Under that rule, securities of companies that have not previously been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to listing on Nasdaq can be launched for trading using the IPO Cross. Prior to that rule change, securities of companies that were not conducting IPOs were released using the Halt Cross outlined in Rule 4120(c)(7), which differed from the IPO Cross.[17]

The 2014 Rule Change extended the safeguards contained in the IPO Cross to securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing and established that a broker-dealer serving in the role of financial advisor to the issuer could serve in the same capacity for such securities as the underwriter does for IPOs. Specifically, Rule 4120(c)(9) provides that the IPO Cross process described in Rules 4120 and 4753 is available to securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing where ''a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering.'' [18]

Rule 4753 provides the definition of Current Reference Price and a description of the calculation of the price at which the Nasdaq Halt Cross will occur.[19] In each case, the applicable price could be determined based on the issuer's IPO price.[20] In the absence of an IPO price from the underwriter, Nasdaq believes that the only viable options are to rely on a price from recent sustained trading the Private Placement Market [21] or one provided by the financial advisor to the company.

Nasdaq has successfully employed, in limited circumstances, the IPO Cross for securities that have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing since 2014 [22] and following the 2019 Rule Change. Nasdaq continues to believe that financial advisors to issuers seeking to utilize that process are well placed to perform the functions that are currently performed by underwriters with respect to an initial public offering.

In the 2019 Rule Change, Nasdaq elaborated on the role of a financial advisor to the issuer of a security that is listing under IM–5315–1.[23] Nasdaq now proposes to amend Rule 4753 to clarify that securities listed pursuant to Listing Rules IM–5405–1 and IM–5505–1 can be launched for trading using the IPO Cross, subject to additional requirements in the proposed Listing Rules IM–5405–1 and IM–5505–1.

Nasdaq also proposes to require that all securities listed under Listing Rules IM–5405–1 and IM–5505–1 must begin trading on Nasdaq following the initial pricing through the IPO Cross. To that end, Nasdaq proposes to cross reference Rule 4120(c)(8) in Listing Rules IM–5405–1 and IM–5505–1 to require that the company must have a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed, who is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter with respect to an initial public offering. In addition, Nasdaq proposes to require that each Company qualified for listing under Listing Rules IM–5405–1 and IM–5505–1 must list its securities upon effectiveness of a Securities Act of 1933 registration statement filed solely for the purpose of allowing existing shareholders to sell their shares.

Finally, Nasdaq proposes to define ''Direct Listing'' in Listing Rule IM–5315–1 and update the title without further modification to that rule section. Nasdaq also proposes to update the reference to ''direct listings under IM–5315–1'' in Listing Rule IM–5900–7 as a defined term without changing the substance of this rule.

[15] Securities Exchange Act Release No. 71931 (April 11, 2014), 79 FR 21829 (April 17, 2014) (SR–NASDAQ–2014–032) (the ''2014 Rule Change''). Nasdaq stated that ''an advisor, with market knowledge of the book and an understanding of the company and its security, would be well placed to provide advice on when the security should be released for trading.'' The 2014 Rule Change at 21830.

[16] In 2014, Nasdaq filed SR–NASDAQ–2014–081 modifying the functions that are performed by an underwriter with respect to an initial public offering and renumbered certain paragraphs of Rule 4120. Securities Exchange Act Release No. 73399 (October 21, 2014), 79 FR 63981 (October 27, 2014) (approving SR–NASDAQ–2014–081). All references in this filing are to the renumbered rules, as currently in effect.

[17] The Halt Cross process has a shorter quoting period (five minutes) and provides no ability to extend the quoting period in the event trading interest or volatility in the market appears likely to have a material impact on the security, unless there is an order imbalance as defined in the rule. *See* the 2014 Rule Change for additional details on the differences between the Halt Cross and the IPO Cross.

[18] Subsequent to the 2014 Rule Change, Nasdaq expanded and elaborated the functions that are performed by an underwriter with respect to an initial public offering. *See* footnote 16, above. Rule 4120(c)(9) requires a broker-dealer serving in the role of a financial advisor to the issuer of the securities being listed to perform all such functions in order for the issuer to utilize the IPO Cross for the initial pricing of the security.

[19] Rules 4753(a)(3)(A) and 4753(b)(2)(D).

[20] Rules 4753(a)(3)(A)(iv)a. and 4753(b)(2)(D)(i). The price closest to the ''Issuer's Initial Public Offering Price'' is the fourth tie-breaker in these rules, applicable when no single price is determined from the three prior tests.

[21] As described above, Nasdaq believes that the price from such recent sustained trading in a Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq.

[22] Among other instances, Nasdaq utilized the IPO Cross for the initial pricing of the common stock of American Realty Capital Healthcare Trust, Inc. as indicated in the 2014 Rule Change.

[23] Specifically, Nasdaq amended Rules 4753(a)(3)(A)(iv) and 4753(b)(2)(D) to state that in the case of the initial pricing of a Direct Listing for a security qualifying for listing under Listing Rule IM–5315–1, the fourth tie-breaker in calculating each of the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator and the price at which the Nasdaq Halt Cross will occur, respectively, shall be: (i) For a security that has had recent sustained trading in a Private Placement Market prior to listing, the most recent transaction price in that market or, (ii) if there is not such sustained trading in a Private Placement Market, a price determined by the Exchange in consultation with the financial advisor to the issuer identified pursuant to Rule 4120(c)(9). *See* 2019 Rule Change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Section 6(b)(5) of the Act,[25] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction 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.

Calculation of Price-Based Initial Listing Requirements

The proposed rule change to require a Valuation and describe how Nasdaq will calculate compliance with the price-based requirements for listing on the Nasdaq Global and Capital Markets is designed to protect investors and the public interest because any company relying solely on a Valuation will have to demonstrate that the company exceeds 200% of the otherwise applicable price-based requirement, which will give a significant degree of comfort that upon commencement of trading the company will meet the applicable price-based requirements.[26] In addition, establishing independence standards for the party providing a Valuation will ensure that the entity providing a Valuation for purposes of listing on Nasdaq will have a significant level of independence from the listing applicant and thereby enhance the reliability of such Valuation.

Finally, in addition to the proposed new requirements, Direct Listings are subject to all initial listing requirements applicable to equity securities and, subject to applicable exemptions, the corporate governance requirements set forth in the Rule 5600 Series. Nasdaq's existing requirements are designed to protect investors and serve to help assure that securities listed on Nasdaq have sufficient investor interest and will trade in a liquid manner. As such, Nasdaq believes these provisions protect investors and the public interest in accordance with Section 6(b)(5) of the Exchange Act.

The proposed rule change also protects investors and the public interest by requiring that there be sustained recent trading in the Private Placement Market in order for a Direct Listing to rely on such price to demonstrate compliance with the applicable price-based requirements. Nasdaq believes that the price from such sustained trading in the Private Placement Market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq and that qualifying a company based on such trading price helps assure that the company satisfies Nasdaq's requirements. In the absence of recent sustained trading in the Private Placement Market, the requirement to demonstrate that the company exceeds 200% of the otherwise applicable price-based requirement, similarly helps assure that the company satisfies Nasdaq's requirement by imposing a standard that is double the otherwise applicable standard.[27]

The proposed rule change to allow a company in certain unique circumstances to list without a Valuation is designed to protect investors and the public interest because it requires such company to produce compelling evidence that the security's price, Market Value of Listed Securities and Market Value of Unrestricted Publicly Held Shares exceed 250% of the otherwise applicable requirement. Moreover, in order to be considered compelling, such evidence of the company's value must be based on a tender offer by the company or a third party or on a transaction in company's securities, such as a third-party transaction involving the company's equity securities, or security sales by the company. In addition, such transactions must be recent, occurring within the prior six months, and substantial in size, representing sales of at least 20% of the applicable Market Value of Unrestricted Publicly Held Shares requirement which helps assure that the company satisfies the applicable price-based requirement upon commencement of trading on Nasdaq.

The proposed rule change also protects investors and the public interest by requiring that for a company to demonstrate compliance with the applicable price-based requirements based on security sales by the company, such transactions, in addition to being recent and substantial in size, must also have been conducted at arm's-length. To that end, Nasdaq proposes to require that such transactions cannot involve affiliates of the company unless such participation is of a de minimis nature, such as where any affiliate's participation was less than 5% of the transaction (and all affiliates' participation collectively was less than 10% of the transaction), such participation was suggested or required by unaffiliated investors and where the affiliates did not participate in negotiating the economic terms of the transaction.

The proposed requirement that a company that lists on the Nasdaq Global or Capital Markets through a Direct Listing must list at the time of effectiveness of a registration statement filed under the Securities Act of 1933 solely for the purpose of allowing existing shareholders to sell their shares is designed to protect investors and the public interest, because it will ensure such companies satisfy the rigorous disclosure requirements under the Securities Act of 1933 and are subject to review by Commission staff.

Finally, the proposal to rely on the price from the existing trading market for a company transferring from a foreign regulated exchange or listing on Nasdaq while trading on such exchange is consistent with the protection of investors because the price from the broad and liquid trading market for the issuer's securities is predictive of the price in the market for the common stock that will develop upon listing of the securities on Nasdaq. This provision applies only where there is a broad, liquid market for the company's shares in its country of origin and is designed to clarify that a company transferring from a foreign regulated exchange or listing on Nasdaq while trading on such exchange that satisfies Listing Rules IM–5405–1(a)(4) or IM–5505–1(a)(4) is not subject to the new requirements applicable to Direct Listings. Enhancing transparency around this requirement will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors and the public interest.[28]

Clarification of the Role of a Financial Advisor in a Direct Listing

Nasdaq believes that the proposed rule change to modify the fourth tie-breaker used in calculating the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator and the price at which the Nasdaq Halt

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* footnotes 13 and 14 above.

[27] *See* footnotes 13 and 14, above.

[28] Provisions of Listing Rules IM–5405–1(a)(4) and IM–5505–1(a)(4) are identical to Listing Rule IM–5315–1(c) applicable to Direct Listings on the Nasdaq Global Select Market, which was adopted in the 2019 Rule Change.

Cross will occur, protects investors and the public interest. The 2019 Rule Change established that, in using the IPO Cross to initiate the initial trading in the company's securities, the Current Reference Price and price at which the Nasdaq Halt Cross will occur may be based on the most recent transaction price in a Private Placement Market where the security has had recent sustained trading in such a market over several months; otherwise the price will be determined by the Exchange in consultation with a financial advisor to the issuer. The proposed rule change simply provides that in addition to the initial pricing of a security listing under Listing Rules IM–5315–1 the same process will occur for securities listing under IM–5405–1 or IM–5505–1.

Where there has been sustained recent trading on a Private Placement Market over several months, Nasdaq believes the most recent price from such trading is predictive of the price that will develop upon listing of the securities on Nasdaq. Where there has not been such sustained recent trading, Nasdaq notes that financial advisors have been performing the functions of the underwriter in the IPO Cross on a limited basis since 2014 and following the 2019 Rule Change and have market knowledge of buying and selling interest and an understanding of the company and its security. As such, Nasdaq believes that the rule change will promote fair and orderly markets because these mechanisms of establishing the Current Reference Price and the price at which the Nasdaq Halt Cross will occur will help protect against volatility in the pricing and initial trading of the securities covered by the proposed rule change.

Similarly, the proposed requirement that a company that lists on the Nasdaq Global or Capital Markets through a Direct Listing must begin trading of the company's securities following the initial pricing through the IPO Cross will promote fair and orderly markets by protecting against volatility in the pricing and initial trading of unseasoned securities covered by the proposed rule change. Accordingly, Nasdaq believes these changes, as required by Section 6(b)(5) of the Exchange Act, are reasonably designed to protect investors and the public interest and promote just and equitable principles of trade for the opening of securities listing in connection with a Direct Listing on the Nasdaq Global or Capital Markets.

Finally, Nasdaq believes that the proposed rule change to update the title of Listing Rule IM–5315–1, to insert the defined term ''Direct Listing'' into the existing language of this rule and to update the reference to ''direct listings under IM–5315–1'' in Listing Rule IM–5900–7 using a defined term, does not change the substance of these rules and protects investors and the public interest by clarifying the applicability of these rules and making it easier to understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change to adopt Listing Rules IM–5405–1 and IM–5505–1 is designed to provide transparency to the mechanism of listing securities in connection with a Direct Listing on the Nasdaq Global or Capital Markets that is appropriately protective of investors and is not designed to limit the ability of the issuers of those securities to list them on any other national securities exchange.

In addition, the proposed change is designed to extend the availability of the IPO Cross to securities listing on Nasdaq under IM–5405–1 or IM–5505–1 and thus will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–059 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–059. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–059, and should be submitted on or before September 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19004 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86787; File No. SR–PEARL–2019–24]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rules 503, Openings on the Exchange, and 515, Execution of Orders

August 28, 2019.

Pursuant to the provisions of 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 August 19, 2019, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend Exchange Rules 503, Openings on the Exchange, and 515, Execution of Orders, to make minor, non-substantive edits and clarifying changes to the rule text.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 503, Openings on the Exchange, to amend paragraph (c), Deviation from Standard Opening Process, to adopt new rule text that identifies the Help Desk staff authorized to take actions during the Opening Process to maintain a fair and orderly market and to add greater specificity to the language currently in place.

First, the Exchange proposes to amend Exchange Rule 503(c), Deviation from Standard Opening Process, to further clarify which authorized personnel at the Exchange that may deviate from the standard Opening Process in certain market conditions. Exchange Rule 503(c) currently states that the Exchange may deviate from the standard manner of the Opening Process, including adjusting the timing of the Opening Process in any option class, when it believes it is necessary in the interests of a fair and orderly market. The Exchange now proposes to amend subparagraph (c) to state that Senior Help Desk personnel may deviate from the standard manner of the Opening Process when necessary, including delay or compel the opening of any series in any option class, adjusting the timing of the Opening Process in any option class, when necessary in the interests of commencing or maintaining a fair and orderly market, in the event of unusual market conditions or in the public interest. The Exchange also proposes that it will make and maintain records to document all determinations to deviate from the standard manner of the Opening Process, and periodically review these determinations for consistency with the interests of a fair and orderly market.

The Exchange is amending the rule to add additional specificity by designating that only Senior Help Desk personnel may deviate from the standard manner of the Opening Process when necessary. The Exchange is also providing examples of the type of actions that Senior Help Desk personnel may take to ensure a fair and orderly market is maintained. Additionally, the Exchange is proposing to amend the rule to adopt a provision stating that the Exchange will maintain records to document all determinations to deviate from the standard manner of the Opening Process, and periodically review these determinations for consistency with the interests of a fair and orderly market. The Exchange notes that the proposed rule text is similar to that found in the rules for the Opening Process of the Exchange's affiliates, Miami International Securities Exchange, LLC (''MIAX'') and MIAX Emerald, LLC (''MIAX Emerald'').[3]

Next, the Exchange proposes to amend Exchange Rule 515, Execution of Orders, to make minor, non-substantive edits and clarifying changes to the rule text in order to provide consistency and clarity within the rule text. Specifically, the Exchange proposes to make a number of minor non-substantive edits to references to ''Rule 515'' throughout the rule text. Currently, there are several references in Exchange Rule 515 where the rule refers back to itself generally as ''Rule 515.'' The Exchange proposes to amend all general references in Exchange Rule 515 that are to ''Rule 515'' that do not refer to any particular subsection or paragraph to be replaced with ''this Rule'' in order to provide consistency and clarity within the rule text. The proposed changes would be to references to ''Rule 515'' that are currently in the following subsections and paragraphs in Exchange Rule 515: Paragraph (a); paragraph (d); subsection (d)(1); subsection (d)(2)(i); subsection (d)(2)(iii)(C); subsection (g)(3)(i); and Interpretation and Policy .02.

Next, the Exchange proposes to amend several paragraphs and subsections to make corrective changes to the numerical and alphabetical list item identifiers to properly conform to the hierarchical heading scheme and list item identifiers used throughout the Exchange's rulebook. The Exchange notes that anytime there is block text in a paragraph or subsection that contains a list of numbered clauses or items that are not specifically broken out into their own subsections, the Exchange uses romanettes to identify each clause or item. Accordingly, paragraph (b) contains independent clauses currently numbered ''(1)'' and ''(2)'' which will be renumbered as ''(i)'' and ''(ii)''. Paragraph (c) contains three separate sentences each with independent clauses numbered ''(1)'' and ''(2)'' which will each be renumbered as ''(i)'' and ''(ii)''. Subparagraph (d)(2)(i) contains three independent clauses currently numbered ''(A)'', ''(B)'' and ''(C)'' which will be renumbered as ''(i)'', ''(ii)'' and ''(iii)'', respectively. Subparagraph (d)(2)(ii) contains four independent clauses currently numbered ''(A)'', ''(B)'', ''(C)'' and ''(D)'' which will be renumbered as ''(i)'', ''(ii)'', ''(iii)'' and ''(iv)'', respectively. Subparagraph

[3] *See* MIAX Rule 503(g) and MIAX Emerald Rule 503(g).

(g)(3)(i) contains three independent clauses currently numbered ''(A)'', ''(B)'' and ''(C)'' which will be renumbered as ''(i)'', ''(ii)'' and ''(iii)'', respectively. Finally, subparagraph (g)(3)(ii) contains four independent clauses currently numbered ''(A)'', ''(B)'', ''(C)'' and ''(D)'' which will be renumbered as ''(i)'', ''(ii)'', ''(iii)'' and ''(iv)'', respectively.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) of the Act [5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

First, the Exchange is proposing to amend its current provision pertaining to the actions that the Exchange may take in the interests of maintaining a fair and orderly market to adopt a more detailed and nuanced provision from the Exchange's affiliates, MIAX and MIAX Emerald.[6] This provision now identifies which Help Desk personnel may take actions during the Opening Process (Senior Help Desk personnel) and provides examples of the type of actions which may be undertaken. Additionally, the provision provides that the Exchange will make and maintain records to document all determinations to deviate from the standard manner of the Opening Process and will periodically review these determinations for consistency with the interests of a fair and orderly market. The Exchange believes its proposal promotes just and equitable principles of trade, removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by providing additional detail in the Exchange's rules and by providing a review process for instances where there was a deviation from the standard Opening Process.

The Exchange believes its proposal removes impediments to and perfects the mechanisms of a free and open market by providing clarity in the Exchange's rules and more detail concerning the Opening Process on the Exchange. The Exchange believes clarity and transparency benefits investors and the public and allows investors and the public to make informed decisions regarding the Opening Process on the Exchange.

Additionally, the Exchange believes that although MIAX PEARL rules may, in certain instances, intentionally differ from MIAX and MIAX Emerald rules, the proposed changes will promote uniformity with MIAX and MIAX Emerald with respect to rules that are intended to be identical. The Exchange believes that it will reduce the potential for confusion by its members that are also members of MIAX and MIAX Emerald if the only differences between MIAX PEARL, MIAX and MIAX Emerald rules are those that are intended.

The Exchange also believes the proposed changes to Exchange Rule 515 promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed changes make clarifying edits to the rule text of Exchange Rule 515, and correct errors in the hierarchical heading scheme and list item identifiers to provide uniformity in the Exchange's rulebook and paragraph formatting. The Exchange believes that these proposed changes will provide greater clarity to Members and the public regarding the Exchange's rules and that it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition as there is no functional change to the Exchange's System and because the rules of the Exchange apply to all MIAX PEARL participants equally. The proposed rule changes will have no impact on competition as they are not designed to address any competitive issues but rather are designed to remedy minor non-substantive issues and provide added clarity to the rule text of Exchange Rules 503 and 515. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency regarding the Exchange's functionality. The Exchange does not believe that the proposed rule change to amend the provision concerning the actions that the Help Desk may take to deviate from the standard manner of the Opening Process to maintain a fair and orderly market will impose any burden on inter-market competition as the proposed rule change is designed to identify the specific Help Desk personnel authorized to deviate from the standard manner of the Opening Process and to provide some examples of the type of actions that may be undertaken to ensure the operation of a fair and orderly market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) [8] 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 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:

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *See supra* note 3.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–PEARL–2019–24 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–PEARL–2019–24. 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–PEARL–2019–24 and should be submitted on or before September 25,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19000 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86799; File No. SR–ICC–2019–007]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the ICC Rules, ICC End-of-Day Price Discovery Policies and Procedures, and ICC Risk Management Framework

August 28, 2019.

On June 28, 2019, ICE Clear Credit LLC (''ICC''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain changes to ICC's Clearing Rules and related procedures to provide for the clearing of credit default index swaptions. The proposed rule change was published for comment in the **Federal Register** on July 17, 2019.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act [4] 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 from the publication of notice of filing of this proposed rule change is August 31, 2019.

The Commission is extending the 45-day time period for Commission action on the proposed rule change, in which ICC would introduce clearing of credit default index swaptions. The Commission finds 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 ICC's proposed rule change.

Accordingly, pursuant to Section 19(b)(2) [5] of the Act, and for the reasons discussed above, the Commission designates October 15, 2019, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICC–2019–007).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19007 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 86358 (July 11, 2019), 84 FR 34220 (July 17, 2019) (SR–ICC–2019–007).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86784; File No. SR–NYSE–2019–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Revise the Remove and Adding Liquidity Tiers for Tape B and C Securities

August 28, 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 August 15, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) revise the Remove Tier for Tape B and C securities to add a new Tier charge for removing liquidity, and (2) increase the credits available to Supplemental Liquidity Providers (''SLPs'') under SLP Provide Tier 1 for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities. The Exchange proposes to implement the fee changes effective August 15, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Exchange proposes to amend its Price List to revise pricing available for trading in Tape B and C securities as follows:

(1) Revise the Remove Tier for Tape B and C securities to add a new Tier charge of $0.0026 per share for removing liquidity. A member organization would be able to qualify for this rate either by (i) meeting a specified percentage of average daily volume of orders in Tape B and C securities executed on the Exchange that remove liquidity (''Removing ADV'') as a percentage of consolidated average daily volume (''CADV'') in Tape B and C securities (''Tape B and C CADV''),[4] or (ii) meeting a lower specified percentage of Removing ADV as a percentage of Tape B and C CADV and meeting specified closing auction volume thresholds in Tape A securities, and

(2) Increase the credits available to SLPs under SLP Provide Tier 1 for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities from $0.0031 per share to $0.0033 per share (for displayed orders) and from $0.0014 per share to $0.0015 per share (for non-displayed orders).

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective August 15, 2019.[5]

Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [6]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [7] Indeed, equity trading is currently dispersed across 13 exchanges,[8] 31 alternative trading systems,[9] 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).[10] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in June 2019, the Exchange had 2.2% market share of executed volume of equity trades in Tape B and C securities (excluding auction volume), which was down from 2.8% in March 2019.[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

To respond to this competitive environment, the Exchange has established incentives for its member organizations who submit orders that provide and remove liquidity on the Exchange, including cross-tape incentives for member organizations and SLPs based on submission of orders that provide displayed and non-displayed liquidity in Tapes B and C securities.

For Tape B and C securities, the Exchange currently offers a Remove Tier for securities at or above $1.00 for member organizations that have a minimum amount of Adding ADV in non-SLP and Floor broker order flow.[12] Further, the Exchange offers several levels of credits for SLP orders that provide displayed and non-displayed liquidity to the Exchange in Tape B and C securities priced at or above $1.00 based on the volume of orders that member organizations send to the Exchange. The SLP Provide Tier credits (Non Tier, Tier 2, Tier 1 and Tape A Tier) range from $0.00005 to $0.0031.

The proposed fee change is designed to attract additional order flow to the Exchange by introducing a new Tier rate for removing liquidity from the Exchange and increasing the incentive for SLPs that provide displayed and non-displayed liquidity in Tape B and C securities, as described below.

Remove Tiers Fee For Securities At or Above $1.00

Currently, for securities at or above $1.00 in Tape B and C securities, the Exchange charges a per tape fee of $0.00285 per share to remove liquidity from the Exchange for member

[4] The term ''CADV'' is defined in footnote * of the Price List.

[5] The Exchange originally filed to amend the Fee Schedule on August 1, 2019 (SR–NYSE–2019–43). SR–NYSE–2019–43 was subsequently withdrawn and replaced by this filing.

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[7] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[8] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[9] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData. Although* 54 alternative trading systems were registered with the Commission as of July 29, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[10] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[11] *See id.*

[12] *See* footnote 4 to the current Price List. The Exchange proposes a non-substantive amendment to replace the term ''Client'' as used in the Adding Tiers and Remove Tiers for Tape B and C securities by specifying that this refers to member organization order flow that is not from SLPs or Floor brokers, as the rates for such order flow are specified elsewhere on the Price List. *See* Securities Exchange Act Release No. 83113 (April 26, 2018), 83 FR 19376 (May 2, 2018) (SR–NYSE–2018–15) (Notice) (adopting new pricing for trading Tape B and C securities on the Pillar trading platform).

organizations with an Adding ADV of at least 50,000 shares per respective tape.

The Exchange proposes to retain this charge and introduce a new, lower fee of $0.0026 per share for removing liquidity from the Exchange in both Tapes B and C for member organizations that either have:

• 0.175% of Removing ADV [13] in Tapes B and C combined as a percentage of Tape B and C CADV, or

• 0.075% of Removing ADV in Tapes B and C combined as a percentage of Tape B and C CADV, and execute an ADV of Market-on-Close (MOC) and Limit-on-Close (LOC) Orders combined on the NYSE in Tape A securities of at least 0.35% of NYSE CADV.

The proposed tier would be designated Tier 1 while the existing tier would be designated Tier 2 and aligned accordingly in the Price List.

The term ''ADV'' in proposed Tier 1 would have a citation to footnote 4 in the current Price List, which provides ''For purposes of transaction fees and Supplemental Liquidity Provider liquidity credits, ADV calculations exclude early closing days.'' The text of current footnote 4 would remain unchanged.

For example, if a member organization averaged a Removing ADV in Tape B and C securities of 6 million shares in a month where the Tape B and C CADV is 3 billion shares, that member organization would have a Removing ADV of 0.20% of Tape B and C CADV and would qualify for the reduced fee of $0.0026 per share for removing liquidity from the Exchange in both Tapes B and C.

If that member instead averaged a Removing ADV in Tape B and C securities of 3 million shares in a month where the Tape B and C CADV is 3 billion shares, the member organization's removing ADV would be 0.10% of Tape B and C CADV. That Removing ADV alone would not qualify for the new fee. But if that member organization also averaged an ADV of MOC and LOC Orders in Tape A securities of 14 million shares in a month where NYSE CADV was 3.5 billion shares, its MOC and LOC ADV would be 0.40% of NYSE CADV and that member organization would qualify for the reduced remove fee of $0.0026 per share. However, if that member organization averaged an MOC and LOC ADV of less than 12.25 million shares in that same month, or under 0.35% of NYSE CADV, the member organization would not qualify for the reduced $0.0026 fee per share.[14]

Displayed Liquidity Under SLP Provide Tier 1

Under current SLP Provide Tier 1, SLPs that add displayed liquidity to the Exchange in securities with a per share price at or above $1.00 and that:

• Add liquidity for all assigned Tape B securities of a CADV of at least 0.10% for Tape B or for all assigned Tape C Securities of a CADV of at least 0.075% for Tape C,

• meet the 10% average or more quoting requirement in 400 or more assigned securities in Tapes B and C combined pursuant to Rule 107B, and

• meet the 10% average or more quoting requirement in an assigned Tape B or C security pursuant to Rule 107B

are eligible for a $0.0031 per share credit per tape in an assigned Tape B or C security.

The Exchange proposes to increase the credit to $0.0033. The qualification requirements would remain unchanged.

Non-Displayed Liquidity Under SLP Provide Tier 1

Under current SLP Provide Tier 1, SLPs that add non-displayed liquidity to the Exchange on a per Tape basis in securities with a per share price at or above $1.00 and that:

• Add liquidity for all assigned Tape B securities of a CADV of at least 0.10% for Tape B or for all assigned Tape C Securities of a CADV of at least 0.075% for Tape C,

• meet the 10% average or more quoting requirement in 400 or more assigned securities in Tapes B and C combined pursuant to Rule 107B, and

• meet the 10% average or more quoting requirement in an assigned Tape B or C security pursuant to Rule 107B

are eligible for a credit of $0.0014 per share per tape credit and a $0.0025 per share per tape credit for MPL orders in the Tape where they qualify for SLP Provider Tier 1.

The Exchange proposes to increase the credit to $0.0015. The qualification requirements would remain unchanged and the rate for MPL Orders would remain unchanged.

Application and Impact of Transition Period Pricing

The purpose of these proposed changes are to incentivize member organizations to trade on the Exchange in Tape B and C securities. The proposed Remove Tier fee would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange. The Exchange believes that including an alternate way to qualify for this requirement to include MOC and LOC ADV in Tape A securities would encourage the additional submission of both Tape B and C order flow and auction order flow in Tape A securities to the Exchange.

For example, if an SLP adds liquidity for all assigned Tape B securities in the aggregate of a CADV of at least 0.10% for Tape B and met the 10% average or more quoting requirement in 400 or more assigned securities in Tape B and C securities, that SLP would receive a credit of $0.0033 per share for providing displayed liquidity and a credit of $0.0015 per share for providing non-displayed liquidity in Tape B securities.

The proposed change to SLP Provide Tier 1 would incentivize member organizations that are SLPs to increase the liquidity-providing orders in Tape B and C securities they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional price improvement opportunities for incoming orders. The Exchange believes that by correlating the amount of the credit to the level of orders sent by a member organization that add displayed and non-displayed liquidity, the Exchange's fee structure would incentivize member organizations to submit more orders that add liquidity to the Exchange, thereby increasing the potential for price improvement and execution opportunities to incoming marketable orders submitted to the Exchange.

As noted above, the Exchange operates in a competitive and fragmented market environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange believes that the proposed higher credits would provide an incentive for member organizations to route additional displayed and non-displayed liquidity to the Exchange in order to qualify for them.

[13] The Exchange proposes to define the term ''Removing ADV'' in a new footnote on the Price List to mean the average daily volume of orders executed on the Exchange during the billing month that removed liquidity.

[14] The Exchange proposes minor, non-substantive changes to the Price List. First, the Exchange would add an ''s'' to ''fee'' in the first entry under the third column titled ''Removing Liquidity'' and to ''Tier'' in the heading of the first column titled ''Remove Tier For Securities At or Above $1.00.'' Second, the Exchange would delete ''Per-Tape'' and ''Client Adding ADV [4]'' and add ''Rate'' under the Remove Tiers heading in the first column. Finally, under the new Tier 2 heading, the Exchange would add ''Per Tape of Non-SLP and Floor broker'' after ''50,000 shares'' and before ''Adding ADV.''

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed Remove Tier with a lower rate and alternative ways to qualify would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities. Currently, six firms (out of a total 145 member firms) can qualify for the Remove Tier fee. Based on the profile of liquidity-removing firms generally, the Exchange believes that five additional member organizations could qualify for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange.

Similarly, the proposed higher rates under SLP Provide Tier 1 would provide an incentive for member organizations to submit additional adding displayed and non-displayed liquidity to the Exchange in Tape B and C securities. Currently, there are 15 SLPs [15] on the Exchange out of a total of 145 member organizations. Of these, four firms are qualifying for the SLP Provide Tier 1 credit in both Tape B and C for adding displayed liquidity, and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes that three additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange. As noted, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) declined from March 2019 to June 2019.

Specifically, the Exchange believes that a new, lower fee of $0.0026 per share for removing liquidity from the Exchange in both Tapes B and C securities is reasonable because it would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange and resulting in lower costs for member organizations that qualify for the rate. The Exchange also believes that the proposal is reasonable because it provides alternative ways for member organizations to qualify for the tier, thereby increasing potential participation at the tier. Moreover, the Exchange believes that by requiring as part of the second qualification criteria an ADV of MOC and LOC activity combined on the Exchange in Tape A securities, the proposal would encourage greater liquidity at the close.

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed Remove Tier with a lower rate and alternative ways to qualify would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities. As previously noted, a number of firms can qualify for the Remove Tier fee and additional member organizations could qualify for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange.

Further, the Exchange believes that increasing the proposed credits for member organizations that are SLPs that add displayed and non-displayed liquidity in Tape B and C securities on the Exchange is reasonable because it would provide further incentives for such member organizations to provide additional liquidity to a public exchange in Tape B and C securities, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange believes the proposal would provide an incentive for member organizations that are SLPs to route additional liquidity-providing orders to the Exchange in Tape B and C securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an exchange. The Exchange believes it is reasonable to provide a higher credit for orders that provide additional liquidity.

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed higher rates would provide an incentive for member organizations to submit additional adding liquidity to the Exchange in Tape B and C securities. As previously noted, a number of SLPs are qualifying for the SLP Provide Tier 1 credit for adding displayed liquidity and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The Exchange notes that the proposed credits remains in line with the credits the Exchange currently credits SLPs for adding displayed and non-displayed liquidity in Tape A securities.[18] The Exchange notes that SLPs qualifying for the Tier 1 Adding Credit in UTP securities in both Tapes B and C would also be eligible for a lower adding liquidity requirement of 0.75% for SLP Tier 1 in Tape A. The Exchange further notes that SLPs that currently meet Tier

[15] Under Rule 107B, an SLP can be either a proprietary trading unit of a member organization (''SLP-Prop'') or a registered market maker at the Exchange (''SLMM''). Currently, there are three SLMMs on the NYSE.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) & (5).

[18] *See* page 5 of the current NYSE Price List, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.*

1 in both Tape B and Tape C receive a credit of $0.00005 per share in addition to the Tape A SLP credit in Tape A assigned securities where the SLP meets the 10% quoting requirement pursuant to Rule 107B.

Finally, the Exchange also believes the proposed non-substantive changes are reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency on the Price List, thereby reducing potential confusion.

The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace. Moreover, the proposal is an equitable allocation of fees because it would reward SLPs for their increased risks and heightened quoting and other obligations.

The Exchange believes that, for the reasons discussed above, the proposed Remove Tier fee would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange and that increasing the credits for SLPs for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities will encourage the SLPs to add liquidity to the market in Tape B and C securities, thereby providing customers with a higher quality venue for price discovery, liquidity, competitive quotes and price improvement. The proposed change will thereby encourage the submission of additional liquidity to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity present on the Exchange. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange also believes that a lower fee for removing liquidity with a lower rate and alternative ways to qualify would encourage member organizations to remove additional liquidity from the Exchange in Tape B and C securities. As previously noted, a number of member organizations are qualifying for the Remove Tier fee. Based on the profile of liquidity-removing firms generally, the Exchange believes additional member organizations could qualify for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange. The proposed lower rate is also equitable because it would apply equally to all existing member organizations that remove liquidity from the Exchange in Tape B and C securities.

Further, the Exchange believes that higher credits for adding liquidity in Tape B and C securities will encourage participation from a greater number of current and new SLPs which would promote additional liquidity in Tape B and C securities. As the Exchange previously noted that, a number of the current SLP firms are qualifying for the SLP Provide Tier 1 credit based on adding displayed liquidity and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes that additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The proposed rebate is also equitable because it would apply equally to all existing and potential SLPs. The Exchange believes the proposed higher rebates could provide an incentive for other market participants to become SLPs on the Exchange. The Exchange believes that the proposal would provide an equal incentive to all member organizations to become SLPs, and that the proposal constitutes an equitable allocation of fees because all similarly situated member organizations would be eligible for the same rebates.

The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal does not permit unfair discrimination because the lower rate for removing liquidity in Tape B and C securities and the higher credits for adding liquidity in Tape B and C securities would be applied to all similarly situated member organizations and other market participants, who would all be eligible for the same credit on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees.

The Exchange believes it is not unfairly discriminatory to provide a lower fee for removing liquidity and higher credits for adding displayed and non-displayed liquidity as the proposed fee and credits would be provided on an equal basis to all member organizations that remove liquidity by meeting the tiered requirements. Further, the Exchange believes the proposed fee would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities and, for member organizations that seek to qualify for the proposed fee under the second criteria based on adding ADV in MOC and LOC activity, would encourage greater liquidity at the Exchange close, to the benefit of all market participants. Similarly, the Exchange believes that the proposed credits would incentivize member organizations that are SLPs and meet the current tiered requirements to send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. Finally, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[19] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. 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

[19] 15 U.S.C. 78f(b)(8).

promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [20]

Intramarket Competition. The proposed changes are designed to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted, the Exchange's market share of intraday trading in Tape B and C securities (excluding auction volume) declined from March to June 2019. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed change is designed to provide the public and investors with a Price List that is clear and consistent, thereby reducing burdens on the marketplace and facilitating investor protection.

[20] Regulation NMS, 70 FR at 37498–99.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [23] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2019–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–45 and should be submitted on or before September 24, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–18999 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86788; File No. SR–NYSEArca–2019–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Modify Rules 6.60–O and 6.65A–O Regarding the Treatment of Orders Subject to Trade Collar Protection

August 28, 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 August 21, 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

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Rules 6.60–O (Price Protection—Orders) and 6.65A–O (Limit-Up and Limit-Down During Extraordinary Market Volatility) regarding the treatment of orders subject to Trade Collar Protection. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Rules 6.60–O(a) and 6.65A–O regarding the treatment of orders subject to Trade Collar Protection.

The Exchange has in place various price check features that are designed to help maintain a fair and orderly market, including Trade Collar Protection.[4] Trading Collars mitigate the risks associated with orders sweeping through multiple price points (including during extreme market volatility) and resulting in executions at prices that are potentially erroneous (*i.e.,* because they are away from the last sale price or best bid or offer). By applying Trading Collars to incoming orders, the Exchange provides an opportunity to attract additional liquidity at tighter spreads and it ''collars'' affected orders at successive price points until the bid and offer are equal to the bid-ask differential guideline for that option, *i.e.,* equal to the Trading Collar. Similarly, by applying Trading Collars to partially executed orders, the Exchange prevents the balance of such orders from executing away from the prevailing market after exhausting interest at or near the top of book on arrival. The Exchange proposes to modify its rule regarding Trading Collars (*i.e.,* Rule 6.60–O(a) or the ''Rule'') to clarify existing functionality and to adopt enhancements to the operation of the Trading Collars.

Current Rule 6.60–O(a)(1)(i) states that Trade Collar Protection prevents the ''immediate execution'' of incoming Market Orders when the difference between the National Best Offer (''NBO'') and the National Best Bid (''NBB'') is greater than one Trading Collar. Rule 6.60–O(a)(1)(ii) states that Trade Collar Protection prevents the execution of the balance of an incoming Market Order or marketable limit order to buy (sell) if it would execute at a price that exceeds the width of the National Best Bid and Offer (''NBBO'') plus (minus) the value of one Trading Collar. Thus, the current rule limits the application of Trade Collar Protection to incoming Market Orders and only expands this protection to include marketable Limit Orders once there is a balance of a partially executed order that is subject to such protection.

The Exchange proposes to modify Rule 6.60–O(a) to make clear that Trade Collar Protection may be applied to marketable Limit Orders on arrival. Although this reflects current functionality, the rule is silent in this regard and focuses solely on any unexecuted portion of a marketable Limit Order. Pursuant to proposed Rule 6.60–O(a), the Exchange would ''limit the immediate execution'' of incoming Market Orders and marketable Limit Orders (collectively, ''Marketable Orders''; and each a ''collared order'') if the width of the NBBO is greater than one Trading Collar.[5] This proposed change would clarify how Trade Collar Protection currently operates and explicitly state that marketable Limit Orders may be collared on arrival, in addition to having any remaining balance likewise subject to the Trading Collar (the latter point is already explicitly stated in the current rule). The Exchange would continue to apply Trade Collar Protection to the balance of Marketable Orders consistent with the current Rule (as discussed below).[6]

Current Rule 6.60–O(a)(3) provides that Trade Collar Protection does not apply to order types that have contingencies, namely, IOC, NOW, AON and FOK orders (the ''Contingent Order Type Provision''). The Exchange proposes to modify the Contingent Order Type Provision, which currently indicates that such order types would receive an ''immediate execution,'' to make clear that such incoming orders would ''receive an execution, depending upon the availability of an execution pursuant to the terms of those orders.'' [7] The Exchange believes this proposed change (*i.e.,* the removal of the word ''immediate'') would more accurately reflect current functionality in regards to the processing of these contingent order types, insofar as such orders will only ''immediately'' execute if the contingency is satisfied. The Exchange believes this proposed wording change would add clarity, transparency and internal consistency to Exchange rules.

Current Rule 6.60–O(a)(4) provides that when a Market Order is subject to Trade Collar Protection pursuant to current paragraph (a)(1)(i), the Exchange does not immediately execute or route such orders and instead goes on to state how such orders are processed. The Exchange proposes to modify this paragraph to make clear that it relates to Marketable (as opposed to just Market) Orders as well as to clarify that the ''execution and/or routing'' of such orders would be limited by the

[4] Per Rule 6.60–O(a)(2), Trading Collars are determined by the Exchange on a class-by-class basis and, unless announced otherwise via Trader Update, are the same value as the bid-ask differential guidelines established pursuant to Rule 6.37–O(b)(4). The Exchange proposes a streamlining technical change to combine the buy and sell sections of the Rule into one paragraph since the Trading Collar value is the same whether a buy or sell order. *See* proposed Rule 6.60–O(a)(2)(A). To conform with this proposed change, the Exchange proposes to re-number current paragraph (a)(2)(C) to proposed (a)(2)(B), without any substantive changes.

[5] *See* proposed Rule 6.60–O(a)(1)(A). Because the Exchange is proposing to move the existing text (albeit modified) into a sub-paragraph, it proposes to re-number the paragraph in a manner consistent with the rest of the current rule. *See id.* Also, consistent with the clarification that Trade Collar Protection applies to incoming Marketable Orders, the Exchange proposes to modify and expand the application of paragraph (a)(4). *See* proposed Rule 6.60–O(a)(4).

[6] *See* proposed Rule 6.60–O(a)(1)(B). Because the Exchange is proposing to move the existing text (albeit slightly modified) into a sub-paragraph, it proposes to re-number the paragraph in a manner consistent with the rest of the current rule. *See id.* In addition, the Exchange proposes to modify this provision to refer solely to ''Marketable Orders'' (and to remove now extraneous reference to marketable Limit Orders), as the Marketable Orders is already defined in proposed Rule 6.60–O(a)(1)(A). *See* proposed Rule 6.60–O(a)(1)(B).

[7] *See* proposed Rule 6.60–O(a)(3). Because the listed contingency orders are not subject to Trade Collar Protection, the Exchange believes the current rule may refer to such orders receiving an ''immediate execution'' to contrast the treatment of orders that are subject to such protection—as such orders (under the current rule) are ''not immediately executed.'' *See* Rule 6.60–O(a)(1) and (a)(3).

Exchange as discussed below, as opposed to stating that they would not ''immediately execute or route'' which modifications are consistent with the changes to Rule 6.60–O(a)(1)(A) (and consistent with existing functionality). The Exchange also proposes to make clear that this provision relates to ''incoming'' Marketable Orders as opposed to the balance thereof.[8]

The Exchange also proposes to modify the Rule to specify that collared orders will be assigned a ''collar execution price,'' which price depends upon the order type (Market or Limit) and whether (when the order arrives) the Exchange is already in receipt of another order being collared.[9] Current Rule 6.60–O(a)(4)(A) covers collared Market Orders to buy (sell), which would not immediately execute or route, but would be ''displayed at a price equal to the NBB (NBO) plus (minus) one Trading Collar.'' As proposed, a Market Order to buy (sell) ''received when there is not already a collared order to buy (sell)'' would be ''assigned a collar execution price'' (as opposed to being ''displayed'') equal to the NBB (NBO) plus (minus) one Trading Collar.[10] The Exchange proposes to replace ''displayed'' as used in the current rule with ''assigned a collar execution price'' because, once collared (and consistent with current functionality), the order would be eligible to immediately execute against available interest before its price is displayed. Examples illustrating this (existing) functionality are included at the end of the description of these proposed rule changes.

In addition, the Exchange proposes an exception to the processing of incoming Market Orders to buy (sell) that arrive when the NBB (NBO) is zero (the ''Zero NBBO Collar Exception''). Specifically, a Market Order to buy entered when the NBB is $0.00 would be assigned a collar execution price equal to the NBB (*i.e.,* $0.00) plus one Trading Collar to ensure it is collared to avoid executing at an erroneous price; whereas, a Market Order to sell entered when the NBO is $0.00, would be rejected as there is no market for the incoming order.[11] The Exchange believes the Zero NBBO Collar Exception would improve the operation of Trading Collars when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. Absent the proposed Zero NBBO Collar Exception, a Market Order to buy (sell) that arrives when the NBB (NBO) is zero would trade based on the last sale price, if any; if there is no last sale price, the order would trade at the contra-side NBBO which may result in a bad execution price. The proposal to collar an incoming buy order when the NBB is zero is consistent with the handling of other collared orders to buy when the NBB is not zero (*i.e.,* the collared order is assigned a collar execution price equal to the NBB plus one Trading Collar).[12] In regards to the proposal to reject (as opposed to collar) incoming sell orders when the NBO is zero, the Exchange believes this change in functionality is necessary because any attempt to collar such an order would result in a negative number. In addition, the Exchange has observed that it is extremely uncommon to have a no (zero) offer situation and believes it could be indicative of unstable market conditions. To avoid such orders receiving bad executions in times of market dislocation, the Exchange believes it would be appropriate to reject such orders. Thus, the Zero NBBO Exception helps maintain fair and orderly markets. An example illustrating this new functionality is included at the end of this section.

In addition, because the rule has been updated to clarify that (consistent with current functionality) incoming marketable Limit Orders may be collared (*i.e.,* proposed Rule 6.60–O(a)(1)(A)), the Exchange proposes to further update the rule to address how such orders would be collared, depending upon whether the Exchange is already in receipt of a collared order. Specifically, as proposed (and consistent with current functionality), modified Rule 6.60–O(a)(4)(C) would clarify that when the incoming collared order is a marketable Limit Order to buy (sell) and there is no other order already being collared, the order would be ''assigned a collar execution price equal to the NBO (NBB).'' If, however, a marketable Limit Order arrives when there is already an order being collared, it would join that collared order and be processed consistent with proposed paragraph (a)(6)(B), which is discussed below.[13]

The Exchange also proposes to modify the rule regarding executions of collared orders. The current rule provides that the Exchange would ''execute or route the collared order to buy (sell) against any contra-interest priced within one Trading Collar above (below) the displayed price of the collared order.'' [14] The Exchange proposes to clarify that a collared order to buy (sell) would ''trade against any contra-side interest priced equal to its collar execution price or at prices within one Trading Collar above (below) the collar execution price ('the Collar Range').'' [15] Consistent with proposed Rule 6.60–O(a)(4)(B),(C), the Exchange proposes to refer to the ''collar execution price'' (as opposed to a display price) as the collared order seeks an execution before it would be displayed, thus this change clarifies existing functionality. In addition, the Exchange believes that clarifying that the collared order would execute with contra-side interest priced within a Collar Range (*i.e.,* equal to, and up to one Trading Collar above (below) the collar execution price), provides more specificity than the current language, which states only that such order would execute against interest ''within one Trading Collar'' of its price. The Exchange believes these proposed changes, which describe current functionality, would add clarity, transparency, and internal consistency to Exchange rules.

The Exchange proposes to add new paragraph (a)(4)(E) to the Rule to codify existing functionality and make clear that the Exchange would cancel a Market Order, or the balance thereof, that has been collared pursuant to proposed Rule 6.60–O(a)(1)(A) or (B) if, after exhausting trading opportunities within the Collar Range, the Exchange determines there are no quotes on the Exchange and/or no interest on another market (''Available Interest''). The absence of Available Interest, such as a Market Maker quote in the series, means that the Exchange would have no reliable price framework within which to evaluate the Market Order. Therefore, the Exchange believes that cancellation

[8] *See* proposed Rule 6.60–O(a)(4). *See also* proposed Rule 6.60–O(a)(1)(A) (making clear that incoming marketable Limit Order are subject to Trading Collar Protection).

[9] *See* proposed Rule 6.60–O(a)(4). The Exchange also proposes to make a conforming change to update the cross-reference from Rule 6.60–O(a)(1)(i) to proposed Rule 6.60–O(a)(1)(A). Also, current Rule 6.60–O(a)(4)(C)(i)–(iii) address scenarios when an order arrives while another order is being collared, but the proposed rule text adds clarity regarding current functionality and addresses enhancements to the functionality since the rule was adopted.

[10] *See* proposed Rule 6.60–O(a)(4)(B). As discussed further below, proposed Rule 6.60–O(a)(4)(A) would provide that ''[a] Market Order to buy (sell) received when there is already a collared order to buy (sell) will join that collared order and be processed consistent with paragraphs (a)(4)(C)—(a)(6),'' which reflects current functionality.

[11] *See* proposed Rule 6.60–O(a)(4)(B)(i), (ii).

[12] *See* proposed Rule 6.60–O(a)(4)(B) (providing, in relevant part, that a Market Order to buy received when there is not already a collared order to buy is assigned a collar execution price equal to the NBB plus one Trading Collar).

[13] *See* proposed Rule 6.60–O(a)(4)(C).

[14] *See* Rule 6.60–O(a)(4)(B).

[15] *See* proposed Rule 6.60–O(a)(4)(D). The proposed rule does not repeat the concept of a collared order being executed or routed in paragraph (a)(4)(D), because this concept is already covered in proposed paragraph (a)(4).

of the Market Order would be appropriate and in the best interest of investors.

Regarding the treatment of the balance of a Marketable Order (*i.e.,* a Market Order or a marketable Limit Order) that is subject to Trade Collar Protection, the Exchange proposes to clarify and update the collar functionality, including making clear when and at what price the collared order is first displayed. Current Rule 6.60–O(a)(5) provides that ''[w]hen the balance of a partially executed Marketable Order'' is subject to Trade Collar Protection, such balance ''will be displayed at the last sale price.'' Further, ''[i]f there is an opportunity for trading within a Trading Collar above (below) the last sale price, the balance of the buy (sell) order will be displayed at the NBB (NBO) established at the time of the initial execution.'' [16]

The Exchange proposes to replace the existing text and replace it with new rule text titled ''Display of collared orders.'' Pursuant to new Rule 6.60–O(a)(5), a Market Order that does not trade on arrival will be displayed at its collar execution price whereas the display price of the balance of a partially executed Marketable Order collared pursuant to proposed paragraph (a)(1)(B) of the Rule, depends upon eligible contra-side interest.[17] Specifically, per proposed paragraph (a)(5)(A) of the Rule, if the collared order has traded against all contra-side interest within the Collar Range, the order would be displayed at the most recent execution price.[18] This proposed provision sets forth the same concept as the first sentence of current paragraph (a)(5), except that it specifies that the order would be displayed at the most recent execution price (*i.e.,* last sale price) only after it has exhausted trading opportunities within the Collar Range (whereas the current rule is silent on this fact, though it may be inferred given that the second sentence of the current Rule discusses the display price when trading opportunities have not been exhausted).

Per proposed paragraph (a)(5)(B) of the Rule, if, however, there is contra-side interest priced within one Trading Collar of the most recent execution price, the order to buy (sell) would be displayed at the higher (lower) of its assigned collar execution price or the best execution price of the order that is both within the Collar Range and at least one Trading Collar away from the best priced contra-side trading interest (*i.e.,* lowest sell interest for collared buy orders/highest buy interest for collared sell orders).[19] This proposed text modifies the second sentence of current paragraph (a)(5) by replacing reference to the NBBO at the time of initial execution with the concept of the collar execution price and clarifying that the display price would be the better of the collar execution price or keyed off of the best price contra-side interest. The Exchange believes this modified provision, which reflects current functionality, provides greater granularity regarding the circumstances under which the price of a collared order is first displayed and how that price is determined, which additional clarity and transparency is beneficial to the investing public.

In addition, the Exchange also proposes to add rule text to new paragraph (a)(5) of the Rule to make clear that collared orders would be displayed at the Minimum Price Variation (''MPV'') for the option, pursuant to Rule 6.72–O (Trading Differentials) which rule sets forth the minimum quoting increments for options traded on the Exchange.[20] The Exchange believes adding this information to the Rule add transparency, clarity and internal consistency to Exchange rules.

Current Rule 6.60–O(a)(4)(C) sets forth scenarios that would trigger the ''redisplay'' of a collared order. Consistent with the foregoing changes, the Exchange proposes to update this section with conforming changes for consistency, with regard to current functionality, and modify the rule to adopt new functionality. First, the Exchange proposes to re-number this paragraph as (a)(6), title it ''Repricing of collared orders,'' and make clear that the Exchange would ''assign a new collar execution price'' to (as opposed to redisplay) the collared order upon the happening of one of the listed scenarios (as modified below).[21]

- The first scenario under the current rule provides that ''an update to the NBBO (based on another market or a quote on the Exchange or a Limit Order on the Exchange priced one Trading Collar or less away from the collared order) that improves the same side of the market as the collared order will result in the collared order being redisplayed at the new NBB (for buy orders) or NBO (for sell orders)'' [22] Consistent with the foregoing proposed rule text changes, the Exchange proposes to modify this provision to replace the words ''redisplayed at'' with ''assigned a new collar execution price equal to'' the NBB (for buy orders) or NBO (for sell orders), and to add to the end of this provision that the repriced orders would be ''processed at the updated collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [23] The ''new collar execution price'' reflects the updated price at which the collared order is eligible to trade based on changes in the market. This concept is consistent with the current rule except that the updated price is not (re)displayed until it has exhausted all trading opportunities within the Collar Range.
- The second scenario under the current rule provides that a Marketable Order to buy (sell) on the same side of the market as the collared order or a Limit Order to buy (sell) on the same side of the market as the collared order and priced greater than one Trading Collar above (below) the displayed price of the collared order will itself become subject to Trade Collar Protection and will result in the collared order and the Limit Order being displayed at one Trading Collar above (below) the displayed price of the collared order.[24] The Exchange proposes to modify this rule to remove reference to ''Marketable Orders to buy (sell) on the same side of the market as the collared orders,'' because the functionality has been updated such that a Market Order received when there is already a collared order would join that collared order (rather than be subject to a separate collar).[25] This proposed modification would make clear that this

[16] *See* Rule 6.60–O(a)(5).

[17] *See* proposed Rule 6.60–O(a)(5). The Exchange notes that the proposed new rule does not include the last sentence of current paragraph (a)(5) which provides that the balance of Marketable Orders that are subject to Trade Collar Protection are processed in the same fashion as incoming collared orders per current paragraph (a)(4). The Exchange believes that this language would be redundant of proposed paragraph (a)(1)(A)–(B), which makes clear what is deemed a ''collared order'' as well as proposed rule (a)(4)(A)–(E), which describes how such orders are processed.

[18] *See* proposed Rule 6.60–O(a)(5)(A).

[19] *See* proposed Rule 6.60–O(a)(5)(B).

[20] *See* proposed Rule 6.60–O(a)(5).

[21] *See* proposed Rule 6.60–O(a)(6). Consistent with this change, the Exchange also proposes to renumber the existing subparagraphs to proposed (a)(6) as (A)–(C) and existing paragraphs (a)(4)(D) and (a)(6) as proposed paragraphs (a)(7) and (a)(8), respectively. *See id.*

[22] *See* Rule 6.60–O(a)(4)(C)(i).

[23] *See* proposed Rule 6.60–O(a)(6)(A). The Exchange also proposes to add a semi-colon to separate the two clauses regarding what constitutes a market update event that updates the NBBO (*i.e.,* that it must be ''based on another market or a quote on the Exchange; or a Limit Order on the Exchange priced one Trading Collar or less away from the collared order''). *See id.*

[24] *See* Rule 6.60–O(a)(4)(C)(ii). Consistent with the Rule, this provision excludes IOC Orders, AON Orders, FOK Orders and NOW Orders. *See id.*; *see also* Rule 6.60–O(a)(3).

[25] *See* proposed Rule 6.60–O(a)(4)(A).

scenario is applicable solely to marketable Limit Orders received when there is already an order being collared. Consistent with the proposed textual changes to the first scenario, the Exchange likewise proposes to modify this provision to replace the words ''displayed at a price'' with ''assigned a new collar execution price'' one Trading Collar above or below the displayed price of the collared order, as applicable (at which new price it will be eligible to trade), and to add to the end of this provision that the repriced orders would be ''processed at the updated collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [26]

• The third scenario under the current rule provides that ''upon the expiration of one second, the collared order to buy (sell) will redisplay at a price one Trading Collar above (below) the displayed price of the collared order.'' [27] The Exchange proposes to modify this provision to add ''and absent an update to the NBBO'' after language regarding the expiration of one second to distinguish this scenario from the first scenario where a change in the market (*i.e.,* an update to the NBBO) caused the collared order to reprice (and potentially redisplay). Also, consistent with the other two scenarios, the Exchange proposes to modify this provision to replace the words ''redisplay at a price'' with ''assigned a new collar execution price'' one Trading Collar above or below the ''current displayed price'' of the collared order, as applicable, and to add to the end of this provision that the repriced orders would be ''processed at the update collar execution price consistent with paragraphs (a)(4)(D) and (a)(5) above.'' [28] Thus, the collared order to buy (sell) would be eligible to trade at a price for a period of one second, but if market conditions prevent it from trading, the order will improve or tick up (down) and be assigned a new collar execution price one Trading Collar above (below) the current display price. The Exchange proposes to clarify the functionality under this (third) scenario, however to provide that ''if the collared order is a Market Order to sell that has reached $0.00, it will not reprice but will be posted in the Consolidated Book at its MPV (*e.g.,* $0.01 or $0.05),'' because an order may never be posted for lower than its MPV—and the alternative to holding the order at the MPV would be to cancel it.[29] The Exchange believes this proposed rule text, which reflects current functionality, would allow the collared order an opportunity for an execution (rather than being cancelled) and adds transparency and internal consistency to Exchange rules.

The Exchange also proposes to clarify the rule text regarding the priority of collared orders. Current Rule 6.60–O(a)(6) states that ''[a]ll orders for which Trade Collar Protection prevents immediate execution will be ranked based on time priority (with all other orders for which Trade Collar Protection prevents immediate execution).'' Because the current rule text does not make clear that such collared orders, like other non-collared orders, will be processed at each price in time priority, the Exchange proposes to clarify that such orders would be ''processed in accordance with Rule 6.76–O.Order Ranking and Display—OX.'' [30] This proposed change to reflect current functionality and adds clarity, transparency and internal consistency to Exchange rules.

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EXAMPLES OF TREATMENT OF COLLARED ORDERS [31]

Example 1: Market Order Received When No Other Orders Being Collared [32]

BOX: $0 \times 0 - 1.50 \times 100$ (wide market)
LMM $100 \times 0.25 - 1.60 \times 100$
Cust1 Buy Market $\times 100$

Results:

- Cust1 is assigned a collar execution price of 0.50 (*i.e.,* the NBB (0.25), plus one Trading Collar, which is 0.25 because the NBB is less than $2.00) [33]
- Each second that elapses in which Cust1 does not trade (and absent changes to the NBBO), the order receives a new collar execution price and is displayed at each successive collar—0.50, then 0.75, then 1.00 [34]
- Once the order ticks up to receive a collar execution price of 1.25, it trades with BOX at 1.50 (as 1.50 is within the Collar Range, *i.e.,* contra-side interest within one Trading Collar above the collar execution price—resulting in a permissible execution range of 1.25 up to and including 1.50) [35]

Example 2: Limit Order Received When No Other Orders Being Collared [36]

BOX: $100 \times 1.50 \times 1.60 \times 100$
T2 Sell 100 @ 1.70
T3 Sell 100 @ 1.80
T4 Sell 100 @ 2.95
T1 Buy 1000 @ 3.00

Results:

- T1 is assigned a collar execution price of 1.60 (*i.e.,* the NBO) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.25) above the collar execution price—resulting in a permissible execution range of 1.60 up to and including 1.85) [37]
  - T1 routes 100 to BOX and trades at 1.60
  - T1 trades 100 with T2 at 1.70
  - T1 trades 100 with T3 at 1.80
- Since T1 has traded with all eligible interest within the collar range, the balance of T1 (*i.e..* the remaining 700) is assigned a collar execution price of 1.80 (the most recent execution price), is displayed at that price and is eligible to trade within the Collar Range [38]
- Each second that the T1 does not trade it receives a new collar execution price and is displayed at each successive collar (*i.e.,* 2.05 and then ticks up based on $0.40 collar—because price/NBB is over $2.00—to 2.45) [39]
  - Once at 2.85, T1 is eligible to trade within its Collar Range and trades 100 with T4 at 2.95
- The balance of T1 (*i.e.,* the remaining 600) is assigned a collar execution price of 2.95, is displayed at that price and is eligible to trade within the Collar Range [40]

[26] *See* proposed Rule 6.60–O(a)(6)(B).

[27] *See* Rule 6.60–O(a)(4)(C)(iii).

[28] *See* proposed Rule 6.60–O(a)(6)(C).

[29] *See id.*

[30] *See* proposed Rule 6.60–O(a)(8).

[31] The Exchange notes that the processing of collared orders in examples 1–3 reflect current processing, but that, as noted above, the Exchange has clarified the rule text used to describe the processing (*i.e.,* reference to ''collar execution price'' versus ''display price'' as well as removing reference to ''last sale'' as the benchmark for determining display price and adding specificity about available trading interest impacting display price determination—which may or may not be the same as the last sale price, *see, e.g.,* Rule 6.60–O(a)(5)(A)).

[32] *See id.*

[33] *See* proposed Rule 6.60–O(a)(4)(B) (regarding collar execution price for Market Orders) and (a)(2)(A)(i) (regarding Trading Collar).

[34] *See* proposed Rule 6.60–O(a)(6)(C) (regarding assignment of new collar execution price every one second that the order does not trade as seconds elapse and NBBO does not change).

[35] *See* proposed Rule 6.60–O(a)(4)(D) (regarding Collar Range).

[36] *See supra* note 31.

[37] *See* proposed Rule 6.60–O(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(i) (regarding Trading Collar).

[38] *See* proposed Rule 6.60–O(a)(5)(A). *See also* Rule 6.60–O(a)(5)(A) (regarding collared order that has traded against all eligible interest in the collar range being displayed at the most recent execution price).

[39] *See* proposed Rule 6.60–O(a)(6)(C) (regarding assignment of new collar execution price every one second that the order does not trade as seconds elapse and NBBO does not change) and (a)(2)(A)(i) (regarding Trading Collar).

[40] *See also* Rule 6.60–O(a)(5)(A) (regarding collared order that has traded against all eligible interest in the collar range being displayed at the most recent execution price).

- After one second, T1 is displayed at its limit price of 3.00 and will not be repriced/subject to further Trade Collar Protection [41]

Example 3: Limit Order Received When No Other Orders Being Collared [42]

MMQ 100 × 5.00 − 5.40 × 10 (NBBO)
BD1 Sell Limit Order 10 × 5.70
BD2 Sell Limit Order 10 × 5.95
BD3 Buy Limit Order 100 @6.00

Results:

- BD3 is assigned a collar execution price of 5.40 (*i.e.,* the NBO) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.40 because the NBB does not exceed 5.00) above the collar execution price—resulting in a permissible execution range of 5.40 up to and including 5.80) resulting in the following executions:
  - BD3 trades 10 with MMQ at 5.40
  - BD3 trades 10 with BD1 at 5.70 [43]
- The balance of BD3 (*i.e.,* the remaining 80) is displayed at 5.40 rather than the most recent execution price of 5.70 (''last sale'') because there is contra-side interest priced within one Trading Collar of the last sale (*i.e.,* 5.95) [44]
- One second elapses, and BD3 receives a new collar execution price of 5.90 (*i.e.,* its collar execution price (5.40) plus one Trading Collar (0.50)) and is eligible to trade with interest within its Collar Range (*i.e.,* contra-side interest within one Trading Collar (0.50) above the collar execution price—resulting in a permissible execution range of 5.90 up to and including 6.40) resulting in the following execution:
  - BD4 trades 10 with BD2 at $5.95 [45]

Example 4: Market Order Received When the NBB is Zero and No Other Orders Being Collared (Illustrating the Proposed Zero NBBO Collar Exception) [46]

BOX: 0 × 0 − 1.50 × 100
Cust1 Buy Market Order × 100

Result:

- Cust1 is assigned a collar execution price of 0.25 (*i.e.,* the NBB (0.00), plus one Trading Collar which is 0.25 because the NBB is less than $2.00) [47]
- Each second that Cust1 does not trade (and absent changes to the NBBO), it receives a new collar execution price and is displayed at each successive collar (*i.e.,* 0.50, then 0.75, then 1.00) [48]
- Once the order ticks up to receive a collar execution price of 1.25, it seeks an execution within that collar range (*i.e.,* 1.25–1.50) and trades with BOX at 1.50.

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Rule 6.65A–O: LULD Rule

The Exchange proposes to update the Rule 6.65A–O, Limit-Up and Limit-Down During Extraordinary Market Volatility, related to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS (''LULD'' or the ''LULD Rule''). The current rule provides that the Exchange shall reject Market Orders, as defined in Rule 6.62–O(a), entered when the underlying NMS stock is either in a Limit State or a Straddle State (an ''LULD State'') and shall notify OTP Holders of the reason for such rejection.[49] The Exchange proposes to add rule text to make clear that the Exchange, under existing functionality, ''will cancel any Market Order that is a collared order pursuant to Rule 6.60–O(a)'' if the underlying NMS stock enters an LULD State and ''will notify OTP Holders of the reason for such cancellation,'' as the current rule does not address this scenario.[50] A market order would typically trade upon arrival, unless collared and pending execution. The Exchange believes this proposed change would add clarity, transparency and internal consistency to Exchange rules as it makes clear that, in addition to rejecting a Market Order received when an underlying NMS stock is in an LULD State, the Exchange will likewise cancel a resting Market Order if an underlying NMS stock enters an LULD State.

Implementation

The Exchange will announce the Zero NBBO Collar exception in a Trader Update to be published no later than 60 days following the approval date of this rule.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [51] of the Act, in general, and furthers the objectives of Section 6(b)(5),[52] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

Overall, the Exchange is proposing various changes that would promote just and equitable principles of trade, because collared orders would be handled in a fair and orderly manner, as described above. The various modifications and clarifications, many of which are consistent with current functionality, are intended to improve the rule overall by adding more specificity and transparency. The Exchange believes that the proposed rule changes would promote just and equitable principles of trade as well as protect investors and the public interest by making more clear what types of orders may be collared and how such orders are processed, including the circumstances that determine collar execution price(s) and display price(s).

The Exchange believes that the proposed rule assists with the maintenance of fair and orderly markets by clarifying and enhancing the operation of the Trading Collar functionality—which is designed to mitigate the risk of orders sweeping through multiple price points and executing at potentially erroneous prices—as the proposed rule would continue to protect investors from receiving bad executions away from

[41] *See* proposed Rule 6.60–O(a)(7) (regarding a limit order not being eligible to post beyond its limit price).

[42] *See supra* note 31.

[43] *See* proposed Rule 6.60–O(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(ii) (regarding Trading Collar).

[44] *See* proposed Rule 6.60–O(a)(5)(B) (regarding display price of partially executed collared order where there is contra-side interesting within on Trading Collar).

[45] *See* proposed Rule 6.60–O(a)(4)(C) (regarding collar execution price for limit orders) and (a)(4)(D) (regarding Collar Range) and (a)(2)(A)(ii) (regarding Trading Collar).

[46] *See supra* note 31.

[47] *See* proposed Rule 6.60–O(a)(4)(B)(i). *See also* current and proposed Rule 6.60–O(a)(2)(i).

[48] *See* proposed Rule 6.60–O(a)(6)(C) (regarding assignment of new collar execution price every one second that the order does not trade as seconds elapse and NBBO does not change) and (a)(2)(A)(i) (regarding Trading Collar).

[49] *See* Rule 6.65A–O(a)(1). The Exchange notes that other exchanges provide for the cancellation or rejection of market orders in such circumstance. *See, e.g.,* CBOE Rule 6.3A(b)(1) (LULD rule citing Rule 6.2 regarding order handling); CBOE Rule 6.2, Interpretations and Policies .07 (providing that if the underlying security for an option class is in an LULD State when the class moves to opening rotation, then all market orders in the system will be cancelled, except market orders that are considered limit orders pursuant to CBOE Rule 6.13(b)(vi) and entered the previous trading day). *See also* NASDAQ Options Market (''NOM'') Ch. V, Sec. 3(d) (providing that if, after the opening, the underlying NMS stock for an option class is in an LULD State, NOM will reject market orders and notify its participants of the reason for such rejection).

[50] *See* proposed Rule 6.65A–O(a)(1). For consistency, the Exchange proposes the technical change of replacing ''shall'' with ''will'' each time in appears in this rule. *See* proposed Rule 6.65A–O.

[51] 15 U.S.C. 78f(b).

[52] 15 U.S.C. 78f(b)(5).

prevailing market prices. The Exchange notes that Trading Collar functionality is not new or novel and is available on other options exchanges.[53] The Exchange believes that the proposed changes that codify existing functionality, including how incoming marketable Limit Orders are collared and the cancellation of collared Market Orders—in the absence of Available Interest or if an NMS stock enters an LULD State—would add clarity, transparency and internal consistency to Exchange rules regarding the handling of orders accepted by the Exchange (*i.e.,* that such orders would be cancelled, not rejected) and make them easier for market participants to navigate and comprehend.

Further, the proposal to codify that the Exchange would cancel a Market Order or the balance thereof that has been collared once it has exhausted trading opportunities within its collar execution price plus/minus one Trading Collar if there is no Available Interest would protect investors from potentially erroneous executions because this scenario means the Exchange would have no reliable price framework within which to evaluate the collared orders. Thus, this proposal would foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal to codify current functionality regarding a collared order that is a Market Order to sell that has reached $0.00 such that the Exchange post the order at its MPV (*e.g.,* $0.01 or $0.05) would promote just and equitable principles of trade and assist with the maintenance of fair and orderly markets because an order may never be posted for lower than its MPV—and the alternative to holding the order at the MPV would be to cancel it. The Exchange believes the proposed clarification of how such orders are handled provides the collared order an opportunity for an execution (rather than being cancelled) and adds transparency and internal consistency to Exchange rules.

The Exchange likewise believes that the proposed enhancements to the Trading Collar functionality—the Zero NBBO Collar Exception—likewise would prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and remove impediments to and perfect the mechanisms of a free and open market and a national market system. In particular, the proposed Zero NBBO Collar Exception would improve the operation of the Trading Collar when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. The Exchange believes the Zero NBBO Collar Exception would improve the operation of Trading Collars when the prevailing market is zero (indicating market dislocation) at the time an incoming Market Order arrives. Absent the proposed Zero NBBO Collar Exception, a Market Order to buy (sell) that arrives when the NBB (NBO) is zero would trade based on the last sale price, if any; if there is no last sale price, the order would trade at the contra-side NBBO which may result in a bad execution price. In regards to the proposal to reject (as opposed to collar) incoming sell orders when the NBO is zero, the Exchange believes this change in functionality is necessary because any attempt to collar such an order would result in a negative number. In addition, the Exchange has observed that it is extremely uncommon to have a no (zero) offer situation and believes it could be indicative of unstable market conditions. To avoid such orders receiving bad executions in times of market dislocation, the Exchange believes it would be appropriate to reject such orders. Thus, the Zero NBBO Exception helps maintain fair and orderly markets.

LULD

The Exchange believes it is appropriate that the Exchange cancel a Market Order that is collared when an NMS stock enters an LULD State because when the underlying NMS stock enters an LULD State, there may not be a reliable underlying reference price, there may be a wide bid/ask quotation differential in the option, and there may be less liquidity in the options markets. Thus, allowing a collared Market Order to execute (as opposed to cancel) in such circumstances could lead to executions at unintended prices (*i.e.,* inferior to the NBBO), and could add to volatility in the options markets during times of extraordinary market volatility. The Exchange believes that this current treatment of collared market orders, and the proposal to explicitly state this treatment in the rule text, would provide certainty to the treatment of Market Orders during these times and add clarity and transparency to Exchange rules, thus promoting just and equitable principles of trade and removing impediments to, and perfecting the mechanism of, a free and open market and a national market system. The proposed rule amendments would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend. The Exchange notes that the proposed cancellation of an options order if the underlying NMS security is in an LULD State is not new or novel and is available on other options exchanges that offer collar functionality similar to the Exchange's.[54] However, the Exchange believes that the rules of these other exchanges do not specifically contemplate the underlying security *entering* an LULD state while a market order is resting on the book, because such orders typically execute on arrival. The Exchange nonetheless believes that the handling such orders, as well as the proposed rule clarification, adds transparency and specificity to Exchange rules.

Technical Changes

The Exchange notes that the proposed organizational and non-substantive changes to the rule text would provide clarity and transparency to Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule amendments would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes the proposal provides

[53] *See, e.g.,* CBOE Rule 6.13(b)(v) (setting forth its Hybrid Trading System Automatic Execution Feature, which prevents the execution of marketable orders if (a) the width of the NBB and NBO is not within an ''acceptable price range'' (as determined by CBOE) or (b) if an execution would follow a partial execution and would be beyond an ''acceptable tick distance'' (as determined by CBOE), but unlike Trade Collar Protection on the Exchange, CBOE does not reprice (or redisplay) orders at narrowing prices. In addition, the NASDAQ Options Market (''NOM'') and NASDAQ OMX BX (''BX'') each have identical rules (Chapter VI, Section 18(b)(1) (setting forth the risk protection feature for quotes and orders, which prevents executions (partial or otherwise) of orders beyond an ''acceptable trade range'' (as calculated by the exchange) and when an order (or quote) reaches the limits of the ''acceptable trade range'', it posts for a period not to exceed one second and recalculated a new ''acceptable trade range'').

[54] *See supra* note 49.

clarity (including defining the collar execution price) and enhancement to the Trading Collars that provide market participants with protection from anomalous executions. Thus, the Exchange does not believe the proposal creates any significant impact on competition.

The proposed enhancements to the Trading Collars (*i.e.,* the Zero NBBO Collar Exception) would improve the operation of the Trading Collars thereby further protecting investors against the execution of orders at erroneous prices. As such, the proposal does not impose any burden on competition. To the contrary, the Exchange believes that the proposed enhancements may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. The Exchange's proposed rule change would enhance its ability to compete with other exchanges that already offer similar trading collar functionality.[55] Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies. The Exchange further believes that because the proposed rule change would be applicable to all OTP Holders it would not impose any burden on intra-market 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2019–58 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–2019–58. 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–2019–58 and should be submitted on or before September 25, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–19001 Filed 9–3–19; 8:45 am]

BILLING CODE 8011–01–P

[55] *See id.*

[56] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16095 and #16096; Wisconsin Disaster Number WI–00069]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Wisconsin

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of WISCONSIN (FEMA–4459–DR), dated 08/27/2019.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 07/18/2019 through 07/20/2019.

DATES: Issued on 08/27/2019.

Physical Loan Application Deadline Date: 10/28/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 05/27/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/27/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Barron, Clark, Forest, La Crosse, Langlade, Menominee, Monroe, Oconto, Oneida, Outagamie, Polk, Portage, Rusk, Shawano, Vernon, Waupaca, Wood Counties and the Menominee Indian Tribe of Wisconsin and the St. Croix Chippewa Indians of Wisconsin.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 160956 and for economic injury is 160960.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2019–19061 Filed 9–3–19; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16093 and #16094; Louisiana Disaster Number LA–00094]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of LOUISIANA (FEMA—4458—DR), dated 08/27/2019.

Incident: Hurricane Barry.

Incident Period: 07/10/2019 through 07/15/2019.

DATES: Issued on 08/27/2019.

Physical Loan Application Deadline Date: 10/28/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 05/27/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/27/2019, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: Allen, Iberia, Lafourche, Plaquemines, Saint Mary, Terrebonne, Vermilion.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 160938 and for economic injury is 160940.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator, for Disaster Assistance.

[FR Doc. 2019–19060 Filed 9–3–19; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1261]

New York State Department of Environmental Conservation—Adverse Abandonment—Saratoga and North Creek Railway in Town of Johnsburg, N.Y.

On September 10, 2018, the New York State Department of Environmental Conservation (the Department) filed an application under 49 U.S.C. 10903 requesting a third-party, or ''adverse,'' abandonment by the Saratoga and North Creek Railway (SNCR) of approximately 29.71 miles of rail line between milepost NC 0.0 at North Creek, N.Y., and its terminus at milepost NC 29.71 near the former Tahawus Mine (the Line). Notice of the exemption was served and published in the **Federal Register** on September 28, 2018 (83 FR 49,151).

On October 16, 2018, the Department requested that the proceeding be held in abeyance for 90 days because OmniTRAX, Inc. (OmniTRAX) was negotiating with SNCR for the purchase of the Line and with the Department regarding storage of rail cars. In a decision served October 23, 2018, the request was granted and the comment deadlines on the application and the environmental assessment (EA) postponed pending further order of the Board. In a series of decisions, the abeyance period was extended, most recently until July 19, 2019.

By letter dated June 14, 2019, OmniTRAX informed the Board that it had discontinued its negotiations with SNCR and the Department. Shortly thereafter, on July 11, 2019, United Rail, Inc. (United Rail), submitted a letter stating that it had initiated preliminary discussions with SNCR regarding the purchase of the Line and requesting the Board continue to hold the proceeding in abeyance so that discussions regarding purchase of the Line could continue.

On July 12, 2019, the Department filed a letter requesting that the Board set a briefing schedule, and on July 31, 2019, the Department filed a letter opposing United Rail's request to continue to hold the proceeding in abeyance. On August 19, 2019, the Adirondack Council filed a letter supporting the Department's position opposing United Rail's request and asks the Board to allow the adverse abandonment application to move forward.

Because the negotiations involving OmniTRAX have terminated and the Department, the applicant here, opposes United Rail's request to continue to hold the proceeding in abeyance, the proceeding will be removed from abeyance and a procedural schedule set.

Any interested person may file written comments concerning the proposed adverse abandonment or protests (including protestant's entire opposition case) by September 30, 2019. Persons who may oppose the proposed adverse abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR. 1152.25. The Department's reply will be due by October 18, 2019.

All filings in response to this notice must refer to Docket No. AB 1261 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001; and (2) Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY 12224–0341.

Any request for an interim trail use/railbanking condition under 16 U.S.C. 1247(d) and 49 CFR 1152.29 must be

filed by September 30, 2019, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application.[1] Each trail use request must be accompanied by the appropriate filing fee. *See* 49 CFR 1002.2(f)(27).[2]

Comments on the EA will be due by September 30, 2019.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment regulations at 49 CFR pt. 1152.

Board decisions and notices are available at *www.stb.gov.*

Decided: August 28, 2019.

By the Board,

Allison C. Davis,

Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2019–19015 Filed 9–3–19; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 661 (Sub-No. 2)]

Rail Fuel Surcharges (Safe Harbor)

In 2006 and 2007, the Board inquired into and made findings regarding rail carrier practices related to fuel surcharges in *Rail Fuel Surcharges,* Docket No. EP 661. A fuel surcharge is a separately identified component of the total rate that is charged for the involved transportation and that is designed to recoup increases in the carrier's fuel costs. Rail shippers had voiced concerns to the Board that these fuel surcharges, because they were typically calculated as a percentage of the base rate [1] for the transportation, recovered amounts over and above the carriers' actual increased fuel costs. *See* Hr'g Tr. at 38–40, 44–45, 47–49, 52, 61–62, May 11, 2006, *Rail Fuel Surcharges,* EP 661. In response, the Board stated that the term ''most naturally suggests a charge to recover increased fuel costs associated with the movement to which it is applied,'' and if a fuel surcharge is used as ''a broader revenue enhancement measure, it is mislabeled.'' *Rail Fuel Surcharges,* EP 661, slip op. at 7. The Board concluded that a rate increase resulting from a rate-based fuel surcharge, where ''there is no real correlation between the rate increase and the increase in fuel costs for that particular movement to which the surcharge is applied, is a misleading and ultimately unreasonable practice.'' *Id.* As such, the Board prohibited fuel surcharges expressed as a percentage of the base rate. *Id.* at 1, 6–8. The Board directed that any fuel surcharge program applied to regulated traffic must be based on attributes of a movement (such as mileage) that directly affect the amount of fuel consumed. *Id.* at 9.

The Board also, however, established as a ''safe harbor'' an index [2] upon which carriers could rely to measure changes in fuel costs for purposes of a fuel surcharge program. The Board stated that a carrier's use of that index would not be subject to a reasonableness challenge because the index had already been subject to notice and comment scrutiny. *Id.* at 11.

In 2013, the Board dismissed a complaint by Cargill, Incorporated, challenging fuel surcharges imposed by BNSF Railway Company (BNSF) over a five-year period under a fuel surcharge program applicable to agricultural and industrial products. *Cargill, Inc.* v. *BNSF Ry.,* NOR 42120, slip op. at 1, 7 (STB served Aug. 12, 2013). In its decision, the Board observed that, if measured by its ''internal'' fuel costs (the amounts BNSF actually paid for fuel) instead of the safe harbor HDF Index, BNSF's fuel surcharge revenues exceeded its incremental fuel costs (*i.e.,* those additional fuel costs caused by a rise in fuel prices above a certain level) by $181 million. *Id.* at 14. Nevertheless, the Board noted that, under the safe harbor provision adopted in *Rail Fuel Surcharges,* Docket No. EP 661, carriers are ''entitled to rely on the HDF Index as a proxy to measure changes in their internal fuel costs'' [3] and concluded that, using the HDF Index as the measure, BNSF had not over-recovered its incremental fuel costs over the five-year period covered by the complaint. *Id.* at 14. At the same time, however, the Board also gave notice that it would be issuing an Advance Notice of Proposed Rulemaking (ANPRM) to give shippers, rail carriers, and other interested parties the opportunity to comment on the safe harbor provision, including whether it should be modified or removed. *Id.* at 17–18.

In May 2014, the Board issued an ANPRM to gain a better understanding of whether the sort of growing spread between HDF-based costs and actual costs seen in *Cargill* was unique to BNSF during a period of particularly high price volatility (or instead a widespread phenomenon in the rail industry) and to determine whether to modify or remove the safe harbor provision. *Rail Fuel Surcharges (Safe Harbor),* EP 661 (Sub-No. 2), slip op. at 2–3 (STB served May 29, 2014). In the ANPRM, the Board asked whether the growing-spread phenomenon observed in *Cargill* was aberrational; whether there are problems associated with the Board's use of the HDF Index as a safe harbor in judging the reasonableness of fuel surcharge programs; whether any problems with the safe harbor could be addressed through a modification of it; and whether any problems with the safe harbor are outweighed by its benefits. *Id.* at 3.

The 15 comments and 10 replies received in response to the ANPRM were varied, and many did not directly address the Board's question about whether the ''growing-spread'' phenomenon seen in *Cargill* was an aberration.[4] A few commenters supported the repeal of the safe harbor provision,[5] while others supported retaining the safe harbor provision either outright or in some modified

[1] In a letter submitted on July 18, 2019, the Town of Newcomb asserted, among other things, that the time to file a request for interim trail use had expired. Although the Board's notice served on September 28, 2018, stated that any request for an interim trail use/railbanking condition would be due by October 25, 2018, the proceeding was held in abeyance on October 23, 2018, before the deadline for such requests.

[2] The Board recently updated its user fees, which will become effective on September 6, 2019. *Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.–2019 Update,* EP 542 (Sub–No. 27) (STB served July 31, 2019).

[1] The Board has referred to fuel surcharges that are calculated as a percentage of base rate as ''rate-based fuel surcharges.'' *See, e.g., Rail Fuel Surcharges,* EP 661, slip op. at 6–7 (STB served Jan. 26, 2007).

[2] That index was the Energy Information Administration's former ''U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon),'' now known as the Highway Diesel Fuel Index (HDF Index).

[3] As the Board put it, ''what the safe harbor means is that if a rail carrier uses the HDF Index [in its fuel surcharge program] to measure changes in its fuel costs, then that is how the Board will measure these changes as well, rather than by looking at evidence of changes in the rail carrier's internal fuel costs.'' *Cargill,* NOR 42120, slip op. at 9.

[4] The following parties submitted comments and/or replies in response to the ANPRM: The U.S. Department of Agriculture; Arkansas Electric Cooperative Corporation (AECC); Colorado Springs Utilities; Consumer United for Rail Equity (CURE); DOW Chemical Company (DOW Chemical), Highroad Consulting, Ltd (Highroad Consulting); Mercury Group; National Coal Transportation Association; National Industrial Transportation League (NITL); National Grain and Feed Association; Allied Shippers (Western Coal Traffic League, American Public Power Association, Edison Electric Institute, National Rural Electric Cooperative Association, South Mississippi Electric Power Association and Consumers Energy Company); BNSF; Canadian National Railway Company; CSX Transportation, Inc.; and Union Pacific Railroad Company (UP).

[5] (*E.g.,* Allied Shippers Comments 3, Aug. 4, 2014.)

form.[6] Some commenters claimed the *Cargill* outcome was an aberration,[7] while another said there was insufficient evidence to answer the question of whether the phenomenon seen in *Cargill* was an aberration.[8] Finally, some commenters urged more study of that particular question or of fuel surcharge programs generally.[9]

The Board recognizes and appreciates that commenters devoted substantial time and effort to responding to the ANPRM. Since the comment period closed in 2014, the Board has been unable to reach a majority decision on what additional Board action should be taken in response to the comments received. Because of the lack of a majority opinion and in the interest of administrative finality, the Board Members agree that this docket should be discontinued.

It is ordered:

1. This docket is discontinued.

2. Notice of the Board's action will be published in the **Federal Register**.

3. This decision is effective on the date of service.

Decided: August 28, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman. Board Members Begeman, Fuchs, and Oberman commented with separate expressions.

BOARD MEMBER BEGEMAN, commenting:

Since casting—reluctantly—my vote in *Cargill, Inc.* v. *BNSF Railway,* it has been my position that the ''safe harbor'' provision should be eliminated. In *Cargill,* BNSF recovered through fuel surcharges far more than its actual incremental fuel costs. *See Cargill, Inc.* v. *BNSF Ry.,* NOR 42120, slip op. at 14. Yet the Board found that Cargill had failed to prove that the carrier had engaged in an unreasonable practice, ''in large measure'' because, since 2007, rail carriers have been entitled to rely on a Board-endorsed fuel index—the HDF Index—as a proxy to measure changes in their fuel costs for purposes of their fuel surcharge programs. *Id.* at 1, 9.

Cargill led me to question why the Board adopted rules in 2007 that would permit a carrier to recover substantially more than its incremental fuel costs, simply because the carrier uses a particular index in its fuel surcharge formula.[1] I believe it is especially misguided that, since *Cargill,* the safe harbor provision has been retained despite the Board's recognition that the safe harbor gives carriers an ''unintended advantage''—the ability to over-recover incremental fuel costs for as long as conditions permit but then to revise their fuel surcharge programs when new conditions would lead to an under-recovery. *See id.* at 17.

The overarching principle of the 2007 decision is not currently before the Board. Rather, the question before the Board is how we can best implement the principle that a rail fuel surcharge program should accurately reflect the cost of fuel. The Board's 2014 ANPRM sought comments ''on whether the safe harbor provision . . . should be modified or removed.'' *Rail Fuel Surcharges (Safe Harbor),* EP 661 (Sub-No. 2), slip op. at 3. The comments received in response to the ANPRM have not allayed my concerns about the impacts of the safe harbor provision.

Since the ANPRM comments were filed five years ago, there hasn't been a majority to coalesce around any approach (mine or any other one) for a next action in this proceeding. Therefore, I will again reluctantly vote—this time, to close the proceeding rather than wait for a full complement of Board members in hopes that a majority view would be reached to repeal the safe harbor provision.

BOARD MEMBER FUCHS, commenting:

The Board has recognized that a fuel surcharge is part of the overall rate for rail transportation. When the Board determines market dominance and rate reasonableness, the challenged rate has included both the base rate and any fuel surcharge.[1] In *Rail Fuel Surcharges,* the Board set a framework for a complainant to pursue relief on its fuel surcharge separate from the processes available for relief on its overall rate.

Some public comments on the ANPRM ask the Board now to remove or modify the safe harbor provision in *Rail Fuel Surcharges* to make it easier, in effect, for a complainant to receive relief on its fuel surcharge. Such a change could exacerbate a tension that exists under the *Rail Fuel Surcharges* framework: The standard by which the Board is to review part of the rate (the fuel surcharge) is completely different from the standard by which it is to review the overall rate. In reviewing the reasonableness of the overall rate under 49 U.S.C. 10701(d)(1) and 10702, the Board allows for the differentiation of prices based on demand.[2] In reviewing the fuel surcharge, however, the Board is to consider part of the rate (the fuel surcharge) by essentially ignoring such demand-based differential pricing.[3] Because of the inconsistency in review standards, the Board might award relief on part of the rate (the fuel surcharge) even if it could not award relief on the overall rate. In effect, *Rail Fuel Surcharges* could be read as permitting the Board to award a form of rate relief to a complainant whose rate may be reasonable.[4] Whether or not the two approaches could be reconciled, I would not risk exacerbating this tension by modifying or removing the safe harbor provision.

At the same time, I also would not propose reversing *Rail Fuel Surcharges* here. Carriers have changed their fuel surcharge programs as a result of the decision, and the record suggests that those carriers and many customers have come to rely upon it. If the Board were to propose reversing *Rail Fuel Surcharges,* it could disrupt that reliance. I do not favor embarking on such a potentially disruptive course when no public commenter has made compelling case to reverse the decision and when the record suggests rail customers have continued concerns with their overall rates—both base rates and the fuel surcharges. Rather than focusing on *Rail Fuel Surcharges* at this time, the Board should address these concerns, as appropriate, by advancing reforms to its rate review processes, which apply to the overall rate.

BOARD MEMBER OBERMAN, commenting:

I agree that this docket should be discontinued. To be clear, I find the outcome in *Cargill* jarring because the carrier was permitted to collect sums far in excess of its true incremental fuel costs. Nevertheless, in my view that

[6] (*E.g.,* BNSF Comments 1, Aug. 4, 2014; AECC Comments 2–3, Aug. 4, 2014; UP Comments 7–11, Aug. 4, 2014; NITL Comments 8–9, Aug. 4, 2014; Highroad Consulting Reply 8, 10, Oct. 15, 2014.)

[7] (*E.g.,* BNSF Comments 9–11, Aug. 4, 2014; CURE Comments 2, 9–10, Aug. 4, 2014; UP Comments 8, Aug. 4, 2014.)

[8] (Dow Chemical Comments 7–8, Aug. 4, 2014.)

[9] (*E.g.,* NITL Comments 8–11, Aug. 4, 2014; Dow Chemical Reply 6–8, Aug. 15, 2014.)

[1] ''[W]hat the safe harbor means is that if a rail carrier uses the HDF Index [in its fuel surcharge program] to measure changes in its fuel costs, then that is how the Board will measure these changes as well, rather than by looking at evidence of changes in the rail carrier's internal fuel costs.'' *Cargill, Inc.* v. *BNSF Ry.,* NOR 42120, slip op. at 9.

[1] *See, e.g.,* Consumers Opening II–8, Nov. 2, 2015, *Consumers Energy Co.* v. *CSX Transp., Inc.,* NOR 42142 (chart showing base rate plus fuel surcharge equals rate).

[2] *See Rail Fuel Surcharges,* slip op. at 6, 8. *See, e.g., Simplified Standards for Rail Rate Cases,* EP 646 (Sub-No. 1), slip op. at 7–11 (STB served Sept. 5, 2007).

[3] This statement takes no position on the extent to which the labeling of a rate-based fee as a fuel surcharge affects rail customers' understanding of their rates and therefore affects their transportation decisions. I do note, however, that a tariff explains the calculation of a fuel surcharge and that a rate-based calculation is relatively simple.

[4] The view expressed here is not inconsistent with the way the Board addresses demurrage charges, which are distinct from rates under the statute and as a practical matter. *See, e.g.,* 49 U.S.C. 10746, 11708(b)(1)(A).

outcome was consistent with, if not mandated by, the safe harbor provision incorporated into the Board's fuel surcharge rules.

Railroads have the initiative to set rates under 49 U.S.C. 10701(c), and a regulated railroad rate can be set aside as unreasonable only if the Board finds market dominance. 49 U.S.C. 10701(d), 10707(c). Railroad *practices* can be found unlawful under 49 U.S.C. 10702 without a finding of market dominance, but it is well settled that the Board may not evade the limits on its rate review process by treating a rate matter as an unreasonable practice case. *Union Pacific R.R.* v. *ICC,* 867 F.2d 646 (D.C. Cir. 1989). Although there can be a ''conceptual overlap between railroads' 'practices' and their 'rates,'" *id.* at 649, when a practice is ''manifested *exclusively* in the level of rates that customers are charged,'' *id.,* a challenge to such a practice is in reality a challenge to the rate and may only be brought under the Board's rate reasonableness procedures. *See id.*

To me, the fuel surcharges that the Board is addressing are clearly components of the overall rates charged for the underlying transportation. To be sure, the ''truth-in-advertising'' aspect of the *Rail Fuel Surcharges* decision comes a bit closer to the ''practices'' arena, but the relief sought in *Cargill,* and that the Allied Shippers urge here, is still, at base, rate relief.

For all of these reasons, in my view, the Board should not have issued the *Rail Fuel Surcharges* decision in 2007, which created the fuel surcharges rules and their safe harbor provision. Today, I would take steps to reverse that decision in its entirety. However, no majority exists for such action.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–19053 Filed 9–3–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0690]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Flight Operations Quality Assurance (FOQA) Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the voluntary submission of information gained through the Flight Operations Quality Assurance (FOQA) Program. FOQA is a voluntary safety program designed to improve aviation safety through the proactive use of flight-recorded data. The information collected will allow operators to use this data to identify and correct deficiencies in all areas of flight operations.

DATES: Written comments should be submitted by November 4, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Sandra Ray, Federal Aviation Administration, Policy Integration Branch AFS–270, 1187 Thorn Run Road, Suite 200, Coraopolis, PA 15108.

By fax: 412–239–3063.

FOR FURTHER INFORMATION CONTACT: Sandra Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0660.

Title: Flight Operations Quality Assurance (FOQA) Program.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewal of an Information Collection.

Background: Flight Operations Quality Assurance (FOQA) is a voluntary safety program designed to improved aviation safety through the proactive use of flight-recorded data. Operators will use these data to identify and correct deficiencies in all areas of flight operations. Properly used, FOQA data can reduce or eliminate safety risks, as well as minimize deviations from regulations. Through access to de-identified aggregate FOQA data, the Federal Aviation Administration (FAA can identify and analyze national trends and target resources to reduce operational risks in the National Airspace System (NAS), air traffic control (ATC), flight operations and airport operations.

The FAA and the air transportation industry have sought additional means for addressing safety problems and identifying potential safety hazards. Based on the experiences of foreign air carriers, the results of several FAA-sponsored studies, and input received from government/industry safety forums, the FAA concluded that wide implementation of FOQA programs could have significant potential to reduce air carrier accident rates below current levels. The value of FOQA programs is the early identification of adverse safety trends, which, if uncorrected, could lead to accidents. A key element in FOQA is the application of corrective action and follow-up to ensure that unsafe conditions are effectively remediated.

Respondents: 71 Air Carriers (62 with existing programs and 9 carriers with new programs).

Frequency: Once for a certificate holders seeking approval of a program, monthly for certificate holders with an approved program.

Estimated Average Burden per Response: 100 Hours for certificate holders seeking approval of a new program, 12.0 hour per year for certificate holders with an approved program.

Estimated Total Annual Burden: 100 hours per new respondent, 12 hours annually per existing respondents.

Issued in Washington, DC, on August 29, 2019.

Sandra L. Ray,

Aviation Safety Inspector, FAA, Policy Integration Branch, AFS–270.

[FR Doc. 2019–19081 Filed 9–3–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment on the renewal of its information collection titled ''Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.''

DATES: Comments must be submitted on or before November 4, 2019.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, OMB Control No. 1557–0334, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0334'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection [1] by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0334'' or ''Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), certain federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA directs these Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection of information.

Title: Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Diversity Self-Assessment Template for OCC-Regulated Entities.

OMB Control No.: 1557–0334.

Description: This information collection covers standards, pursuant to which entities regulated by the OCC voluntarily self-assess their diversity policies and practices and a template to assist with the self-assessment. The template (1) asks for general information about a respondent; (2) includes questions and solicits comments for certain standards about program successes and challenges; (3) asks for a description of current practices for the self-assessment standards; (4) seeks additional diversity data; and (5) provides an opportunity for a respondent to provide other information regarding or comment on the self-assessment of its diversity policies and practices. The OCC may use information submitted to monitor progress and trends in the financial services industry regarding diversity and inclusion in employment and contracting activities and to identify and highlight diversity and inclusion policies and practices that have been successful. The OCC will continue to reach out to the entities it regulates and other interested parties to discuss diversity and inclusion in the financial services industry and share leading practices. Finally, if an OCC-regulated entity submits confidential commercial information that is both customarily and actually treated as private by the entity, the entity can designate the information as such, in which case the OCC will treat the self-assessment information as private to the extent permitted by law, including the Freedom of Information Act, 5 U.S.C. 552, *et seq.*

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Number of Respondents: 110.

Estimated Annual Burden for Standards and Template: 8 hours.

Frequency of Response: Annual.

Comments: The comments submitted in response to this notice will be summarized, 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 OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

[1] Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 27, 2019.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2019–18992 Filed 9–3–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions.

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of 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 Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On August 21, 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. ZHENG, Fujing (Chinese Simplified: 郑福景; Chinese Traditional: 鄭福景) (a.k.a. "DENG, Gao"; a.k.a. "JIN, Gordon"; a.k.a. "ZHENG, Gordon"); DOB 11 Jun 1983; POB China; nationality China; citizen China; Email Address goldenchemical@live.com; alt. Email Address gordonzheng@qinvictory.com; alt. Email Address magicchemical@hotmail.com; alt. Email Address sales@globalrc.net; alt. Email Address 3507656950@qq.com; alt. Email Address zhengfujing@live.cn; Gender Male; Digital Currency Address - XBT 17ezuJoT3XBbdcwFZbkTnrXbup11F4uhiy; alt. Digital Currency Address - XBT 1DH2xDH7TngrDU6LXciprKCBKNcPA1xX8A; Passport G31920875 (China) issued 24 Oct 2008 expires 23 Oct 2018; Identification Number 310107198306111336 (China); Chinese Commercial Code 6774 4395 2529 (individual) [SDNTK]. Identified as a significant foreign narcotics trafficker pursuant to section 805(b)(1) of the Foreign Narcotics Kingpin Designation Act (''Kingpin Act''), 21 U.S.C. 1904(b)(1).

2. ZHENG, Guanghua (Chinese Simplified: 郑广华; Chinese Traditional: 鄭广華;); DOB 04 Nov 1955; POB Shanghai, China; nationality China; citizen China; Email Address zhenguanghua1955@outlook.com; alt. Email Address zhenguanghua1955@gmail.com; Gender Male; Digital Currency Address - XBT 33Kja69SQVc8kozpoP7Qw6HFtGxHkiWzTz; alt. Digital Currency Address - XBT 3MkUNScqf21EcfWq6T4x2MFgBeSTqhB5t6; alt. Digital Currency Address - XBT 18uKfaUjgG52rVeXEi3wxnveww7zZuECtE; Digital Currency Address - LTC LaizKtS5DUhPuP1nTQcc83MS7HwK6vk85z; Passport E51809923 (China) issued 25 May 2015 expires 24 May 2025; Identification Number 310108195511041616 (China); Chinese Commercial Code 6774 1639 5478 (individual) [SDNTK]. Designated pursuant to section 805(b)(2) of the Kingpin Act, 21 U.S.C. section 1904(b)(2), for materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of the Zheng Drug Trafficking Organization, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

Entities

1. QINSHENG PHARMACEUTICAL TECHNOLOGY CO., LTD. (a.k.a. SHANGHAI QINSHENG PHARMACEUTICAL SCIENCE & TECHNOLOGY CO., LTD.; a.k.a. SHANGHAI QINSHENG PHARMACEUTICAL SCIENCE AND TECHNOLOGY CO., LTD.; a.k.a. SHANGHAI QINSHENG PHARMACEUTICAL TECHNOLOGY CO., LTD.), Room 614, Floor 3, No. 1, Alley 468, New Siping Highway, Shanghai 201413, China; Room 614, Floor 3, Block 1, Lane 468, Xinsiping Highway, Fengxian District, Shanghai, China; website *www.qinvictory.com* [SDNTK]. Designated pursuant to section 805(b)(3) of the Kingpin Act, 21 U.S.C. 1904(b)(3), for being owned, controlled, or directed by, or acting for or on behalf of Fujing Zheng, a foreign person identified as a significant foreign narcotics trafficker pursuant to the Kingpin Act.

2. ZHENG DRUG TRAFFICKING ORGANIZATION, Shanghai, China; website *www.globalrc.net*; alt. Website *www.goldenrc.com*; alt. Website *www.toplabrc.com*; Email Address *MagicChemical@hotmail.com*; alt. Email Address *goldenchemical@live.com*; alt. Email Address *3507656950@qq.com*; alt. Email Address *sales@globalrc.net* [SDNTK]. Identified as a significant foreign narcotics trafficker pursuant to section 805(b)(1) of the Kingpin Act, 21 U.S.C. 1904(b)(1).

Dated: August 21, 2019.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–18283 Filed 9–3–19; 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, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of a 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 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 Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On August 21, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. YAN, Xiaobing (Chinese Traditional: 顏曉兵; Chinese Simplified: 颜晓兵) (a.k.a. "YAN, Steven"; a.k.a. "ZHOU, William"), Wuhan, Hubei, China (Chinese Traditional: 武漢市, 湖北省, China; Chinese Simplified: 武汉市, 湖北省, China); DOB 25 Mar 1977; POB Wuhan City, Hubei, China; citizen China; Gender Male; Digital Currency Address - XBT 12QtD5BFwRsdNsAZY76UVE1xyCGNTojH9h; alt. Digital Currency Address - XBT 1Kuf2Rd8mDyAViwBozGTNYnvWL8uYFrkVo; alt. Digital Currency Address - XBT 13f59kUM5FU8MfTG7DCEugYarDhSD7XCoC; alt. Digital Currency Address - XBT 1P3ZfGFLezzYGg9k5SVzQmnjyh7nrUmF2y; alt. Digital Currency Address - XBT 1EpMiZkQVekM5ij12nMiEwttFPcDK9XhX6; alt. Digital Currency Address - XBT 1JREJdZupiFhE7ZzQPtASuMCvvpXC7wRsC; Chinese Commercial Code 7346 2556 0365; Citizen's Card Number 421002197703250019 (China) (individual) [SDNTK]. Identified as a significant foreign narcotics trafficker pursuant to section 805(b)(1) of the Foreign Narcotics Kingpin Designation Act (''Kingpin Act''), 21 U.S.C. 1904(b)(1).

Dated: August 21, 2019.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–18284 Filed 9–3–19; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 84 Wednesday,
No. 171 September 4, 2019

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0747; FRL–9998–69–OAR]

RIN 2060–AU16

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing the results of a residual risk and technology review (RTR) of the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (MCM NESHAP) facilities, as required by the Clean Air Act (CAA). The EPA is proposing to find risks due to emissions of air toxics to be acceptable from the MCM source category and to determine that the current NESHAP provides an ample margin of safety to protect public health. The EPA identified no new cost-effective controls under the technology review to achieve further emissions reductions from process units subject to standards under the NESHAP. The EPA is also proposing revisions related to emissions during periods of startup, shutdown, and malfunction (SSM), including clarifying regulatory provisions for certain vent control bypasses; provisions for electronic reporting of performance test results, performance evaluation reports, compliance reports, and Notification of Compliance Status (NOCS) reports; and provisions to conduct periodic performance testing of oxidizers used to reduce emissions of organic hazardous air pollutants (HAP).

DATES:

Comments. Comments must be received on or before October 21, 2019. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before October 4, 2019.

Public hearing. If anyone contacts us requesting a public hearing on or before September 9, 2019, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document and posted at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards.* See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2018–0747, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2018–0747 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2018–0747.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2018–0747, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may 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 **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Angela Carey, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2187; fax number: (919) 541–0516; and email address: *carey.angela@epa.gov.* For specific information regarding the risk modeling methodology, contact Ms. Darcie Smith, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2076; fax number: (919) 541–0840; and email address: *smith.darcie@epa.gov.* For questions about monitoring and testing requirements, contact Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5635; fax number: (919) 541–4991; and email address: *parker.barrett@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public hearing. Please contact Ms. Virginia Hunt at (919) 541–0832 or by email at *hunt.virginia@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2018–0747. All documents in the docket are listed in *Regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) 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. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue 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 EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2018–0747. 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. This

type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. 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.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, 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 digital storage media 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 not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2018–0747.

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
CAA Clean Air Act
CalEPA California EPA
CBI Confidential Business Information
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EPA Environmental Protection Agency
ERPG emergency response planning guideline
ERT Electronic Reporting Tool
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HEM–3 Human Exposure Model, Version 1.5.5
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
ICR Information Collection Request
IRIS Integrated Risk Information System
km kilometer
kPa kilopascal
MACT maximum achievable control technology
MCM miscellaneous coating manufacturing
mg/kg-day milligrams per kilogram per day
mg/m^3 milligrams per cubic meter
MIR maximum lifetime (cancer) risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP national emission standards for hazardous air pollutants
NOCS Notification of Compliance Status
NRC National Research Council
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PAH polycyclic aromatic hydrocarbons
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PDF portable document format
PM particulate matter
POM polycyclic organic matter
ppm parts per million
ppmw parts per million by weight
psia pounds per square inch, absolute
RBLC Reasonably Available Control Technology, Best Available Control Technology, and Lowest Achievable Emission Rate Clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SAB Science Advisory Board
SSM startup, shutdown, and malfunction
the Court the United States Court of Appeals for the District of Columbia Circuit
TOSHI target organ-specific hazard index
tpy tons per year
TRIM.FaTE Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure model
UF uncertainty factor
$\mu g/m^3$ microgram per cubic meter
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
VCS voluntary consensus standards
VOC volatile organic compounds

Organization of this document. The information in this preamble is organized as follows below. In particular, section IV of this preamble describes the majority of the Agency's rationale for the proposed actions in this preamble.

Section IV.B of this preamble summarizes the results of the risk assessment. Section IV.C of this preamble summarizes the results of our technology review. Section IV.D of this preamble summarizes other changes we are proposing, including general regulatory language changes related to the removal of SSM exemptions, electronic reporting, and other minor clarifications identified as part our review of the NESHAP and as part of the other proposed revisions in this action. Lastly, section IV.E of this preamble summarizes our rationale for the compliance dates we are proposing.

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
II. Background
A. What is the statutory authority for this action?
B. What is this source category and how does the current NESHAP regulate its HAP emissions?
C. What data collection activities were conducted to support this action?
D. What other relevant background information and data are available?
III. Analytical Procedures and Decision-Making

A. How do we consider risk in our decision-making?
B. How do we perform the technology review?
C. How do we estimate post-MACT risk posed by the source category?
IV. Analytical Results and Proposed Decisions
A. What are the results of the risk assessment and analyses?
B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effect?
C. What are the results and proposed decisions based on our technology review?
D. What other actions are we proposing?
E. What compliance dates are we proposing?
V. Summary of Cost, Environmental, and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
VI. Request for Comments
VII. Submitting Data Corrections
VIII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992), the Manufacture of Paints, Coatings, and Adhesives source category ''is any facility engaged in their manufacture without regard to the particular end-uses or consumers of such products. The manufacturing of these products may occur in any combination at any facility.'' This source category has since been renamed Miscellaneous Coating Manufacturing (MCM).

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source Category and NESHAP	NAICS Code [1]
Miscellaneous Coating Manufacturing Industry	3255, 3259

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website. Information on the overall RTR program is available at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0747).

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating those standards that are based on maximum achievable control technology (MACT) to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate to incorporate into the standards. This review is commonly referred to as the ''technology review.'' When the two reviews are combined into a single rulemaking, it is commonly referred to as the ''risk and technology review.'' The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory provisions. A more comprehensive discussion appears in the document titled *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology,* in the docket for this rulemaking.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different provisions for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy provisions, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor. Standards more stringent than the floor are commonly referred to as beyond-the-floor standards. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards where it is not feasible to prescribe or

enforce a numerical emission standard. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

The second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). For source categories subject to MACT standards, section 112(f)(2) of the CAA requires the EPA to determine whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. Section 112(d)(5) of the CAA provides that this residual risk review is not required for categories of area sources subject to GACT standards. Section 112(f)(2)(B) of the CAA further expressly preserves the EPA's use of the two-step approach for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the Risk Report that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations and the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

The approach incorporated into the CAA and used by the EPA to evaluate residual risk and to develop standards under CAA section 112(f)(2) is a two-step approach. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime (cancer) risk (MIR) [1] of approximately 1-in-10 thousand.'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to reduce risk to an acceptable level without considering costs. In the second step of the approach, the EPA considers whether the emissions standards provide an ample margin of safety to protect public health ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1 in 1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health or determine that the standards being reviewed provide an ample margin of safety without any revisions. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

CAA section 112(d)(6) separately requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years. In conducting this review, which we call the ''technology review,'' the EPA is not required to recalculate the MACT floor. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (DC Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (DC Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List,* Final Report (see EPA–450/3–91–030, July 1992), the ''manufacture of paints, coatings, and adhesives'' source category ''is any facility engaged in their manufacture without regard to the particular end-uses or consumers of such products. The manufacturing of these products may occur in any combination at any facility.''

The MCM source category includes the collection of equipment that is used to manufacture coatings at a facility. MCM operations also include cleaning operations. Coatings are materials such as paints, inks, or adhesive that are intended to be applied to a substrate and consist of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation where materials are blended, mixed, diluted, or otherwise formulated. Coatings do not include materials made in processes where a formulation component is synthesized by chemical reaction or separation activity and then transferred to another vessel where it is formulated to produce a material used as a coating, where the synthesized or separated component is not stored prior to formulation.

The equipment controlled by the MCM NESHAP includes process vessels, storage tanks for feedstocks and products, equipment leak components (pumps, compressors, agitators, pressure relief devices (PRDs), sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems), wastewater tanks, heat exchangers, and transfer racks.

The current NESHAP regulates process vessels and storage tanks based on the volume of the process vessel or storage tank and the maximum true vapor pressure of the organic HAP processed or stored. Control requirements range from the use of tightly fitted lids on process vessels to also capturing and reducing organic HAP emissions through the use of add-on controls (*i.e.,* a flare, oxidizer, or condenser). For halogenated vent streams from process vessels and storage tanks, the use of a flare is prohibited, and a halogen reduction device (*i.e.,* an acid gas scrubber) is required after a combustion control device. For storage tanks, facilities may comply with the provisions in 40 CFR part 63, subpart HHHHH, by complying with the provisions in 40 CFR part 63, subpart WW.

The NESHAP regulates emissions from equipment leaks at existing sources by requiring compliance with leak inspection and repair provisions using sight, sound, and smell in 40 CFR part 63, subpart R, or alternatively, the leak detection and repair (LDAR) provisions in 40 CFR part 63, subparts TT or UU. New sources are required to comply with the LDAR provisions in 40 CFR part 63, subparts TT or UU.

The NESHAP regulates wastewater streams by requiring the use of fixed roofs on wastewater tanks, treating the wastewater (either on-site or off-site) as a hazardous waste under 40 CFR 264, 265, or 266, or using enhanced biological treatment if the wastewater

[1] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk if an individual were exposed to the maximum level of a pollutant for a lifetime.

contains less than 50 parts per million by weight (ppmw) of partially soluble HAP. If the wastewater is treated as a hazardous waste under 40 CFR 264, 265, or 266, it may be treated by steam stripping or incineration. These standards apply only to wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and loads greater than or equal to 750 pounds per year (lb/yr) at an existing source or greater than or equal to 1,600 ppmw and any partially soluble and soluble HAP load at a new source.

The NESHAP regulates transfer operations if the operation involves the bulk loading of coating products that contain 3.0 million gallons (gal) per year or more of HAP with a weighted average HAP partial pressure greater than or equal to 1.5 pounds per square inch, absolute (psia). Regulated transfer operations are required to reduce emissions by using a closed vent system and a control device (other than a flare) to reduce emissions by at least 75 percent; using a closed vent system and a flare for a non-halogenated vent stream; or using a vapor balancing system. If a non-flare combustion device is used to control a halogenated vent stream, then a halogen reduction device must be used either before or after the combustion device. If used after the combustion device, the halogen reduction device must meet either a minimum 95-percent reduction or a maximum 0.45 kilograms per hour (kg/hr) emission rate of hydrogen halide or halogen. If used before the combustion device, the halogen reduction device must meet a maximum 0.45 kg/hr emission rate of hydrogen halide or halogen.

The NESHAP requires heat exchangers to meet the provisions of subpart F, 40 CFR 63.104. Section 63.104 requires the implementation of a LDAR or monitoring program for heat exchange systems, unless the system meets certain design and operation provisions, or it is a once-through system that meets certain National Pollution Discharge Elimination System (NPDES) permit provisions.

C. What data collection activities were conducted to support this action?

The EPA held discussions with the American Coatings Association and the American Chemistry Council. During these meetings, we obtained supplemental information about the emission inventory, emission processes, control technologies, and speciation profiles.

D. What other relevant background information and data are available?

The EPA used information from the Reasonably Available Control Technology, Best Available Control Technology, and Lowest Achievable Emission Rate Clearinghouse (RBLC) database, reviewed title V permits for each MCM facility, and reviewed NOCS reports. The EPA reviewed the RBLC to identify potential additional control technologies. No additional control technologies applicable to MCM were found in the RBLC. See sections III.B and IV.D of this preamble and the memorandum, ''*Technology Review for the Miscellaneous Coating Manufacturing Source Category,*'' which is available in the docket for this action.

Lastly, the EPA is incorporating into the docket for this rulemaking, all materials associated with the development of the current MCM standards from Docket ID No. A–96–04 and Docket ID No. EPA–HQ–OAR–2003–0178. Publicly available docket materials are available either electronically at *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 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 EPA Docket Center is (202) 566–1742.

III. Analytical Procedures and Decision-Making

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this action.

A. How do we consider risk in our decision-making?

As discussed in section II.A of this preamble and in the Benzene NESHAP, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step approach to determine whether or not risks are acceptable and to determine if the standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. The EPA conducts a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.[2] The assessment also provides estimates of the distribution of cancer risk within the exposed populations, cancer incidence, and an evaluation of the potential for an adverse environmental effect. The scope of the EPA's risk analysis is consistent with the EPA's response to comments on our policy under the Benzene NESHAP where the EPA explained that:

> ''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of non-cancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will 'protect the public health'.''

See 54 FR 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risk. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand

[2] The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential HAP exposure concentration to the noncancer dose-response value; the HI is the sum of HQs for HAP that affect the same target organ or organ system.

should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes an MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. In other words, risks that include an MIR above 100-in-1 million may be determined to be acceptable, and risks with an MIR below that level may be determined to be unacceptable, depending on all of the available health information. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify the HAP risk that may be associated with emissions from other facilities that do not include the source category under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the category.

The EPA understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing noncancer risk, where pollutant-specific exposure health reference levels (*e.g.,* reference concentrations (RfCs)) are based on the assumption that thresholds exist for adverse health effects. For example, the EPA recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse noncancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in an increased risk of adverse noncancer health effects. In May 2010, the Science Advisory Board (SAB) advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [3]

In response to the SAB recommendations, the EPA incorporates cumulative risk analyses into its RTR risk assessments, including those reflected in this action. The Agency (1) conducts facility-wide assessments, which include source category emission points, as well as other emission points within the facilities; (2) combines exposures from multiple sources in the same category that could affect the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzes the ingestion route of exposure. In addition, the RTR risk assessments consider aggregate cancer risk from all carcinogens and aggregated noncancer HQs for all noncarcinogens affecting the same target organ or target organ system.

Although we are interested in placing source category and facility-wide HAP risk in the context of total HAP risk from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Estimates of total HAP risk from emission sources other than those that we have studied in depth during this RTR review would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

B. How do we perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is ''necessary'' to revise the emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. See sections II.C and II. D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

C. How do we estimate post-MACT risk posed by the source category?

In this section, we provide a complete description of the types of analyses that we generally perform during the risk assessment process. In some cases, we do not perform a specific analysis because it is not relevant. For example, in the absence of emissions of HAP known to be persistent and bioaccumulative in the environment (PB–HAP), we would not perform a multipathway exposure assessment. Where we do not perform an analysis, we state that we do not and provide the reason. While we present all of our risk assessment methods, we only present risk assessment results for the analyses

[3] Recommendations of the SAB Risk and Technology Review Methods Panel are provided in their report, which is available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf.*

actually conducted (see section IV.B of this preamble).

The EPA conducts a risk assessment that provides estimates of the MIR for cancer posed by the HAP emissions from each source in the source category, the HI for chronic exposures to HAP with the potential to cause noncancer health effects, and the HQ for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risk within the exposed populations, cancer incidence, and an evaluation of the potential for an adverse environmental effect. The seven sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document which provides more information on the risk assessment inputs and models: *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule.* The methods used to assess risk (as described in the seven primary steps below) are consistent with those described by the EPA in the document reviewed by a panel of the EPA's SAB in 2009;[4] and described in the SAB review report issued in 2010. They are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

For each facility that we determined to be subject to the MACT standards (see section II.B of this preamble), we gathered emissions data from Version 1 of the 2014 National Emissions Inventory (NEI). For each NEI record, we reviewed the source classification code and emission unit and process descriptions, and then assigned the record to an emission source type regulated by the MACT standards (*i.e.,* each record identified as part of the MCM affected source at each facility was labeled storage tank, waste water, process vessel, equipment leak, or unknown) or an emission source type not regulated by the MACT standards (*i.e.,* each record that was not identified as part of the MCM affected source at each facility was labeled non-source category type). The non-source category type emissions sources are units or processes that are co-located at one or more of the MCM facilities but are not part of the MCM source category. For example, some of the MCM affected sources are co-located with organic chemical manufacturing operations that are part of a different source category (*i.e.,* Miscellaneous Organic Chemical Manufacturing) which is regulated by a different NESHAP (40 CFR part 63, subpart FFFF).

The EPA reviewed permits, contacted EPA Regional offices, and asked the American Coatings Association to review (and revise, if necessary) the NEI-based data described above, including emission values, emission release point parameters, coordinates, and emission process group assignments. We used all this information to reevaluate our emission process group assignments for each NEI record in the modeling file. We also used this information to update emission release point parameter data. In other words, we used the industry response data wherever possible (in lieu of the data we established using the NEI and gap fill procedures), unless the data failed certain quality assurance checks.

For further details on the assumptions and methodologies used to estimate actual emissions and identify the emissions release characteristics, see Appendix 1 of *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Categories in Support of the 2019 Risk and Technology Review Proposed Rule,* in Docket ID No. EPA–HQ–OAR–2018–0747.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during a specified annual time period. These ''actual'' emission levels are often lower than the emission levels allowed under the provisions of the current MACT standards. The emissions allowed under the MACT standards are referred to as the ''MACT-allowable'' emissions. We discussed the consideration of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP (HON) RTR (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risk at the MACT-allowable level is inherently reasonable since that risk reflects the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

For the risk assessment, we have determined that the actual emissions data are reasonable estimates of the MACT-allowable emissions levels for the MCM source category. In preparation of this RTR, we did not conduct an information collection of the equipment in this source category. Instead, we relied primarily upon the 2014 NEI emissions data and readily available title V permit information to characterize the actual emissions from the source category. In addition, the emission standards in 40 CFR part 63, subpart HHHH are generally equipment and work-practice requirements, rather than numerical emission limits. Therefore, we consider the use of 2014 NEI actual emissions as the best available reasonable approximation of allowable emissions for the risk assessment.

3. How do we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risk?

Both long-term and short-term inhalation exposure concentrations and health risk from the source category addressed in this action were estimated using the Human Exposure Model (HEM–3).[5] The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risk using the exposure estimates and quantitative dose-response information.

a. Dispersion Modeling

The air dispersion model AERMOD, used by the HEM–3 model, is one of the EPA's preferred models for assessing air pollutant concentrations from industrial facilities.[6] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data,

[4] U.S. EPA. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* June 2009. EPA–452/R–09–006. *https://www3.epa.gov/airtoxics/rrisk/rtrpg.html.*

[5] For more information about HEM–3, go to *https://www.epa.gov/fera/risk-assessment-and-modeling-human-exposure-model-hem.*

[6] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations from 824 meteorological stations, selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block [7] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant-specific dose-response values is used to estimate health risk. These are discussed below.

b. Risk From Chronic Exposure to HAP

In developing the risk assessment for chronic exposures, we use the estimated annual average ambient air concentrations of each HAP emitted by each source in the source category. The HAP air concentrations at each nearby census block centroid located within 50 km of the facility are a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

For each facility, we calculate the maximum individual risk (MIR) as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, 52 weeks per year, 70 years) exposure to the maximum concentration at the centroid of each inhabited census block. We calculate individual cancer risk by multiplying the estimated lifetime exposure to the ambient concentration of each HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper-bound estimate of an individual's incremental risk of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) UREs, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate. The pollutant-specific dose-response values used to estimate health risk are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

To estimate individual lifetime cancer risks associated with exposure to HAP emissions from each facility in the source category, we sum the risks for each of the carcinogenic HAP [8] emitted by the modeled facility. We estimate cancer risk at every census block within 50 km of every facility in the source category. The MIR is the highest individual lifetime cancer risk estimated for any of those census blocks. In addition to calculating the MIR, we estimate the distribution of individual cancer risks for the source category by summing the number of individuals within 50 km of the sources whose estimated risk falls within a specified risk range. We also estimate annual cancer incidence by multiplying the estimated lifetime cancer risk at each census block by the number of people residing in that block, summing results for all of the census blocks, and then dividing this result by a 70-year lifetime.

To assess the risk of noncancer health effects from chronic exposure to HAP, we calculate either an HQ or a target organ-specific hazard index (TOSHI). We calculate an HQ when a single noncancer HAP is emitted. Where more than one noncancer HAP is emitted, we sum the HQ for each of the HAP that affects a common target organ or target organ system to obtain a TOSHI. The HQ is the estimated exposure divided by the chronic noncancer dose-response value, which is a value selected from one of several sources. The preferred chronic noncancer dose-response value is the EPA RfC, defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime'' (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&vocabName=IRIS%20Glossary*). In cases where an RfC from the EPA's IRIS is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic noncancer dose-response value can be a value from the following prioritized sources, which define their dose-response values similarly to the EPA: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*https://www.atsdr.cdc.gov/mrls/index.asp*); (2) the CalEPA Chronic Reference Exposure Level (REL) (*https://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*); or (3) as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA. The pollutant-specific dose-response values used to estimate health risks are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

c. Risk From Acute Exposure to HAP That May Cause Health Effects Other Than Cancer

For each HAP for which appropriate acute inhalation dose-response values are available, the EPA also assesses the potential health risks due to acute exposure. For these assessments, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. In this proposed rulemaking, as part of our efforts to continually improve our methodologies to evaluate the risks that HAP emitted from categories of industrial sources pose to human health and the

[7] A census block is the smallest geographic area for which census statistics are tabulated.

[8] The EPA's 2005 *Guidelines for Carcinogen Risk Assessment* classifies carcinogens as: ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' and ''suggestive evidence of carcinogenic potential.'' These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document, *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002), was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=20533&CFID=70315376&;CFTOKEN=71597944.* Summing the risk of these individual compounds to obtain the cumulative cancer risk is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) titled *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *https://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

environment,[9] we are revising our treatment of meteorological data to use reasonable worst-case air dispersion conditions in our acute risk screening assessments instead of worst-case air dispersion conditions. This revised treatment of meteorological data and the supporting rationale are described in more detail in *Residual Risk Assessment for Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Technical Support Document for Acute Risk Screening Assessment.* We will be applying this revision in RTR rulemakings proposed on or after June 3, 2019.

To assess the potential acute risk to the maximally exposed individual, we use the peak hourly emission rate for each emission point,[10] reasonable worst-case air dispersion conditions (*i.e.,* 99th percentile), and the point of highest off-site exposure. Specifically, we assume that peak emissions from the source category and reasonable worst-case air dispersion (*i.e.,* 99th percentile) conditions co-occur and that a person is present at the point of maximum exposure.

To characterize the potential health risks associated with estimated acute inhalation exposures to a HAP, we generally use multiple acute dose-response values, including acute RELs, acute exposure guideline levels (AEGLs), and emergency response planning guidelines (ERPG) for 1-hour exposure durations, if available, to calculate acute HQs. The acute HQ is calculated by dividing the estimated acute exposure concentration by the acute dose-response value. For each HAP for which acute dose-response values are available, the EPA calculates acute HQs.

An acute REL is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' [11] Acute RELs are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. They are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact. AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[12] They are guideline levels for ''once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. The AEGL–1 is specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' The document also notes that ''Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* AEGL–2 are defined as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPGs are ''developed for emergency planning and are intended as health-based guideline concentrations for single exposures to chemicals.'' [13] *Id.* at 1. The ERPG–1 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

An acute REL for 1-hour exposure durations is typically lower than its corresponding AEGL–1 and ERPG–1. Even though their definitions are slightly different, AEGL–1s are often the same as the corresponding ERPG–1s, and AEGL–2s are often equal to ERPG–2s. The maximum HQs from our acute inhalation screening risk assessment typically result when we use the acute REL for a HAP. In cases where the maximum acute HQ exceeds 1, we also report the HQ based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1).

For this source category, we used the default acute emissions multiplier of 10 to conservatively estimate maximum hourly rates.

In our acute inhalation screening risk assessment, acute impacts are deemed negligible for HAP for which acute HQs are less than or equal to 1, and no further analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, we assess the site-specific data to ensure that the acute HQ is at an off-site location. For this source category, the data refinements employed consisted of determining the off-site acute risks for each facility that had an initial HQ greater than 1. These refinements are discussed more fully in the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this source category.

[9] See, *e.g.,* U.S. EPA. *Screening Methodologies to Support Risk and Technology Reviews (RTR): A Case Study Analysis* (Draft Report, May 2017. *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html*).

[10] In the absence of hourly emission data, we develop estimates of maximum hourly emission rates by multiplying the average actual annual emission rates by a factor (either a category-specific factor or a default factor of 10) to account for variability. This is documented in *Residual Risk Assessment for Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Technical Support Document for Acute Risk Screening Assessment.* Both are available in the docket for this rulemaking.

[11] CalEPA issues acute RELs as part of its Air Toxics Hot Spots Program, and the 1-hour and 8-hour values are documented in *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* which is available at *https://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary.*

[12] National Academy of Sciences, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2. Available at *https://www.epa.gov/sites/production/files/2015-09/documents/sop_final_standing_operating_procedures_2001.*pdf. Note that the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs (*https://www.epa.gov/aegl*).

[13] *ERPGS Procedures and Responsibilities.* March 2014. American Industrial Hygiene Association. Available at: *https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf.*

4. How do we conduct the multipathway exposure and risk screening assessment?

The EPA conducts a tiered screening assessment examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determine whether any sources in the source category emit any HAP known to be persistent and bioaccumulative in the environment, as identified in the EPA's Air Toxics Risk Assessment Library (see Volume 1, Appendix D, at *https://www.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*.

For the MCM source category, we identified PB–HAP emissions of cadmium compounds, polycyclic organic matter (POM), arsenic compounds, mercury compounds, and lead compounds, so we proceeded to the next step of the evaluation. Except for lead, the human health risk screening assessment for PB–HAP consists of three progressive tiers. In a Tier 1 screening assessment, we determine whether the magnitude of the facility-specific emissions of the PB–HAP warrants further evaluation to characterize human health risk through ingestion exposure. To facilitate this step, we evaluate emissions against previously developed screening threshold emission rates for several PB–HAP that are based on a hypothetical upper-end screening exposure scenario developed for use in conjunction with the EPA's Total Risk Integrated Methodology.Fate, Transport, and Ecological Exposure (TRIM.FaTE) model. The PB–HAP with screening threshold emission rates are arsenic compounds, cadmium compounds, chlorinated dibenzodioxins and furans, mercury compounds, and POM. Based on the EPA estimates of toxicity and bioaccumulation potential, these pollutants represent a conservative list for inclusion in multipathway risk assessments for RTR rules. (See Volume 1, Appendix D at *https://www.epa.gov/sites/production/files/2013-08/documents/volume_1_reflibrary.pdf*.) In this assessment, we compare the facility-specific emission rates of these PB–HAP to the screening threshold emission rates for each PB–HAP to assess the potential for significant human health risks via the ingestion pathway. We call this application of the TRIM.FaTE model the Tier 1 screening assessment. The ratio of a facility's actual emission rate to the Tier 1 screening threshold emission rate is a ''screening value.''

We derive the Tier 1 screening threshold emission rates for these PB–HAP (other than lead compounds) to correspond to a maximum excess lifetime cancer risk of 1-in-1 million (*i.e.,* for arsenic compounds, polychlorinated dibenzodioxins and furans and POM) or, for HAP that cause noncancer health effects (*i.e.,* cadmium compounds and mercury compounds), a maximum HQ of 1. If the emission rate of any one PB–HAP or combination of carcinogenic PB–HAP in the Tier 1 screening assessment exceeds the Tier 1 screening threshold emission rate for any facility (*i.e.,* the screening value is greater than 1), we conduct a second screening assessment, which we call the Tier 2 screening assessment. The Tier 2 screening assessment separates the Tier 1 combine fisher and farmer exposure scenario into fisher, farmer, and gardener scenarios that retain upper-bound ingestion rates.

In the Tier 2 screening assessment, the location of each facility that exceeds a Tier 1 screening threshold emission rate is used to refine the assumptions associated with the Tier 1 fisher and farmer exposure scenarios at that facility. A key assumption in the Tier 1 screening assessment is that a lake and/or farm is located near the facility. As part of the Tier 2 screening assessment, we use a U.S. Geological Survey (USGS) database to identify actual waterbodies within 50 km of each facility and assume the fisher only consumes fish from lakes within that 50 km zone. We also examine the differences between local meteorology near the facility and the meteorology used in the Tier 1 screening assessment. We then adjust the previously-developed Tier 1 screening threshold emission rates for each PB–HAP for each facility based on an understanding of how exposure concentrations estimated for the screening scenario change with the use of local meteorology and USGS lakes database.

In the Tier 2 farmer scenario, we maintain an assumption that the farm is located within 0.5 km of the facility and that the farmer consumes meat, eggs, dairy, vegetables, and fruit produced near the facility. We may further refine the Tier 2 screening analysis by assessing a gardener scenario to characterize a range of exposures, with the gardener scenario being more plausible in RTR evaluations. Under the gardener scenario, we assume the gardener consumes home-produced eggs, vegetables, and fruit products at the same ingestion rate as the farmer. The Tier 2 screen continues to rely on the high-end food intake assumptions that were applied in Tier 1 for local fish (adult female angler at 99th percentile fish consumption [14]) and locally grown or raised foods (90th percentile consumption of locally grown or raised foods for the farmer and gardener scenarios [15]). If PB–HAP emission rates do not result in a Tier 2 screening value greater than 1, we consider those PB–HAP emissions to pose risks below a level of concern. If the PB–HAP emission rates for a facility exceed the Tier 2 screening threshold emission rates, we may conduct a Tier 3 screening assessment.

There are several analyses that can be included in a Tier 3 screening assessment, depending upon the extent of refinement warranted, including validating that the lakes are fishable, locating residential/garden locations for urban and/or rural settings, considering plume-rise to estimate emissions lost above the mixing layer, and considering hourly effects of meteorology and plume rise on chemical fate and transport (a time-series analysis). If necessary, the EPA may further refine the screening assessment through a site-specific assessment.

In evaluating the potential multipathway risk from emissions of lead compounds, rather than developing a screening threshold emission rate, we compare maximum estimated chronic inhalation exposure concentrations to the level of the current National Ambient Air Quality Standard (NAAQS) for lead.[16] Values below the level of the primary (health-based) lead NAAQS are considered to have a low potential for multipathway risk.

For further information on the multipathway assessment approach, see the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed*

[14] Burger, J. 2002. Daily consumption of wild fish and game: Exposures of high end recreationists. *International Journal of Environmental Health Research* 12:343–354.

[15] U.S. EPA. *Exposure Factors Handbook 2011 Edition (Final).* U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–09/052F, 2011.

[16] In doing so, the EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the CAA section 112(f) standard (requiring, among other things, that the standard provide an ''ample margin of safety to protect public health''). However, the primary lead NAAQS is a reasonable measure of determining risk acceptability (*i.e.,* the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources. 73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1. In addition, applying the level of the primary lead NAAQS at the risk acceptability step is conservative, since that primary lead NAAQS reflects an adequate margin of safety.

Rule, which is available in the docket for this action.

5. How do we conduct the environmental risk screening assessment?

a. Adverse Environmental Effect, Environmental HAP, and Ecological Benchmarks

The EPA conducts a screening assessment to examine the potential for an adverse environmental effect as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

The EPA focuses on eight HAP, which are referred to as ''environmental HAP,'' in its screening assessment: Six PB–HAP and two acid gases. The PB–HAP included in the screening assessment are arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. The acid gases included in the screening assessment are hydrochloric acid (HCl) and hydrogen fluoride (HF).

HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The acid gases, HCl and HF, are included due to their well-documented potential to cause direct damage to terrestrial plants. In the environmental risk screening assessment, we evaluate the following four exposure media: Terrestrial soils, surface water bodies (includes water-column and benthic sediments), fish consumed by wildlife, and air. Within these four exposure media, we evaluate nine ecological assessment endpoints, which are defined by the ecological entity and its attributes. For PB–HAP (other than lead), both community-level and population-level endpoints are included. For acid gases, the ecological assessment evaluated is terrestrial plant communities.

An ecological benchmark represents a concentration of HAP that has been linked to a particular environmental effect level. For each environmental HAP, we identified the available ecological benchmarks for each assessment endpoint. We identified, where possible, ecological benchmarks at the following effect levels: Probable effect levels, lowest-observed-adverse-effect level, and no-observed-adverse-effect level. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

For further information on how the environmental risk screening assessment was conducted, including a discussion of the risk metrics used, how the environmental HAP were identified, and how the ecological benchmarks were selected, see Appendix 9 of the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action.

b. Environmental Risk Screening Methodology

For the environmental risk screening assessment, the EPA first determined whether any facilities in the MCM source category emitted any of the environmental HAP. For the MCM source category, we identified emissions of the PB–HAP listed above, plus HCl. Because one or more of the environmental HAP evaluated are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.

c. PB–HAP Methodology

The environmental screening assessment includes six PB–HAP, arsenic compounds, cadmium compounds, dioxins/furans, POM, mercury (both inorganic mercury and methyl mercury), and lead compounds. With the exception of lead, the environmental risk screening assessment for PB–HAP consists of three tiers. The first tier of the environmental risk screening assessment uses the same health-protective conceptual model that is used for the Tier 1 human health screening assessment. TRIM.FaTE model simulations were used to back-calculate Tier 1 screening threshold emission rates. The screening threshold emission rates represent the emission rate in tons of pollutant per year that results in media concentrations at the facility that equal the relevant ecological benchmark. To assess emissions from each facility in the category, the reported emission rate for each PB–HAP was compared to the Tier 1 screening threshold emission rate for that PB–HAP for each assessment endpoint and effect level. If emissions from a facility do not exceed the Tier 1 screening threshold emission rate, the facility ''passes'' the screening assessment, and, therefore, is not evaluated further under the screening approach. If emissions from a facility exceed the Tier 1 screening threshold emission rate, we evaluate the facility further in Tier 2.

In Tier 2 of the environmental screening assessment, the screening threshold emission rates are adjusted to account for local meteorology and the actual location of lakes in the vicinity of facilities that did not pass the Tier 1 screening assessment. For soils, we evaluate the average soil concentration for all soil parcels within a 7.5-km radius for each facility and PB–HAP. For the water, sediment, and fish tissue concentrations, the highest value for each facility for each pollutant is used. If emission concentrations from a facility do not exceed the Tier 2 screening threshold emission rate, the facility ''passes'' the screening assessment and typically is not evaluated further. If emissions from a facility exceed the Tier 2 screening threshold emission rate, we evaluate the facility further in Tier 3.

As in the multipathway human health risk assessment, in Tier 3 of the environmental screening assessment, we examine the suitability of the lakes around the facilities to support life and remove those that are not suitable (*e.g.,* lakes that have been filled in or are industrial ponds), adjust emissions for plume-rise, and conduct hour-by-hour time-series assessments. If these Tier 3 adjustments to the screening threshold emission rates still indicate the potential for an adverse environmental effect (*i.e.,* facility emission rate exceeds the screening threshold emission rate), we may elect to conduct a more refined assessment using more site-specific information. If, after additional refinement, the facility emission rate still exceeds the screening threshold emission rate, the facility may have the potential to cause an adverse environmental effect.

To evaluate the potential for an adverse environmental effect from lead, we compared the average modeled air concentrations (from HEM–3) of lead around each facility in the source category to the level of the secondary NAAQS for lead. The secondary lead NAAQS is a reasonable means of evaluating environmental risk because it is set to provide substantial protection against adverse welfare effects which can include ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values

and on personal comfort and well-being.''

d. Acid Gas Environmental Risk Methodology

The environmental screening assessment for acid gases evaluates the potential phytotoxicity and reduced productivity of plants due to chronic exposure to HF and HCl. The environmental risk screening methodology for acid gases is a single-tier screening assessment that compares modeled ambient air concentrations (from AERMOD) to the ecological benchmarks for each acid gas. To identify a potential adverse environmental effect (as defined in section 112(a)(7) of the CAA) from emissions of HF and HCl, we evaluate the following metrics: The size of the modeled area around each facility that exceeds the ecological benchmark for each acid gas, in acres and km^2; the percentage of the modeled area around each facility that exceeds the ecological benchmark for each acid gas; and the area-weighted average screening value around each facility (calculated by dividing the area-weighted average concentration over the 50-km modeling domain by the ecological benchmark for each acid gas). For further information on the environmental screening assessment approach, see Appendix 9 of the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action.

6. How do we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data. For this source category, we conducted the facility-wide assessment using a dataset compiled from the 2014 NEI. The source category records of that NEI dataset were removed, evaluated, and updated as described in section II.C of this preamble: What data collection activities were conducted to support this action? Once a quality assured source category dataset was available, it was placed back with the remaining records from the NEI for that facility. The facility-wide file was then used to analyze risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, the modeled source category risks were compared to the facility-wide risks to determine the portion of the facility-wide risks that could be attributed to the source category addressed in this action. We also specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

7. How do we consider uncertainties in risk assessment?

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. Also included are those uncertainties specific to our acute screening assessments, multipathway screening assessments, and our environmental risk screening assessments. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the Risk and Technology Review 2019 Proposed Rule,* which is available in the docket for this action. If a multipathway site-specific assessment was performed for this source category, a full discussion of the uncertainties associated with that assessment can be found in Appendix 11 of that document, *Site-Specific Human Health Multipathway Residual Risk Assessment Report.*

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations. We also note that the selection of meteorology dataset location could have an impact on the risk estimates. As we continue to update and expand our library of meteorological station data used in our risk assessments, we expect to reduce this variability.

c. Uncertainties in Inhalation Exposure Assessment

Although every effort is made to identify all of the relevant facilities and emission points, as well as to develop accurate estimates of the annual emission rates for all relevant HAP, the uncertainties in our emission inventory likely dominate the uncertainties in the exposure assessment. Some uncertainties in our exposure assessment include human mobility, using the centroid of each census block,

assuming lifetime exposure, and assuming only outdoor exposures. For most of these factors, there is neither an under nor overestimate when looking at the maximum individual risk or the incidence, but the shape of the distribution of risks may be affected. With respect to outdoor exposures, actual exposures may not be as high if people spend time indoors, especially for very reactive pollutants or larger particles. For all factors, we reduce uncertainty when possible. For example, with respect to census-block centroids, we analyze large blocks using aerial imagery and adjust locations of the block centroids to better represent the population in the blocks. We also add additional receptor locations where the population of a block is not well represented by a single location.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties are generally expressed quantitatively, and others are generally expressed in qualitative terms. We note, as a preface to this discussion, a point on dose-response uncertainty that is stated in the EPA's *2005 Guidelines for Carcinogen Risk Assessment;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (the EPA's *2005 Guidelines for Carcinogen Risk Assessment,* page 1–7). This is the approach followed here as summarized in the next paragraphs.

Cancer UREs used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk.[17] That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit). In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[18] Chronic noncancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. To derive dose-response values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach,[19] which considers uncertainty, variability, and gaps in the available data. The UFs are applied to derive dose-response values that are intended to protect against appreciable risk of deleterious effects.

Many of the UFs used to account for variability and uncertainty in the development of acute dose-response values are quite similar to those developed for chronic durations. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute dose-response value at another exposure duration (*e.g.,* 1 hour). Not all acute dose-response values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the dose-response value or values being exceeded. Where relevant to the estimated exposures, the lack of acute dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Uncertainty also exists in the selection of ecological benchmarks for the environmental risk screening assessment. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. We searched for benchmarks for three effect levels (*i.e.,* no-effects level, threshold-effect level, and probable effect level), but not all combinations of ecological assessment/environmental HAP had benchmarks for all three effect levels. Where multiple effect levels were available for a particular HAP and assessment endpoint, we used all of the available effect levels to help us determine whether risk exists and whether the risk could be considered significant and widespread.

Although we make every effort to identify appropriate human health effect dose-response values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for an IRIS assessment for that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified dose-response value, we also apply the most protective dose-response value from the other compounds in the group to estimate risk.

e. Uncertainties in Acute Inhalation Screening Assessments

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emission rates, meteorology, and the presence of a person. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and reasonable worst-case air dispersion conditions (*i.e.,* 99th percentile) co-occur. We then include the additional assumption that a person is located at this point at the same time. Together, these assumptions represent a reasonable worst-case exposure scenario. In most cases, it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and

[17] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

[18] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

[19] See *A Review of the Reference Dose and Reference Concentration Processes,* U.S. EPA, December 2002, and *Methods for Derivation of Inhalation Reference Concentrations and Application of Inhalation Dosimetry,* U.S. EPA, 1994.

reasonable worst-case air dispersion conditions occur simultaneously.

f. Uncertainties in the Multipathway and Environmental Risk Screening Assessments

For each source category, we generally rely on site-specific levels of PB–HAP or environmental HAP emissions to determine whether a refined assessment of the impacts from multipathway exposures is necessary or whether it is necessary to perform an environmental screening assessment. This determination is based on the results of a three-tiered screening assessment that relies on the outputs from models—TRIM.FaTE and AERMOD—that estimate environmental pollutant concentrations and human exposures for five PB–HAP (dioxins, POM, mercury, cadmium, and arsenic) and two acid gases (HF and hydrogen chloride). For lead, we use AERMOD to determine ambient air concentrations, which are then compared to the secondary NAAQS standard for lead. Two important types of uncertainty associated with the use of these models in RTR risk assessments and inherent to any assessment that relies on environmental modeling are model uncertainty and input uncertainty.[20]

Model uncertainty concerns whether the model adequately represents the actual processes (*e.g.,* movement and accumulation) that might occur in the environment. For example, does the model adequately describe the movement of a pollutant through the soil? This type of uncertainty is difficult to quantify. However, based on feedback received from previous EPA SAB reviews and other reviews, we are confident that the models used in the screening assessments are appropriate and state-of-the-art for the multipathway and environmental screening risk assessments conducted in support of RTR.

Input uncertainty is concerned with how accurately the models have been configured and parameterized for the assessment at hand. For Tier 1 of the multipathway and environmental screening assessments, we configured the models to avoid underestimating exposure and risk. This was accomplished by selecting upper-end values from nationally representative datasets for the more influential parameters in the environmental model, including selection and spatial configuration of the area of interest, lake location and size, meteorology, surface water, soil characteristics, and structure of the aquatic food web. We also assume an ingestion exposure scenario and values for human exposure factors that represent reasonable maximum exposures.

In Tier 2 of the multipathway and environmental screening assessments, we refine the model inputs to account for meteorological patterns in the vicinity of the facility versus using upper-end national values, and we identify the actual location of lakes near the facility rather than the default lake location that we apply in Tier 1. By refining the screening approach in Tier 2 to account for local geographical and meteorological data, we decrease the likelihood that concentrations in environmental media are overestimated, thereby increasing the usefulness of the screening assessment. In Tier 3 of the screening assessments, we refine the model inputs again to account for hour-by-hour plume rise and the height of the mixing layer. We can also use those hour-by-hour meteorological data in a TRIM.FaTE run using the screening configuration corresponding to the lake location. These refinements produce a more accurate estimate of chemical concentrations in the media of interest, thereby reducing the uncertainty with those estimates. The assumptions and the associated uncertainties regarding the selected ingestion exposure scenario are the same for all three tiers.

For the environmental screening assessment for acid gases, we employ a single-tiered approach. We use the modeled air concentrations and compare those with ecological benchmarks.

For all tiers of the multipathway and environmental screening assessments, our approach to addressing model input uncertainty is generally cautious. We choose model inputs from the upper end of the range of possible values for the influential parameters used in the models, and we assume that the exposed individual exhibits ingestion behavior that would lead to a high total exposure. This approach reduces the likelihood of not identifying high risks for adverse impacts.

Despite the uncertainties, when individual pollutants or facilities do not exceed screening threshold emission rates (*i.e.,* screen out), we are confident that the potential for adverse multipathway impacts on human health is very low. On the other hand, when individual pollutants or facilities do exceed screening threshold emission rates, it does not mean that impacts are significant, only that we cannot rule out that possibility and that a refined assessment for the site might be necessary to obtain a more accurate risk characterization for the source category.

The EPA evaluates the following HAP in the multipathway and/or environmental risk screening assessments, where applicable: arsenic, cadmium, dioxins/furans, lead, mercury (both inorganic and methyl mercury), POM, HCl, and HF. These HAP represent pollutants that can cause adverse impacts either through direct exposure to HAP in the air or through exposure to HAP that are deposited from the air onto soils and surface waters and then through the environment into the food web. These HAP represent those HAP for which we can conduct a meaningful multipathway or environmental screening risk assessment. For other HAP not included in our screening assessments, the model has not been parameterized such that it can be used for that purpose. In some cases, depending on the HAP, we may not have appropriate multipathway models that allow us to predict the concentration of that pollutant. The EPA acknowledges that other HAP beyond these that we are evaluating may have the potential to cause adverse effects and, therefore, the EPA may evaluate other relevant HAP in the future, as modeling science and resources allow.

IV. Analytical Results and Proposed Decisions

A. What are the results of the risk assessment and analyses?

As described above, for the MCM source category, we conducted an inhalation risk assessment for all HAP emitted, a multipathway screening assessment on the PB–HAP emitted, and an environmental risk screening assessment on the PB–HAP and acid gases emitted. We present results of the risk assessment briefly below and in more detail in the document titled *Residual Risk Assessment for the Miscellaneous Coating Manufacturing Source Category in Support of the 2019 Risk and Technology Review Proposed Rule,* which is available in the docket for this rulemaking.

1. Chronic Inhalation Risk Assessment Results

Table 2 of this preamble provides a summary of the results of the inhalation risk assessment for the source category.

[20] In the context of this discussion, the term ''uncertainty'' as it pertains to exposure and risk encompasses both *variability* in the range of expected inputs and screening results due to existing spatial, temporal, and other factors, as well as *uncertainty* in being able to accurately estimate the true result.

TABLE 2—MCM INHALATION RISK ASSESSMENT RESULTS [5]

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]	Population at increased risk of cancer ≥ 1-in-1 million	Annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [3]	Maximum screening acute noncancer HQ [4]
43	6	3,700	0.002	0.4	2

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[3] Maximum TOSHI. The target organ system with the highest TOSHI for the source category is respiratory.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value. The HQ shown here is for glycol ethers, for which there are no other available acute dose-response values.
[5] For this source category, it was determined that baseline allowable emissions are equal to baseline actual emissions and, therefore, the risk summaries are the same.

The results of the inhalation risk modeling for both actuals and allowables, as shown in Table 2 of this preamble, indicate the estimated cancer MIR is 6-in-1 million, with chromium (VI) compounds from process vents as the major contributor to the risk. The total estimated cancer incidence from this source category is 0.002 excess cancer cases per year, or one excess case in every 500 years. Approximately 3,700 people are estimated to have cancer risks greater than or equal to 1-in-1 million from HAP emitted from the facilities in this source category. The estimated maximum chronic noncancer TOSHI for the source category is 0.4 (respiratory), driven by emissions of acrylic acid from process vents. No one is exposed to TOSHI levels greater than 1.

2. Screening-Level Acute Risk Assessment Results

As shown in Table 2 above, the highest acute HQ based on the reasonable worst-case scenario is 2, based on the REL for glycol ethers. This is the highest HQ that is outside facility boundaries. One facility is estimated to have an HQ greater than 1 based on the REL, which is the only available benchmark for glycol ethers. Acute risk estimates for each facility and pollutant are provided in the risk assessment document, which is available in the docket for this rulemaking.

3. Multipathway Risk Screening Results

Potential multipathway health risks under a fisher and farmer/gardener scenario were identified using a three-tier screening assessment of the PB–HAP emitted by facilities in this source category. For carcinogenic PB–HAP, one facility emits arsenic compounds, while two facilities emit POM. None of these emissions exceed a Tier 1 cancer screening value for arsenic or POM. For noncarcinogenic PB–HAP, one facility emits cadmium compounds and one facility emits mercury compounds. None of these emissions exceed a Tier 1 noncancer screening value for cadmium or mercury. Further analyses (*i.e.,* Tier 2 or 3 screens) were not performed. For lead compounds, we did not estimate any exceedances of the lead NAAQS.

4. Environmental Risk Screening Results

A screening-level evaluation of the potential adverse environmental risk associated with emissions of the PB–HAP listed above, plus acid gases (HCl is the only reported acid gas), indicated that no ecological benchmarks were exceeded. For lead compounds, we did not estimate any exceedances of the secondary lead NAAQS.

5. Facility-Wide Risk Results

The results of the inhalation risk modeling using facility-wide emissions data indicate that the estimated MIR is 20-in-1 million with emissions of hydrazine from sources subject to other standards driving the risk. These include 40 CFR part 63 subpart FFFF (Miscellaneous Organic Chemicals Manufacturing NESHAP), H (Hazardous Organic NESHAP), and EEEE (Organic Liquids Distribution), which are not part of this source category. The total estimated cancer incidence is 0.006 excess cancer cases per year. Approximately 50,100 people are estimated to have cancer risks greater than or equal to 1-in-1 million. The estimated maximum chronic noncancer TOSHI is 2 (for the neurological target organ), driven by emissions of hydrogen cyanide from non-source category emissions from carbon fiber production. Approximately 80 people are estimated to be exposed to noncancer HI levels greater than 1.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risk to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risk from the MCM source category across different demographic groups within the populations living near facilities.

The results of the demographic analysis are summarized in Table 3 of this preamble. These results, for various demographic groups, are based on the estimated risk from actual emissions levels for the population living within 50 km of the facilities.

TABLE 3—MCM DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to MCM	Population with chronic HI above 1 due to MCM
Total Population	371,746,049	3,665	0

TABLE 3—MCM DEMOGRAPHIC RISK ANALYSIS RESULTS—Continued

	Nationwide	Population with cancer risk at or above 1-in-1 million due to MCM	Population with chronic HI above 1 due to MCM
White and Minority by Percent			
White	62	64	0
Minority	38	36	0
Minority by Percent			
African American	12	32	0
Native American	0.8	0.05	0
Hispanic or Latino (includes White and nonwhite)	18	2	0
Other and Multiracial	7	2	0
Income by Percent			
Below Poverty Level	14	29	0
Above Poverty Level	86	71	0
Education by Percent			
Over 25 and without High School Diploma	14	19	0
Over 25 and with a High School Diploma	86	81	0
Linguistically Isolated by Percent			
Linguistically Isolated	6	1	0

The results of the MCM source category demographic analysis indicate that emissions from the source category expose approximately 3,700 people to a cancer risk at or above 1-in-1 million and zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in each demographic group (except for African American, Below Poverty Level, Hispanic or Latino, and Above Poverty Level) are similar to (within 5 percent of) their respective nationwide percentages. The African American and Below Poverty Level demographic groups are greater than their respective nationwide percentages, while the Hispanic or Latino (includes White and nonwhite) and Above Poverty Level are lower than their respective nationwide percentages.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Facilities,* available in the docket for this action.

B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effect?

1. Risk Acceptability

As noted in section II.A of this preamble, the EPA sets standards under CAA section 112(f)(2) using a ''two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of approximately 1-in-10 thousand.'' (54 FR 38045, September 14, 1989.) In this proposal, the EPA estimated risks based on actual and allowable emissions from MCM sources, and we considered these in determining acceptability. The estimated inhalation cancer risk to the individual most exposed to actual emissions from the source category is 6-in-1 million. The estimated cancer incidence due to inhalation exposures is 0.002 excess cancer cases per year, or one excess case every 500 years. Approximately 3,700 people face an increased cancer risk greater than 1-in-1 million due to inhalation exposures to HAP emissions from this source category. The estimated maximum chronic noncancer TOSHI from inhalation exposure for this source category is 0.4. Risks for allowable emissions are the same since it was determined that allowable emissions are equal to actual emissions for this source category. The screening assessment of worst-case acute inhalation impacts indicates one facility with an estimated HQ of 2, based on the REL for glycol ethers.

Potential multipathway human health risks were estimated using a three-tier screening assessment of the PB–HAP emitted by facilities in this source category, where there were no exceedances of Tier 1 screening values for any PB–HAP emitted and, for lead compounds, no exceedances of the lead NAAQS.

In determining whether risks are acceptable for this source category, the EPA considered all available health information and risk estimation uncertainty as described above. The risk results indicate that the inhalation cancer risks to the individual most exposed are far less than 100-in-1 million, which is the presumptive limit of acceptability (see, for example, 54 FR 38045, September 14, 1989). There are no facilities or people exposed at this risk level for either actual or allowable emissions. Also, there are no facilities with an estimated maximum chronic noncancer TOSHI greater than 1. There is one facility with an acute HQ value of 2 based on the REL for glycol ethers; however, given the conservative nature of the acute screening assessment, it is unlikely there are acute impacts from HAP emissions from this category. In addition, there are no exceedances of Tier 1 screening values in the multipathway assessment, nor exceedances of the lead NAAQS. Considering all of the health risk information and factors discussed above, including the uncertainties discussed in section III of this preamble,

the EPA proposes that the risks from the MCM source category are acceptable.

2. Ample Margin of Safety Analysis

We next considered whether the existing MACT standards provide an ample margin of safety to protect public health. In addition to considering all the health risks and other health information considered in the risk acceptability determination, in the ample margin of safety analysis we evaluated the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied to the source category to further reduce the risks due to emissions of HAP. As noted in our discussion of the technology review in section IV.C of this preamble, we identified two developments in practices, processes, or control technologies for reducing HAP emissions from process vessels in the MCM source category. As part of the risk review, we evaluated these developments to determine whether they could reduce risks and whether it is necessary to require these developments to provide an ample margin of safety to protect public health.

Since the baseline risks are being driven by inorganic HAP from process vessels, we evaluated a control option for inorganic HAP emissions from process vessels located at MCM facilities and considered the resulting health information. The control option that we evaluated for inorganic HAP would be similar to those included in 40 CFR part 63, subpart CCCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. Additionally, we evaluated increasing the control efficiency requirements for organic HAP emissions from process vessels. The process vessel options did not result in a decrease to the MIR or to the maximum chronic noncancer TOSHI because the MIR facility already had controls in place. However, there was a reduction seen in the population exposed to a cancer risk of 1-in-1 million from 3,700 to 1,900 due to emissions reductions at other facilities. As described in section IV.C of this preamble though, we determined that these options are not cost effective. Overall, the available options could result in small reductions in population risk, but we did not identify any cost-effective options for reducing HAP emissions from the source category.

Considering all of the health information presented above, along with the available information regarding the cost of the available options, we propose that the existing standards provide an ample margin of safety to protect public health. We are requesting comment on whether there are other control measures for emission sources in this category that are necessary to provide an ample margin of safety to protect public health. In particular, we are requesting that states identify any controls they have already required for these facilities, controls they are currently considering, or any other controls of which they are aware that are being used to control HAP from these sources.

4. Adverse Environmental Effect

Based on the results of the environmental risk screening assessment, we are proposing that HAP emissions from the MCM source category do not present an adverse environmental effect. Thus, we are proposing that it is not necessary to set a more stringent standard to prevent, taking into consideration costs, safety, and other relevant factors, an adverse environmental effect.

C. What are the results and proposed decisions based on our technology review?

Sources of HAP emissions regulated by the MCM NESHAP are process vessels, storage tanks, transfer racks, equipment leaks, wastewater streams, and heat exchange systems. MCM processes occur as batch operations, which involve intermittent or discontinuous feed of raw materials into equipment, and generally involve emptying of the equipment after the operation ceases and prior to beginning a new operation. To inform our technology reviews for these emission sources, we reviewed the EPA's RBLC and regulatory development efforts for similar sources published after the MCM NESHAP was developed. We then evaluated the impacts of requiring additional controls identified in the technology review for the MCM source category, as described below.

1. Process Vessels

Process vessels regulated by the MCM NESHAP are defined as any stationary or portable tank or other vessel with a capacity greater than or equal to 250 gal and in which mixing, blending, diluting, dissolving, temporary holding, and other processing steps occur in the manufacturing of a coating. Process vessels used in MCM generate gaseous streams containing HAP when HAP-containing materials are present in the vessel and more material is added displacing solvent-laden air from inside the vessel, and during product mixing as the HAP-containing contents are agitated.

At existing sources, the HAP emissions from portable vessels must be controlled by fitting the vessels with lids that are kept closed at all times when the vessel contains a HAP, except for material additions and sampling. The HAP emissions from stationary vessels must be controlled by fitting the vessels with lids that are kept closed at all times when the vessel contains a HAP, except for material additions and sampling, and by capturing all emissions and routing the captured emissions to a control device. Organic HAP with a vapor pressure equal to or greater than 0.6 kilopascals (kPa) must be reduced by at least 75 percent by weight, and organic HAP with a vapor pressure less than 0.6 kPa must be reduced by at least 60 percent.

At new sources, the HAP emissions from portable and stationary process vessels must be controlled by fitting the vessels with lids that are kept closed at all times when the vessel contains a HAP, except for material additions and sampling. The emissions from both portable and stationary process vessels must be captured and the captured emissions reduced by at least 95 percent, as total organic HAP, using a control device other than a flare, reduced by venting non-halogenated vent streams to a flare, or vented to a condenser. If a condenser is used, the condenser must achieve a specified outlet gas temperature depending on the partial pressure of the HAP contained in the vessel. If a combustion device is used to control a halogenated vent stream, then a halogen reduction device (*e.g.,* a scrubber) must be used to reduce hydrogen halide and halogen HAP by at least 95 percent; or reduce overall emissions of hydrogen halide and halogen HAP to no more than 0.45 kg/hr.

We evaluated two options that could be potentially considered technology developments under CAA section 112(d)(6). In the first option, we considered increasing the control efficiency requirement for process vessels at existing sources to match the control requirement for new sources, which would increase the control efficiency for organic HAP with a vapor pressure equal to or greater than 0.6 kPa from 75 percent to 95 percent. We consider this option to be a new development because several facilities have controlled all process vessels with thermal oxidizers to comply with the NESHAP.

We estimated the costs of installing a thermal oxidizer on the six plants in the MCM source category that currently do not have a thermal oxidizer installed on process vessels. We did not estimate

costs for catalytic oxidizers because thermal oxidizers are cheaper than catalytic oxidizers. The costs were estimated using the *EPA Air Pollution Control Cost Manual* cost spreadsheet for thermal oxidizers [21] and the process vent flow rate from NEI or the facility operating permit. The estimated cost effectiveness for these facilities ranged from $20,000 per ton HAP removed to $150,000 per ton HAP removed.

The second option that we considered was to require controls to limit particulate matter (PM) HAP emissions from process vessels in which dry materials (*e.g.,* pigments) containing inorganic HAP are added to the process vessel. We considered provisions that would be similar to those included in 40 CFR part 63, subpart CCCCCCC, the NESHAP for Area Sources for Paints and Allied Products Manufacturing. This option would reflect the fact that several facilities subject to 40 CFR part 63, subpart HHHHH have process vessels controlled with fabric filters when dry materials are being added.

We estimated costs for both a fabric filter baghouse and a cartridge filter type of particulate control with a flow rate of 1,000 cubic feet per minute, plus 150 feet of flexible duct to capture the fugitive PM when dry matter is being added to the mixing vessel. The estimated cost effectiveness for this option ranged from $310,000 to $2,100,000 per ton of particulate HAP reduced. We also evaluated whether pigments could be added in a wetted or paste form, but not all pigments are available or can be used in wetted or paste form.

The EPA did not find the control technology development options considered for process vessels in this technology review to be cost effective, or, in some cases, technologically feasible. Consequently, the EPA proposes that it is not necessary to amend the standards for process vessels under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

2. Storage Tanks

Storage tanks hold the liquid raw materials used in the coating manufacturing process. Emissions occur from storage tanks through the displacement of vapor-laden air as the tank is being filled (working losses) and also due to changes in temperature that cause the vapor-laden air in the head space of the tank to expand (breathing losses).

Emissions from vertical tanks can be controlled by installing a floating roof inside the tank. By floating on the surface of the liquid, this roof design eliminates head space above the surface of the liquid and, therefore, minimizes the evaporation of organic vapors inside the tank. An internal floating roof (IFR) tank has a second fixed roof over the floating roof. An external floating roof (EFR) tank has no fixed roof over the floating roof and is exposed to the elements.

Emissions from horizontal tanks can be controlled with a closed vent system that captures the emissions and delivers them to either a recovery device or a destruction device. Control devices within the MCM source category include carbon adsorbers and combustion devices. Alternatively, a vapor balancing system can be used to eliminate working loss emissions. In vapor balancing, the displaced vapors from the receiving tank are piped back into the storage vessel from which the liquid product is delivered.

No facility in the MCM source category during the original MACT development reported using IFRs, EFRs, or vapor balancing to reduce HAP emissions from any storage tank.

The MCM NESHAP regulates two classes of storage tanks. Group 1a storage tanks are storage tanks at existing sources with capacities greater than or equal to 20,000 gal storing material that has a maximum true vapor pressure of total organic HAP greater than or equal to 1.9 psia. Group 1a storage tanks also include storage tanks at new sources with capacities greater than or equal to 25,000 gal storing materials with a maximum true vapor pressure of total HAP greater than or equal to 0.1 psia, as well as storage tanks with capacities greater than or equal to 20,000 gal and less than 25,000 gal storing materials with a maximum true vapor pressure of total HAP greater than or equal to 1.5 psia.

Group 1b storage tanks are storage tanks at new sources with capacities greater than or equal to 10,000 gal, storing materials that have a maximum true vapor pressure of total organic HAP greater than or equal to 0.02 psia, and are not Group 1a storage tanks.

Emissions from Group 1a storage tanks must be controlled by complying with the provisions of 40 CFR part 63, subpart WW (NESHAP for Storage Vessels (Tanks)—Control Level 2), which is based on the use of an IFR or an EFR; by reducing total organic HAP emissions by at least 90 percent by weight by venting emissions through a closed-vent system to a control device (excluding a flare); or by reducing total organic HAP emissions from the storage tank by venting emissions from a non-halogenated vent stream through a closed-vent system to a flare.

The EPA did not identify in our technology review any developments in practices, processes, and control technologies for storage tanks that were not already considered in the development of the original MACT. Because there were no improvements in the technologies considered under MACT, the EPA proposes that it is not necessary to amend the standards for storage tanks under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

3. Transfer Operations

Transfer operations involve the bulk loading of coating products into either tanker trucks or tanker rail cars. Transfer operations do not involve the filling of cans, pails, drums, or totes. Most coating manufacturing facilities perform only the filling of cans, pails, drums, or totes with coating products and do not perform transfer operations to tanker trucks or rail cars. A few coating manufacturers perform transfer operations because they provide coatings to facilities, such as coil coating and metal can coating facilities, that use large quantities of certain coatings and store those coatings in large stationary storage tanks.

Emissions during transfer operations are generated by the displacement of the solvent vapor-laden air in the receiving tanker truck or rail car as the tank is filled. The extent of the HAP emissions will depend on the HAP content of the material being loaded (*i.e.,* weight percent HAP), the volatility of the HAP in the material being loaded, and the total volume of coating being loaded. The MCM NESHAP regulates the bulk loading of coating products if the coatings contain 3.0 million gal or more per year of HAP with a weighted average HAP partial pressure greater than or equal to 1.5 psia. The MCM NESHAP requires the HAP emissions to be controlled by either venting the emissions through a closed-vent system to any combination of control devices (except a flare) and reducing emissions

[21] *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.*

by at least 75 percent, by venting the emissions from a non-halogenated vent stream through a closed-vent system to a flare, or by using a vapor balancing system to collect displaced organic HAP vapors and route the vapors to the storage tank from which the liquid being loaded originated or to another storage tank connected by a common header.

The EPA did not identify in our technology review any developments in practices, processes, and control technologies for bulk loading of coating products that were not already considered in the development of the original MACT. Because there were no improvements in the technologies considered under MACT, the EPA proposes that it is not necessary to amend the standards for transfer operations under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

4. Equipment Leaks

In the MCM source category, organic HAP vapors can escape from leaks in connectors, valves, and pumps in liquid piping systems due to mechanical defects in those items. MCM facilities use piping systems to move liquid raw materials from storage tanks to process vessels and then from process vessels to filling operations or bulk transfer operations.

Emissions can be minimized through periodic monitoring of the connectors, valves, and pumps to check for leaks and the timely repair of equipment that is found to be leaking. Leak detection can be through sensory monitoring using sight, sound, and smell to detect leaks, or leak detection can be through the use of a monitoring instrument (EPA Method 21) that measures the concentration of organic vapors in parts per million by volume (ppmv) in the air near each of the connectors, valves, and pumps. Different NESHAP that specify the use of instrument monitoring may define a different threshold vapor concentration that constitutes a leak that triggers the need for repair.

The MCM NESHAP requires existing sources to comply with the equipment leaks provisions in 40 CFR part 63, subpart R, NESHAP for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations); subpart TT, NESHAP for Equipment Leaks, Control Level 1; or subpart UU, NESHAP for Equipment Leaks, Control Level 2. New sources must comply with the provisions of subparts UU or TT. Subpart R requires monthly inspections for equipment leaks using sight, sound, or smell. Subpart TT requires the use of instrument monitoring and defines leaks as instrument readings of 10,000 ppmv for valves, pumps, and connectors. Subpart UU also requires the use of instrument monitoring and defines leaks as instrument readings of 500 ppmv for valves, 1,000 ppmv for pumps, and 500 ppmv for connectors.

Based on developments in other similar source categories, we identified as a technology alternative to the current standard a more stringent provision for existing sources that would eliminate sensory monitoring and require instrument monitoring with lower leak definitions than specified in 40 CFR part 63, subpart TT. For this alternative, we estimated the incremental emission reductions and cost effectiveness of employing instrument monitoring (EPA Method 21) with an equipment leak defined as instrument readings of 500 ppmv for valves, 2,000 ppmv for pumps, and 500 ppmv for connectors. We estimated the costs of requiring instrument monitoring with more stringent leak definitions for four model plants with 25, 50, 100, or 200 process vessels. The estimated cost effectiveness for these model plants ranged from $107,000 per ton HAP removed to $22,000 per ton HAP removed for the smallest to largest model plant, and these values are higher than organic HAP cost-effectiveness values that we historically have considered cost effective.

The EPA does not find the leak detection instrument monitoring option that was evaluated to be cost effective. Consequently, the EPA proposes that it is not necessary to amend the standards for equipment leaks under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

5. Wastewater Streams

Wastewater that comes in contact with organic HAP-containing materials may be a source of organic HAP emissions as the organic HAP evaporates from the wastewater. In coatings manufacturing, wastewater containing organic HAP may be generated from the cleaning of process vessels and other equipment between batches of different coatings.

Emissions can be controlled from wastewater by collecting and moving the wastewater in enclosed pipes and then treating the wastewater to remove the organic HAP. Wastewater containing organic HAP can be collected and treated as hazardous waste in which case it is usually incinerated. It can also be treated by using steam to volatilize the organic HAP and separate it from the wastewater. Finally, if the organic HAP concentration is low enough, it can be treated through enhanced biological treatment in which microorganisms oxidize the organic HAP.

The MCM NESHAP regulates wastewater streams that contain total partially soluble and soluble HAP at an annual average concentration greater than or equal to 4,000 ppmw and load greater than or equal to 750 lb/yr at existing sources, or that contain greater than or equal to 1,600 ppmw and any partially soluble and soluble HAP load at new sources. Wastewater tanks used to store regulated wastewater streams must have a fixed roof, which may have openings necessary for proper venting of the tank, such as a pressure/vacuum vent or j-pipe vent. Regulated wastewater streams must be conveyed using hard piping and treated as a hazardous waste in accordance with 40 CFR part 264, 265, or 266 either onsite or offsite. Alternatively, if the wastewater contains less than 50 ppmw of partially soluble HAP, it may be treated in an enhanced biological treatment system that is located either onsite or offsite.

Because our technology review identified no developments in practices, processes, or controls for reducing wastewater emissions at MCM facilities, we evaluated developments in other industries with wastewater streams that contain organic HAP. We reviewed three options that were considered in other industry technology reviews for their applicability to the MCM wastewater streams. These options were:

(1) Requiring wastewater drain and tank controls at facilities with a total annual benzene quantity of less than 10 megagrams per year (Mg/yr).

(2) Requiring specific performance parameters (minimum fraction biodegraded, fbio) for an enhanced biological unit beyond those required in the Benzene NESHAP.

(3) Requiring wastewater streams with a volatile organic compound (VOC) content of 750 ppmw or higher to be treated by steam stripping prior to any other treatment process for facilities with high organic loading rates (*i.e.,* facilities with total annualized benzene quantity of 10 Mg/yr or more).

The EPA did not find any of the three wastewater stream control options evaluated to be cost effective. Consequently, the EPA proposes that it is not necessary to amend the standards for wastewater streams under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

6. Heat Exchange Systems

Heat exchangers are devices or collections of devices used to transfer heat from process fluids to another fluid (typically air or water) without intentional direct contact of the process fluid with the cooling fluid (*i.e.,* non-contact heat exchangers).

At times, the heat exchanger's internal tubing material can corrode or crack, allowing some process fluids to mix or become entrained with the cooling water. Pollutants in the process fluids may subsequently be released from the cooling water into the atmosphere when the water is exposed to air (*e.g.,* in a cooling tower for closed-loop systems or at trenches/ponds in a once-through system).

The MCM NESHAP regulates heat exchangers by requiring them to meet the provisions in 40 CFR part 63, subpart F, NESHAP for the Synthetic Organic Chemical Manufacturing Industry. Specifically, under 40 CFR 63.104, facilities are required to monitor the cooling water in the heat exchange system on a periodic basis to detect and repair leaks, unless certain design and operating requirements are met. Those other requirements include operating the system such that the cooling water is at a higher pressure than the process fluid, using an intervening cooling fluid between the water and process fluid and ensuring the intervening fluid is not discharged, using a once-through heat exchange system that is subject to a NPDES permit, or only using the heat exchange system to cool process fluids that meet low-HAP content criteria.

The EPA did not identify in our technology review any developments in practices, processes, and control technologies for heat exchange systems that were not already considered in the development of the original MACT. Because there were no improvements in the technologies considered under MACT, the EPA proposes that it is not necessary to amend the standards for heat exchange systems under the technology review. Further explanation of the assumptions and methodologies for all options evaluated are provided in the memorandum, *Clean Air Act Section 112(d)(6) Technology Review for the Miscellaneous Coatings Manufacturing Source Category,* available in the docket to this action.

D. What other actions are we proposing?

In addition to the proposed decisions described above, we are proposing additional revisions to the NESHAP. We are proposing revisions to the SSM provisions of 40 CFR part 63, subpart HHHHH to be consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated rule provisions that exempt sources from the provision to comply with otherwise applicable NESHAP during periods of SSM. We also are proposing to require electronic submittal of notifications, semi-annual reports and compliance reports (which include performance test reports). We are proposing to require periodic performance testing of oxidizers used to demonstrate compliance. We are proposing technical and editorial revisions and corrections.

1. SSM Provisions

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We are proposing the elimination of the SSM exemption in this rule which appears at 40 CFR 63.8000(a). Consistent with *Sierra Club* v. *EPA,* we are proposing standards in this rule that apply at all times. We are also proposing several revisions to Table 10 (the General Provisions Applicability Table) as explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

In addition, as explained in more detail in section IV.D.1.i., below, we are proposing language in 40 CFR 63.8005(h) to clarify that any periods during which a control device is bypassed be included in demonstrating compliance with the emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH. As currently specified in 40 CFR 63.8005, 63.8010, and 63.8020, you must establish operating limits for process vessels and storage tanks controlled by closed vent systems and add-on controls, and for wastewater streams controlled by enhanced biological treatment units. This generally means that during startup and shutdown periods, in order for a facility using add-on controls to meet the emissions and operating standards, the add-on control device needs to be turned on and operating at specified levels when the facility begins coating manufacturing operations, and the control equipment needs to continue to be operated until the facility ceases coating manufacturing operations. In some cases, the facility would need to run thermal oxidizers on supplemental fuel whenever there is insufficient concentrations of VOC for the combustion to be self-sustaining. The proposed language in 40 CFR 63.8000(a) requires that the owner or operator operate and maintain the coating manufacturing operations, including pollution control equipment, at all times to minimize emissions, except as explained in more detail in section IV.D.1.i below, to account for bypass periods of the controls for process vessels as proposed in 40 CFR 63.8005(h).

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 63.2) (Definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (D.C. Cir. 2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no

less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the Court has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source.

As the Court recognized in *U.S. Sugar Corp,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.'') As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ''). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunctions that result in releases from PRDs or emergency flaring events because the EPA had information to determine that such work practices reflected the level of control that applies to the best performers. 80 FR 75178, 75211–14 (December 1, 2015). The EPA will consider whether circumstances warrant setting standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. In this proposal at 40 CFR 63.8005(h), we provide a method to account for control device bypass periods including periods of SSM, in evaluating compliance with the overall control efficiency requirements for process vessels in Table 1, as is discussed further. We encourage commenters to provide any such information. Finally, in the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions.

The specific changes that we propose to comport the rule with the *Sierra Club* decision on SSM are listed in paragraphs a through i below:

a. 40 CFR 63.8000 General Duty

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(1)(i) by changing the ''yes'' in column 3 to a ''no.'' Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.8000(a) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.8000(a) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in column 3 to a ''no.'' Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty provision being added at 40 CFR 63.8000(a).

b. SSM Plan

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(e)(3) by consolidating the entries for subparagraphs (i) to (ix) under a single entry for 40 CFR 63.6(e)(3) and by changing the ''yes'' in column 3 to a ''no.'' Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting provisions related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and, thus, the SSM plan provisions are no longer necessary.

c. Compliance With Standards

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in column 3 to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the Court in the *Sierra Club* decision vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.6(h)(1) by changing the ''yes'' in column 3 to a ''no.'' The current language of 40 CFR 63.6(h)(1) exempts sources from opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA

requires that some section 112 standard apply continuously. Consistent with the *Sierra Club* decision, the EPA is proposing to revise standards in this rule to apply at all times.

d. 40 CFR 63.8005(d) Performance Testing

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 3 to a ''no.'' Section 63.7(e)(1) describes performance testing provisions. The EPA is instead proposing to add performance testing provisions at 40 CFR 63.8005(d)(5). The performance testing provisions we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions will exclude periods of startup or shutdown as representative conditions for conducting performance testing. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is proposing to add language that requires owners or operators to record the process information that is necessary to document operating conditions during tests and include in such record explanations to support that such conditions represent normal operation. Section 63.7(e) requires that owners or operators make available to the Administrator upon request such records ''as may be necessary to determine the condition of the performance test,'' but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add clarifies the necessary information and makes explicit the provision to record the information.

e. Monitoring

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.8 (c)(1)(i) and (iii) by changing the ''yes'' in column 3 to a ''no'' for both entries. The cross-references to the general duty and SSM plan provisions in those subparagraphs are not necessary in light of other provisions of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the provisions of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.8(d) by creating a separate entry for 40 CFR 63.8(d)(3) and by indicating ''no'' in column 3. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan provision which is no longer applicable. We are proposing to add to the rule at 40 CFR 63.8000(d)(8) text that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: ''The program of corrective action should be included in the plan required under § 63.8(d)(2).''

f. 40 CFR 63.8080 Recordkeeping

We are proposing to revise the General Provisions table (Table 10) entries for 40 CFR 63.10(b)(2) by creating a single row for 40 CFR 63.10(b)(2)(i) and (ii) and indicating a ''no'' in column 3. Section 63.10(b)(2)(i) describes the recordkeeping provisions during startup and shutdown. Section 63.10(b)(2)(ii) describes the recordkeeping provisions during a malfunction. These recordkeeping provisions are no longer necessary because we are proposing to remove the exemptions and other special provisions applicable to SSM periods so there is no reason to retain additional recordkeeping for these periods. We are also proposing to replace the references to 40 CFR 63.998(d)(3) and 63.998(c)(1)(ii)(D) through (G) in the former entry for 40 CFR 63.10(b)(2)(i) with a reference to a new paragraph 40 CFR 63.8080(h) that specifies recordkeeping in the event of any deviation from an emission limitation. The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions require the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. We are proposing that this provision apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add to 40 CFR 63.8080(h) a provision that requires source owners or operators to keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and a description of the method used to estimate the emissions. Examples of such estimation methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that source owners or operators keep records of this information to ensure that there is adequate information to allow us to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

We are proposing to revise the General Provisions table (Table 10) entries for 40 CFR 63.10(b)(2) by creating a single row for 40 CFR 63.10(b)(2)(iv) and (v) and indicating a ''no'' in column 3. When applicable, 40 CFR 63.10(b)(2)(iv) requires source owners or operators to record actions taken during SSM events when actions were inconsistent with their SSM plans. The provision in 40 CFR 63.10(b)(2)(v) requires source owners or operators to record actions taken during SSM events to show that actions taken were consistent with their SSM plans. These provisions will no longer be appropriate because we propose that SSM plans will no longer be required. The provisions previously applicable under 40 CFR 63.10(b)(2)(iv) and (v) to record corrective actions is now applicable by reference to 40 CFR 63.8080(h).

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.10(c)(15) by changing the ''yes'' in column 3 to a ''no.'' The EPA is proposing that 40 CFR 63.10(c)(15) no longer applies. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping provisions of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the provisions of 40 CFR 63.10(c)(10) through (12). The EPA is proposing to eliminate this provision because SSM plans would no longer be required; therefore, 40 CFR 63.10(c)(15) would no longer serve any useful purpose for affected sources.

g. 40 CFR 63.8075 Reporting

We are proposing to revise the General Provisions table (Table 10) entry for 40 CFR 63.10(d)(5)(i) by removing the reference to 40 CFR 63.8075(e)(5) and (6), but retaining the ''no'' entry. The provisions in 40 CFR 63.8075(e)(5) describe the reporting provisions for SSM in place of those at 40 CFR 63.10(d)(5)(i). To replace the SSM reporting provision, the EPA is

proposing to add reporting provisions to 40 CFR 63.8075(e)(6). The replacement language differs from the General Provisions in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires source owners or operators that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual compliance report already required under this rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this provision to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source owner or operator met the general duty to minimize emissions during a failure to meet an applicable standard.

h. Conforming Changes for Cross-References to Other Subparts

We are proposing amendments to account for instances where 40 CFR part 63, subpart HHHHH cross-references other subparts that contain SSM provisions. Proposed 40 CFR 63.8000(f) lists the referenced provisions in subparts SS, TT, and UU of part 63 that contain references to SSM periods that will no longer apply after the compliance date for the proposed amendments. Proposed 40 CFR 63.8000(f)(10) through (f)(22) lists the paragraphs or phrases within the paragraphs that will not apply after the applicable compliance dates for the proposed amendments because they are no longer applicable as a result of the proposed SSM revisions.

i. Provisions To Account for Control Device Bypass Periods in Determining Compliance

Because we are proposing to remove the SSM provisions and require compliance at all times, we are proposing to amend 40 CFR 63.8000(c) to account for bypass periods in determining compliance with the emission percent reduction provisions in Table 1 to 40 CFR part 63, subpart HHHHH for process vessels. These amendments will apply to process vessels with closed vent systems and add-on controls that contain bypass lines that could divert a vent stream to the atmosphere. We are proposing that owners and operators must measure and record during each semiannual compliance period the hours that the control device was bypassed and the source's total operating hours. They must then use the overall control efficiency required in Table 1, the total operating hours, and the control efficiency of the control device to determine the allowable bypass hours during the semiannual compliance period using proposed Equation 1 in 40 CFR 63.8005(h). These changes are required because SSM periods that may involve bypassing of the control device cannot be excluded and must now be included in determining compliance.

j. Safety Devices

Because we are proposing to remove the SSM provisions and require compliance at all times, we are proposing to revise 40 CFR 63.8000(b)(2), which allows the opening of a safety device at any time conditions require it to avoid unsafe conditions. We are proposing to revise 40 CFR 63.8000(b)(2) so that opening of a safety device to avoid unsafe conditions is considered a deviation, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). We are also proposing to revise 40 CFR 63.8080(c), which is the provision to keep a record of each time a safety device is opened, to add additional recordkeeping provisions consistent with those for other deviations. As a result of these proposed changes, the opening of a safety device would be considered a deviation from the emission limits for sources using closed vent systems and add-on control devices to comply with the emission limitations in 40 CFR part 63, subpart HHHHH, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h). In the event a safety device is opened, the owners or operators would be required to comply with the general duty provision in 40 CFR 63.8000(a) to minimize emissions at all times, and to report and record information related to deviations as specified in 40 CFR 63.8075 and 63.8080, respectively, unless it is a bypass of a control for a process vessel and accounted for as specified in 40 CFR 63.8005(h).

2. Electronic Reporting Provisions

Through this proposal, the EPA is proposing that owners and operators of MCM facilities submit electronic copies of required performance test reports, performance evaluation reports, compliance reports, and NOCS reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0747. The proposed rule requires that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [22] at the time of the test be submitted in the format generated through the use of the ERT and that other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of continuous monitoring systems measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For performance test reports, performance evaluation reports, compliance reports, and NOCS reports, the proposed rule requires that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed templates for these reports are included in the docket for this rulemaking.[23] The EPA specifically requests comment on the content, layout, and overall design of the templates.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. The EPA is providing these potential extensions to protect owners and operators from noncompliance in

[22] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[23] See *MCM_Compliance_Report_Draft_Template.xlsx,* available at Docket ID No. EPA–HQ–OAR–2018–0747.

cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. The situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which precludes an owner or operator from accessing the system and submitting required reports is addressed in 40 CFR 63.8075(i). The situation where an extension may be warranted due to a *force majeure* event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents an owner or operator from complying with the requirement to submit a report electronically as required by this rule is addressed in 40 CFR 63.8075(j). Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility.

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with provisions and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [24] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [25] developed in response to the White House's Digital Government Strategy.[26] For more information on the benefits of electronic reporting, see the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in Docket ID No. EPA–HQ–OAR–2018–0747.

3. Other Technical Amendments

The EPA is proposing to amend 40 CFR 63.8055(b)(4) to remove reference to paragraph (d)(4) of the Occupational Safety and Health Administration's (OSHA's) Hazard Communication standard, which dealt with OSHA-defined carcinogens. The EPA is proposing to replace that reference with its own list of HAP that must be regarded as potentially carcinogenic based on the EPA guidelines. Although paragraph (d)(4) of OSHA's standard was deleted when the Agency adopted the Globally Harmonized System of Hazard Communication in 2012, it was replaced by section A.6.4.2 of mandatory Appendix A of that standard, which reads as follows:

''Where OSHA has included cancer as a health hazard to be considered by classifiers for a chemical covered by 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, chemical manufacturers, importers, and employers shall classify the chemical as a carcinogen.'' Thus, where OSHA has regulated workplace exposure to a chemical based, at least in part, on carcinogenic risk, OSHA requires the chemical to be classified as a carcinogen. OSHA suggests that the EPA should refer to section A.6.4.2 of Appendix A of 29 CFR 1910.1200 in its discussion of 40 CFR 63.8055 and consider chemicals that meet this provision be considered ''OSHA-defined carcinogens.''

We are proposing to replace these references to carcinogens in 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 11 to 40 CFR part 63, subpart HHHHH) of those organic HAP that must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass.

We propose to include organic HAP in proposed Table 11 to 40 CFR part 63, subpart HHHHH if they were categorized in the *EPA's Prioritized Chronic Dose-Response Values for Screening Risk Assessments* (dated May 9, 2014) as a ''human carcinogen,'' ''probable human carcinogen,'' or ''possible human carcinogen'' according to *The Risk Assessment Guidelines of 1986* (EPA/600/8–87/045, August 1987), or as ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' or with ''suggestive evidence of carcinogenic potential'' according to the *Guidelines for Carcinogen Risk Assessment* (EPA/630/P–03/001F, March 2005).

There are several additional revisions that we are proposing to 40 CFR part 63, subpart HHHHH to clarify text or correct typographical errors, grammatical errors, and cross-reference errors. These proposed editorial corrections and clarifications are summarized in Table 4 of this preamble.

TABLE 4—SUMMARY OF PROPOSED EDITORIAL AND MINOR CORRECTIONS TO 40 CFR PART 63, SUBPART HHHHH

Provision	Proposed revision
40 CFR 63.7985(d)(2)	Remove the word ''future.''
40 CFR 63.8050(c)(3)	Correct reference to subparagraph (c)(2)(i) to (iii) to (c)(3)(i) to (iii).
40 CFR 63.8075(c)(1)	Clarify the paragraphs to say 63.8005 through 63.8030 to include heat exchangers.
40 CFR 63.8075(d)	Change the reference from (d)(2) to (d)(1).
40 CFR 63.8075(d)(2)(ii)	Remove the word ''initial.''
40 CFR 63.8090(b)	Clarify the sentence to say, ''You are in compliance with this subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in this subpart.''
Table 8 to 40 CFR part 63, subpart HHHHH	Correct ''FFFF'' to ''HHHHH.''

[24] *EPA's Final Plan for Periodic Retrospective Reviews,* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0747.*

[25] *E-Reporting Policy Statement for EPA Regulations,* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[26] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

4. Ongoing Emissions Compliance Demonstrations

As part of an ongoing effort to improve compliance with various federal air emission regulations, the EPA reviewed the compliance demonstration provisions in the MCM NESHAP. Currently, if a source owner or operator chooses to comply with the standards using add-on controls, the results of an initial performance test are used to determine compliance; however, the rule does not require ongoing periodic performance testing for these emission capture systems and add-on controls. We are proposing periodic testing of add-on control devices, in addition to the one-time initial emissions testing and ongoing continuous parametric monitoring, to ensure ongoing compliance with the standards.

Although ongoing monitoring of operating parameters is required by the NESHAP and is conducted by owners or operators, as control devices age over time, the destruction efficiency of the control devices can be compromised due to various factors. The EPA published several documents that identify potential control device operational problems that could decrease emission reduction efficiency, including, but not limited to the following: Corrosion due to halogens in HAP exhaust for thermal oxidizers, catalyst deactivation or poisoning for catalytic oxidizers, leaking valves for regenerative oxidizers, adsorbent plugging and fouling for adsorbers, and changing waste stream temperatures and absorption characteristics for condensers and concentrators.[27]

The Institute of Clean Air Companies (ICAC), an industry trade group currently representing 50 emission control device equipment manufacturers, corroborated the fact that control equipment degrades over time in their comments in a prior rulemaking. In their comments on proposed revisions to the NESHAP General Provisions (72 FR 69, January 3, 2007), ICAC stated that ongoing maintenance and checks of control devices are necessary in order to ensure emissions control technology remains effective. Based on the need for vigilance in maintaining equipment to stem degradation, in this action, we are proposing to require periodic performance testing of certain add-on control devices on a 5-year cycle and removing the allowance for demonstration of compliance using a design evaluation for ''small control devices,'' defined as controlling less than 10 tons of HAP per year. We are not proposing to revise performance demonstration requirements for condensers because outlet gas temperature correlates directly with control efficiency and continuous monitoring of outlet gas temperature provides a direct indication of whether control efficiency has been met. Likewise, the proposed performance testing provision of incineration control devices allows an exception from periodic testing for facilities using instruments to continuously measure VOC emissions. Using VOC continuous emissions monitoring systems (CEMS) would be a direct indicator of compliance. The use of VOC CEMS to demonstrate compliance would obviate the need for initial or periodic control device testing. Our available data indicates that the oxidizers are the only other control device used to comply with this standard. Incinerators, however, could experience this degradation and reduced control efficiency that would not be captured with operating parameter monitoring of temperature.

We have identified several states with MCM facilities that already require such testing every 5 years synchronized with 40 CFR part 70 air operating permit renewals.

The proposed periodic performance testing provisions would require owners or operators of facilities complying with the standards using a closed vent system to control and which are not already on a 5-year testing schedule to conduct the first of the periodic performance tests within 3 years of the effective date of the revised standards. Afterward, the owners or operators would conduct periodic testing before they renew their operating permits, but no longer than 5 years following the previous performance test. Additionally, owners or operators of facilities that have already tested as a condition of their permit within the last 2 years before the effective date would be permitted to maintain their current 5-year schedule and not be required to move up the date of the next test to the 3-year date specified above. This proposed provision would require periodic air emissions testing to measure organic HAP destruction or removal efficiency at the inlet and outlet of the thermal oxidizer. The emissions would be measured as total gaseous organic mass emissions as carbon using either EPA Method 18 of appendix A–6 to 40 CFR part 60, or EPA Method 25 or 25A of appendix A–7 to 40 CFR part 60, which are the methods currently required for the initial compliance demonstration.

We estimate that the cost associated with this proposed provision, which includes a control device emissions destruction or removal efficiency test using EPA Method 18, 25 or 25A, would be approximately $19,000 per control device every 5 years for those sources not already required by their title V operating permit to conduct testing at least every 5 years. The cost estimate is included in the memorandum titled *Draft Costs/Impacts of the 40 CFR part 63 Subpart HHHHH Monitoring Review Revisions,* in the MCM Docket. Based on the development of cost estimates for other NESHAP, we know that certain states typically require periodic testing as a condition of renewing title V operating permits. We have assumed that facilities located in these states are currently required to conduct periodic performance tests as a condition of their 40 CFR part 70 operating permits, and the proposed periodic testing would not add any new testing provisions and the estimated costs would not apply to these facilities. We have assumed that facilities in other states would have additional testing provisions and costs. Periodic performance tests ensure that any thermal oxidizers used to comply with the NESHAP in the future would be properly maintained over time, thereby reducing the potential for acute emissions episodes and non-compliance.

E. What compliance dates are we proposing?

Amendments to the MCM NESHAP proposed in this rulemaking for adoption under CAA section 112(d)(2) and (3) are subject to the compliance deadlines outlined in the CAA under section 112(i).

For all of the provisions we are proposing under CAA sections 112(d)(2) and (3), we are proposing all affected source owners or operators must comply with all of the amendments no later than 3 years after the effective date of the final rule, or upon startup, whichever is later. For existing sources, CAA section 112(i) provides that the compliance date be as expeditious as practicable, but no later than 3 years after the effective date of the standard. (''Section 112(i)(3)'s three-year maximum compliance period applies generally to any emission standard . . . promulgated under [section 112].'' *Association of Battery Recyclers* v. *EPA,* 716 F.3d 667, 672 (D.C. Cir. 2013)). In determining what compliance period is

[27] *Control Techniques for Volatile Organic Compound Emissions from Stationary Sources,* EPA/453/R–92–018, December 1992, *Control Technologies for Emissions from Stationary Sources,* EPA/625/6–91/014, June 1991, and *Survey of Control Technologies for Low Concentration Organic Vapor Gas Streams,* EPA–456/R–95–003, May 1995.

as expeditious as practicable, we consider the amount of time needed to plan and construct projects and change operating procedures. As provided in CAA section 112(i), all new affected sources would comply with these provisions by the effective date of the final amendments to the MCM NESHAP or upon startup, whichever is later.

All affected facilities would have to continue to meet the current provisions of 40 CFR part 63, subpart HHHHH until the applicable compliance date of the amended rule. The final action is not expected to be a ''major rule'' as defined by 5 U.S.C. 804(2), so the effective date of the final rule will be the promulgation date as specified in CAA section 112(d)(10).

We are proposing to change the provisions for SSM by removing the exemption from the emission limitations (*i.e.,* emission limits, operating limits, and work practice standards) during SSM periods and by removing the provision to develop and implement an SSM plan. We are also proposing that owners and operators will now need to take into account control device bypass periods, even if during SSM periods, when demonstrating compliance with the percent emission reduction provisions for process vessels in Table 1 to 40 CFR part 63, subpart HHHHH.

Our experience with similar industries further shows that this sort of regulated facility generally requires a substantial time period to read and understand the amended rule provisions; to evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; and to update their operation, maintenance, and monitoring plan to reflect the revised provisions. It is also possible that some facilities may need to upgrade their emission capture and control systems because of the proposed changes to the bypass provisions in the compliance calculations. These upgrades may require additional time to evaluate the current control system, plan for needed upgrades, and then design, purchase, and install those upgrades. From our assessment of the time frame needed for compliance with the entirety of the revised requirements related to the SSM provisions, including the need to account for bypass periods, the EPA considers a period of 3 years to be the most expeditious compliance period practicable and, thus, is proposing that existing affected sources be in compliance with 40 CFR part 63, subpart HHHHH's revised SSM provisions within 3 years of the final amendment's effective date.

Therefore, for all affected sources that commence construction or reconstruction on or before September 4, 2019, we are proposing that it is necessary to provide 3 years after the effective date of the final rule (or upon startup, whichever is later) for owners and operators to comply with the provisions that have been amended to remove the exemption from the emission limitations during SSM periods. For all affected sources that commenced construction or reconstruction after September 4, 2019, we are proposing that owners and operators comply with the amended provisions by the effective date of the final rule (or upon startup, whichever is later).

As discussed elsewhere in this preamble, we are also proposing to add a provision that notifications, performance test results, and semiannual compliance reports be submitted electronically. We are proposing that the semiannual compliance report be submitted electronically using a new template, which is available for review and comment as part of this action. Regarding electronic reporting, our experience with similar industries shows that a time period of a minimum of 90 days, and, more typically, 180 days, is generally necessary to convert reporting mechanisms to install necessary hardware and software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, and reliably employ electronic reporting. From our assessment of the time frame needed for compliance with the new electronic reporting provisions, the EPA considers a period of 180 days to be the most expeditious compliance period practicable and, thus, is proposing that all sources would begin complying with the new electronic reporting provisions beginning no later than 180 days after the regulation's effective date.

We solicit comment on these proposed compliance periods, and we specifically request submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended provisions and the time needed to make the adjustments for compliance with any of the revised provisions. We note that information provided may result in changes to the proposed compliance dates.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Currently, 43 major sources subject to the MCM NESHAP are operating in the United States. The affected source under the NESHAP is the facility-wide collection of equipment used to manufacture coatings and includes all process vessels; storage tanks for feedstocks and products; components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks; transfer racks; and cleaning operations. A coating is defined as material such as paint, ink, or adhesive that is intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation where materials are blended, mixed, diluted, or otherwise formulated.

B. What are the air quality impacts?

At the current level of control, estimated emissions of volatile organic HAP from the MCM source category are approximately 405 tpy.

The proposed amendments require that all 43 major sources in the MCM source category comply with the relevant emission standards at all times, including periods of SSM. We were unable to quantify the emissions that occur during periods of SSM or the specific emissions reductions that would occur as a result of this action. However, eliminating the SSM exemption has the potential to reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The proposed amendments would have no effect on the energy needs of the affected facilities and would, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that to comply with the proposed amendments each facility in the MCM source category will experience increased reporting and recordkeeping costs. The recordkeeping and reporting costs are presented in

section VIII.C of this preamble. The costs include time to read and understand the rule amendments. Costs associated with elimination of the SSM exemption were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the provision to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports.

We are also proposing a provision for performance testing no less frequently than every 5 years for sources in the MCM source category using add-on controls to demonstrate compliance. We estimate that 12 facilities subject to the MCM NESHAP and using add-on control devices would incur costs to conduct control device performance testing because they are not required by their permits to conduct testing every 5 years. This total does not include facilities in the MCM source category that have add-on controls and are currently required to perform periodic performance testing as a condition of their state operating permit. The cost for a facility to conduct a destruction or removal efficiency performance test using EPA Method 25 or 25A is estimated to be about $19,000. The total cost for all 12 facilities to test their add-on control devices in a single year, plus one facility completing a retest to account for 5 percent of control devices failing to pass the first test, would be $247,000. The total annualized testing cost, including retests, is approximately $57,000 per year at an interest rate of 5.25 percent and an additional $6,000 in reporting costs per facility in the year in which the test occurs for the MCM source category. For further information on the potential costs, see the cost tables in the memoranda titled *Estimated Costs/Impacts of the 40 CFR part 63 Subpart HHHHH Monitoring Review Revisions,* May 2019, and the *Economic Impact and Small Business Screening Assessments for Proposed Amendments to National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing Facilities (Subpart HHHHH),* in the MCM Docket.

D. What are the economic impacts?

The economic impact analysis is designed to inform decision-makers about the potential economic consequences of a regulatory action. For the current proposal, the EPA estimated the cost of becoming familiar with the rule and re-evaluating previously developed SSM record systems and performing periodic emissions testing at certain facilities with add-on controls that are not already required to perform testing. To assess the maximum potential impact, the largest cost expected to be experienced in any 1 year is compared to the total sales for the ultimate owner of the affected facilities to estimate the total burden for each facility.

For the proposed revisions to the MCM NESHAP, the 2019 equivalent annualized value (in 2018$) of the costs over the period 2020–2026 is $66,000 assuming a 3-percent discount rate and $73,000 assuming a 7-percent discount rate. The 43 affected facilities are owned by 27 different parent companies, and the total costs associated with the proposed amendments range from 0.000005 to 0.025 percent of annual sales revenue per ultimate owner. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine whether any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. Two of the facilities potentially affected by the proposed revisions to the MCM NESHAP are small entities. However, the costs associated with the proposed amendments for these two affected small entities range from 0.002 to 0.025 percent of annual sales revenues per ultimate owner. Therefore, there are no significant economic impacts on a substantial number of small entities from these proposed amendments.

More information and details of this analysis are provided in the technical document titled *Economic Impact and Small Business Screening Assessments for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (Subpart HHHHH),* available in the MCM Docket.

E. What are the benefits?

As stated above in section V.B of this preamble, we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption.

Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866, we did not monetize the benefits of reducing these emissions. This does not mean that there are no benefits associated with the potential reduction in volatile organic HAP from this rule.

VI. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in receiving additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR website, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.

2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).

3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations).

4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2018–0747 (through the method described in the **ADDRESSES** section of this preamble).

5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all

facilities. The file should contain all suggested changes for all sources at that facility (or facilities). We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards.*

VIII. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to OMB for review.

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

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

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposal have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2115.06. You can find a copy of the ICR in the MCM Docket (Docket ID No. EPA–HQ–OAR–2018–0747), and it is briefly summarized here.

The EPA is proposing to revise the SSM provisions of the rule, proposing to require periodic testing of control devices, and proposing the use of electronic data reporting for future performance test data submittals, notifications, and reports. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHH.

Respondents/affected entities: Facilities manufacturing surface coatings.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHH).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 43 respondents per year would be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 175, in year 2 is 46, and in year 3 is 85.

Total estimated burden: The average annual burden of the proposed amendments to the 43 MCM facilities over the 3 years if the amendments are finalized is estimated to be 565 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 116 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost of the proposed amendments to the MCM facilities is $65,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and operation and maintenance costs are $82,000. The total average annual agency cost of the proposed amendments over the first 3 years after the amendments are final is estimated to be $5,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 4, 2019. The EPA will respond to any ICR-related comments in the final rule.

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. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. The annualized costs associated with the proposed amendments in this action for the affected small entities is described in section V.D above and additional detail is provided in the economic impact memorandums associated with this action. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that would be affected by this action (MCM). Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and C, and IV.A, B, and C of this preamble, and are further documented in the *Miscellaneous Coating Manufacturing Risk Assessment Report,* in the MCM Docket.

I. Executive Order 13211: Actions Concerning Regulations 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) and 1 CFR Part 51

This action involves technical standards. Therefore, the EPA conducted searches for the MCM NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 21, 22, 24, 25, 25A, 25D, 26, 26A, and 29 of 40 CFR part 60, appendix A; 301, 305, 311, 316, and 320 of 40 CFR part 63, appendix A; 624, 625, 1624, 1625, 1666, and 1671 of 40 CFR part 136, appendix A; and 8260, 8260B (SW–846), 8270, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW–846 third edition. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 21, 22, 25D, 305, 316, 625, 1624, 1625, 1666, 1671, 8260, 8260B (SW–846), and 8270. The following VCS were identified as acceptable alternatives to the EPA test methods for the purpose of this rule.

The EPA proposes to use the VCS ANSI/ASME PTC 19–10–1981 Part 10 (2010), ''Flue and Exhaust Gas Analyses,'' as an acceptable alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures. This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion sources.

Additionally, the EPA proposes to use the VCS ASTM D6420–18, ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry,'' as an acceptable alternative to EPA Method 18 with the following caveats. This ASTM procedure has been approved by the EPA as an alternative to EPA Method 18 only when the target compounds are all known and the target compounds are all listed in ASTM D6420 as measurable. We are proposing that ASTM D6420–18 should not be used for methane and ethane because the atomic mass is less than 35; and ASTM D6420 should never be specified as a total VOC method. This test method employs a direct interface gas chromatograph/mass spectrometer to identify and quantify VOC.

The EPA proposes to use the VCS ASTM D2369–10(2015) el, ''Test Method for Volatile Content of Coatings''; ASTM D2697–03 (2014), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings''; and ASTM D3960–98, '' 'Standard Practice for Determining VOC Content of Paints and Related Coatings,'' as acceptable alternatives to EPA Method 24. The ASTM D2369–10 (2015) method describes a procedure for the determination of the weight percent volatile content of solvent borne and waterborne coatings. The ASTM D2697–03 (2014) method is intended to provide a measure of the volume of dry coating obtainable from a given volume of liquid coating. The ASTM D3960–98 method measures the VOC content of solvent borne and waterborne paints and related coatings as determined from the quantity of material released from a sample under specified bake conditions and subtracting exempt volatile compounds and water if present.

The EPA proposes to use the VCS CARB Method 310, ''Determination of VOC in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products,'' as an acceptable alternative to EPA Method 311. Method 310 determines the total volatile material in a product and the presence of any compounds and is also used to determine the percent by weight of the reactive organic compounds contained in aerosol coating products.

In addition, the EPA proposes to use the VCS ASTM D6348–12e1, ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy,'' as an acceptable alternative to EPA Method 320 of appendix A to 40 CFR part 63 with caveats requiring inclusion of selected annexes to the standard as mandatory. We are proposing the test plan preparation and implementation in the Annexes to ASTM D6348–12e1, Sections Al through A8 are mandatory; and in ASTM D6348–12e1, Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). We are proposing that in order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). We are proposing that the %R value for each compound be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/% R.

The ASTM D6348–12e1 method is an extractive FTIR based field test method is used to quantify gas phase concentrations of multiple target analytes from stationary source effluent.

The six ASTM methods (ASTM D6420–18, ASTM D2369–10(2015)el, ASTM D6348–12e1, ASTM D2697–03 (2014), ASTM D3960–98, and ASTM D6348–03) are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See *https://www.astm.org/.* The CARB method (VCS CARB Method 310) is available at CARB, 1001 I Street, Sacramento, CA 95814. See *https://ww2.arb.ca.gov/.* The ANSI/ASME PTC 19 10 1981 Part 10 (2010) method is available at American National Standards Institute (ANSI), 1899 L Street NW, 11th floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990 See *https://wwww.ansi.org* and *https://www.asme.org.*

Finally, the search identified seven other VCS that were potentially applicable for this rule in lieu of the EPA reference methods. After reviewing the available standards, the EPA determined that seven candidate VCS identified for measuring emissions of pollutants or their surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. Additional information for the VCS search and determinations can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coatings Manufacturing,*

which is available in the docket for this action.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable VCS, and to explain why the EPA should use such standards in this regulation.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in sections IV.A and IV.B of this preamble and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Operations,* January 2019, available in the MCM Docket.

As discussed in sections IV.A and B of this preamble, we performed a demographic analysis for the MCM source category, which is an assessment of risks to individual demographic groups, of the population close to the facilities (within 50 km and within 5 km). In this analysis, we evaluated the distribution of HAP-related cancer risks and noncancer hazards from the MCM source category across different social, demographic, and economic groups within the populations living near operations identified as having the highest risks.

The results of the MCM source category demographic analysis indicate that approximately 3,700 people are exposed to a cancer risk greater than or equal to 1-in-1 million and no one is exposed to a chronic noncancer HI greater than 1. For those people with a cancer risk greater than or equal to 1-in-1 million, the African American and Below Poverty Level demographic groups are higher than their respective nationwide percentages.

We do not expect this proposal to achieve significant reductions in HAP emissions. The EPA anticipates that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not significantly affect the level of protection provided to human health or the environment. The documentation for this decision is contained in section IV of this preamble and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Coating Manufacturing Operations,* January 2019, which is available in the MCM Docket.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: August 15, 2019.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 63.14 is amended by:
■ a. Adding paragraph (e)(2),
■ b. Revising paragraphs (h)(26), and (30);
■ c. Redesignating paragraphs (h)(92) through (111) as paragraphs (h)(94) through (113) and paragraphs (h)(50) through (h)(91) as paragraphs (h)(51) through (h)(92), respectively;
■ d. Adding new paragraph (h)(50);
■ e. Revising newly redesignated paragraph (h)(85);
■ f. Adding new paragraph (h)(93);
■ g. Redesignating paragraphs (k)(1) through (k)(5) as paragraphs (k)(2) through (k)(6); and
■ h. Adding new paragraph (k)(1).

The revisions and additions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(e) * * *

(2) ANSI/ASME PTC 19.10–1981 (2010), Flue and Exhaust Gas Analyses (Part 10, Instruments and Apparatus), re-issued 2010, IBR approved for § 63.8000(d).

* * * * *

(h) * * *

(26) ASTM D2369–10 (Reapproved 2015)e, Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4741(a), 63.4941(a) and (b), 63.4961(j), and 63.8055(b).

* * * * *

(30) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for §§ 63.4141(b), 63.4741(a) and (b), 63.4941(b),, and 63.8055(b).

* * * * *

(50) ASTM D3960–98, Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings IBR approved for § 63.8055(b).

* * * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.1571(a), and 63.8000(d).

* * * * *

(93) ASTM D6420–18, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for § 63.8000(d).

* * * * *

(k) * * *

(1) Method 310, ''Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products,'' amended August 1, 2014, IBR approved for § 63.8055(b).

* * * * *

Subpart HHHHH—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing

■ 3. Section 63.7985 is amended by revising paragraphs (a)(1) through (3), paragraph (b) introductory text, paragraphs (b)(1) through (3), and (d)(1) through (4) to read as follows:

§ 63.7985 Am I subject to the requirements in this subpart?

(a) * * *

(1) Are located at or are part of a major source of hazardous air pollutants (HAP) emissions, as defined in section 112(a) of the Clean Air Act (CAA);

(2) Manufacture coatings as defined in § 63.8105;

(3) Process, use, or produce HAP; and

* * * * *

(b) Miscellaneous coating manufacturing operations include the facility-wide collection of equipment described in paragraphs (b)(1) through (4) of this section that is used to

manufacture coatings as defined in § 63.8105. Miscellaneous coating manufacturing operations also include cleaning operations.

(1) Process vessels;

(2) Storage tanks for feedstocks and products;

(3) Components such as pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; and

* * * * *

(d) * * *

(1) Research and development facilities, as defined in section 112(c)(7) of the CAA;

(2) The affiliated operations located at an affected source under subparts GG (National Emission Standards for Aerospace Manufacturing and Rework Facilities), KK (National Emission Standards for the Printing and Publishing Industry), JJJJ (NESHAP: Paper and Other Web Coating), MMMM (National Emission Standards for Miscellaneous Metal Parts and Products Surface Coating Operations) and SSSS (NESHAP: Surface Coating of Metal Coil) of this part. Affiliated operations include, but are not limited to, mixing or dissolving of coating ingredients; coating mixing for viscosity adjustment, color tint or additive blending, or pH adjustment; cleaning of coating lines and coating line parts; handling and storage of coatings and solvent; and conveyance and treatment of wastewater;

(3) Ancillary equipment such as boilers and incinerators (only those not used to comply with the emission limits in Tables 1 through 5 to this subpart), chillers and refrigeration systems, and other equipment that is not directly involved in the manufacturing of a coating (*i.e.,* it operates as a closed system, and materials are not combined with materials used to manufacture the coating);

(4) Quality assurance/quality control laboratories; or

* * * * *

■ 4. Section 63.7995 is amended by revising paragraph (a) introductory text and paragraph (b), and adding paragraph (e) to read as follows:

§ 63.7995 When do I have to comply with this subpart?

* * * * *

(a) Except as specified in paragraph (e) of this section, if you have a new affected source, you must comply with this subpart according to the requirements in paragraphs (a)(1) and (2) of this section.

* * *

(b) Except as specified in paragraphs (e) of this section, if you have an existing affected source on December 11, 2003, then you must comply with the requirements for existing sources in this subpart no later than December 11, 2006.

* * * * *

(e) All affected sources that commenced construction or reconstruction on or before [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup or [date 3 years after date of publication of final rule in the **Federal Register**], whichever is later. All affected sources that commenced construction or reconstruction after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], must be in compliance with the requirements listed in paragraphs (e)(1) through (5) of this section upon initial startup, or [date of publication of final rule in the **Federal Register**], whichever is later.

(1) The general requirements specified in § 63.8000(a)(2), (b)(2), (d)(8), and (f); and § 63.8005(d)(5) and (h).

(2) The reporting requirements specified in § 63.8075(e)(5), (e)(6)(ii)(B), (e)(6)(ii)(D), (e)(6)(iii)(C), and (e)(6)(iii)(E).

(3) The recordkeeping requirements specified in § 63.8080(c), (e), (f), (h), and (i).

(4) The definitions specified in § 63.8105.

(5) The general provisions as specified in Table 10 to subpart HHHHH.

■ 5. Section 63.8000 is amended by:

■ a. Revising paragraphs (a), (b)(2), (c)(3), introductory text to paragraph (d)(1), and paragraphs (d)(1)(i) and (iii);

■ e. Removing and reserving paragraph (d)(2);

■ f. Revising paragraphs (d)(3),(4)(i)(A), (ii)(C), and (iv); and

■ h. Adding paragraphs (d)(8), (e), and (f).

The revisions and additions read as follows:

§ 63.8000 What are my general requirements for complying with this subpart?

(a) You must comply with paragraphs (a)(1) and (2) of this section.

(1) Except as specified in paragraph (a)(2) of this section, you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times, except during periods of startup, shutdown, and malfunction. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§ 63.8005 through 63.8025 (or the alternative means of compliance in § 63.8050), except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.8070, 63.8075, and 63.8080.

(2) Beginning no later than the compliance dates specified in § 63.7995(e), paragraph (a)(1) of this section no longer applies. Instead, beginning no later than the compliance dates specified in § 63.7995(e), you must be in compliance with the emission limits and work practice standards in Tables 1 through 5 to this subpart at all times. You must meet the requirements specified in paragraphs (b) and (c) of this section. You must meet the requirements specified in §§ 63.8005 through 63.8030 (or the alternative means of compliance in § 63.8050), except as specified in paragraph (d) of this section. You must meet the notification, reporting, and recordkeeping requirements specified in §§ 63.8070, 63.8075, and 63.8080.

(b) * * *

(2) You must comply with paragraphs (b)(2)(i) and (ii) of this section.

(i) Except as specified in paragraph (b)(2)(ii) of this section, opening of a safety device, as defined in § 63.8105, is allowed at any time conditions require it to avoid unsafe conditions.

(ii) Beginning no later than the compliance dates specified in § 63.7995(e), paragraph (b)(2)(i) of this section no longer applies. Instead, opening of a safety device, as defined in § 63.8105, is considered a deviation, as defined in § 63.8105, unless it is a bypass of a control for a process vessel and accounted for as specified in § 63.8005(h).

(c) * * *

(3) If you use a halogen reduction device to reduce hydrogen halide and halogen HAP emissions that are generated by combusting halogenated vent streams, you must meet the requirements of § 63.994, except as specified in paragraph (f) of this section, and the requirements referenced therein. If you use a halogen reduction device before a combustion device, you must determine the halogen atom emission rate prior to the combustion device according to the procedures in § 63.115(d)(2)(v).

(d) * * *

(1) Requirements for performance tests. The requirements specified in paragraphs (d)(1)(i) through (vi) of this section apply instead of or in addition to the requirements for performance testing of control devices as specified in subpart SS of 40 CFR part 63.

(i) Conduct gas molecular weight analysis using Method 3, 3A, or 3B in appendix A to 40 CFR part 60. As an alternative to EPA Method 3B for the manual procedures only and not the instrumental procedures, you may use ANSI/ASME PTC 19–10–1981 Part 10(incorporated by reference, see § 63.14) as an acceptable alternative.

* * * * *

(iii) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, to comply with any of the emission limits specified in Tables 1 through 6 to this subpart you may use the alternatives specified in paragraphs (d)(1)(iii)(A) or (B) of this section.

(A) As an alternative to using Method 18, Method 25/25A, or Method 26/26A of 40 CFR part 60, appendix A, you may use Method 320 of 40 CFR part 60, appendix A. When using Method 320, you must follow the analyte spiking procedures of section 13 of Method 320, unless you demonstrate that the complete spiking procedure has been conducted at a similar source. As an alternative to Method 320 of Appendix A to 40 CFR part 63, you may use ASTM Method D6348–12e1 (incorporated by reference, see § 63.14), with the caveats that the test plan preparation and implementation in the Annexes to ASTM Method D6348–12el, Sections Al through A8 are mandatory; and in ASTM Method D6348–12e1 Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

Reported Results = (Measured Concentration in the Stack × 100)/% R.

(B) As an alternative to using EPA Method 18, you may also use ASTM D6420–18 (incorporated by reference, see § 63.14), but only when the target compounds are all known and the target compounds are all listed in ASTM D6420–18 as measurable; ASTM D6420–18 should not be used for methane and ethane; and ASTM D6420–18 may not be used as a total VOC method.

* * * * *

(vi) You must conduct periodic performance tests and establish the operating limits required by §§ 63.8005(e), 63.8010(b)(1), and 63,8050(d)(3) within 5 years following the previous performance test. You must conduct the initial or first periodic performance test before [date 3 years after date of publication of final rule in the **Federal Register**], unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70, or 40 CFR part 71, and have conducted a performance test on or after [date 2 years before date of publication of final rule in the **Federal Register**]. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

(2) [Reserved]

(3) Periodic verification. For a control device with total inlet HAP emissions less than 1 ton per year (tpy), you must establish at least one operating limit for a parameter that you will measure and record at least once per averaging period (*i.e.,* daily or block) to verify that the control device is operating properly. You may elect to measure the same parameter that is required for control devices that control inlet HAP emissions equal to or greater than 1 tpy. If the parameter will not be measured continuously, you must request approval of your proposed procedure in the precompliance report. You must identify the operating limit or range and the measurement frequency, and you must provide rationale to support how these measurements demonstrate the control device is operating properly.

(4) * * *

(i) * * *

(A) If you wish to use a CEMS other than a Fourier Transform Infrared Spectroscopy (FTIR) meeting the requirements of Performance Specification 15 or a hydrogen chloride (HCl) CEMS meeting the requirements of Performance Specification 18 and Quality Assurance Procedure 6 to measure hydrogen halide and halogen HAP before we promulgate a Performance Specification for such CEMS, you must prepare a monitoring plan and submit it for approval in accordance with the procedures specified in § 63.8.

* * * * *

(ii) * * *

(C) For CEMS meeting Performance Specification 8 used to monitor performance of a noncombustion device, determine the predominant organic HAP using either process knowledge or the screening procedures of Method 18 on the control device inlet stream, calibrate the monitor on the predominant organic HAP, and report the results as C_I. Use Method 18, ASTM D6420–18, or any approved alternative as the reference method for the relative accuracy tests, and report the results as C_I.

* * * * *

(iv) The CEMS data must be reduced to operating day or operating block averages computed using valid data, except monitoring data also are sufficient to constitute a valid hour of data if measured values are available for at least two of the 15-minute periods during an hour when calibration, quality assurance, or maintenance activities are being performed. An operating block is a period of time from the beginning to end of batch operations in the manufacturing of a coating. Operating block averages may be used only for process vessel data.

* * * * *

(8) Beginning no later than the compliance dates specified in § 63.7995(e), in lieu of the requirements specified in § 63.8(d)(3), you must keep the written quality control program procedures required by § 63.8(d)(2) on record for the life of the affected source or until the affected source is no longer subject to the provisions of this part, to be made available for inspection, upon request, by the Administrator. If the performance evaluation plan is revised, you shall keep previous (*i.e.,* superseded) versions of the performance evaluation plan on record to be made available for inspection, upon request, by the Administrator, for a period of 5 years after each revision to the plan. The program of corrective action should be included in the plan required under § 63.8(d)(2).

(e) *General Duty.* Beginning no later than [DATE 180 DAYS AFTER THE DATE THE FINAL RULE IS PUBLISHED IN THE **Federal Register**], at all times, you must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance

requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(f) Beginning no later than the compliance dates specified in § 63.7995(e), the referenced provisions specified in paragraphs (f)(1) through (22) of this section do not apply when demonstrating compliance with this subpart through referenced provisions of subpart SS, subpart UU, and subpart TT of this part.

(1) § 63.983(a)(5) of subpart SS.

(2) The phrase ''except during periods of start-up, shutdown and malfunction as specified in the referencing subpart'' in § 63.984(a) of subpart SS.

(3) The phrase ''except during periods of start-up, shutdown and malfunction as specified in the referencing subpart'' in § 63.985(a) of subpart SS.

(4) The phrase ''other than start-ups, shutdowns, or malfunctions'' in § 63.994(c)(1)(ii)(D) of subpart SS.

(5) § 63.996(c)(2)(ii) of subpart SS.

(6) § 63.997(e)(1)(i) of subpart SS.

(7) The term ''breakdowns'' from §§ 63.998(b)(2)(i) of subpart SS.

(8) § 63.998(b)(2)(iii) of subpart SS.

(9) The phrase ''other than periods of startups, shutdowns, and malfunctions'' from § 63.998(b)(5)(i)(A) of subpart SS.

(10) The phrase ''other than periods of startups, shutdowns, and malfunctions'' from § 63.998(b)(5)(i)(C) of subpart SS.

(11) The phrase '', except as provided in paragraphs (b)(6)(i)(A) and (B) of this section'' from § 63.998(b)(6)(i) of subpart SS.

(12) The second sentence of § 63.998(b)(6)(ii) of subpart SS.

(13) § 63.998(c)(1)(ii)(D), (E), (F), and (G) of subpart SS.

(14) § 63.998(d)(1)(ii) of subpart SS.

(15) § 63.998(d)(3)(i) and (ii) of subpart SS.

(16) The phrase ''may be included as part of the startup, shutdown, and malfunction plan, as required by the referencing subpart for the source, or'' from § 63.1005(e)(4)(i) of subpart TT.

(17) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1007(e)(1)(ii)(A) of subpart TT.

(18) The phrase ''(except during periods of startup, shutdown, or malfunction)'' from § 63.1009(e)(1)(i)(A) of subpart TT.

(19) The phrase ''(except during periods of startup, shutdown, or malfunction)'' from § 63.1012(b)(1) of subpart TT.

(20) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1026(e)(1)(ii)(A) of subpart UU.

(21) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1028(e)(1)(i)(A) of subpart UU.

(22) The phrase ''(except periods of startup, shutdown, or malfunction)'' from § 63.1031(b)(1) of subpart UU.

■ 6. Section 63.8005 is amended by:

■ a. Revising paragraph (a)(2);

■ b. Revising paragraph (d)(1) and adding paragraph (d)(5);

■ c. Revising paragraph (e) introductory text and paragraph (e)(2);

■ d. Revising paragraph (g); and

■ e. Adding paragraph (h)

The revisions and addition read as follows:

§ 63.8005 What requirements apply to my process vessels?

(a) * * *

(2) For each control device used to comply with Table 1 to this subpart, you must comply with subpart SS of this part 63 as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f), and paragraphs (b) through (g) of this section.

* * * * *

(d) * * *

(1) To demonstrate initial compliance with a percent reduction emission limit in Table 1 to this subpart, you must conduct the performance test or design evaluation under conditions as specified in § 63.7(e)(1), except as specified in paragraph (d)(5) of this section, and except that the performance test or design evaluation must be conducted under worst-case conditions. Also, the performance test for a control device used to control emissions from process vessels must be conducted according to § 63.1257(b)(8), including the submittal of a site-specific test plan for approval prior to testing. The requirements in § 63.997(e)(1)(i) and (iii) also do not apply for performance tests conducted to determine compliance with the emission limits for process vessels.

* * * * *

(5) Beginning no later than the compliance dates specified in § 63.7995(e), § 63.7(e)(1) no longer applies and performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(e) Establishing operating limits. You must establish operating limits under the conditions required for your initial compliance demonstration and periodic performance tests, except you may elect to establish operating limit(s) for conditions other than those under which a performance test was conducted as specified in paragraph (e)(1) of this section and, if applicable, paragraph (e)(2) of this section.

* * * * *

(2) If you elect to establish separate operating limits for different emission episodes, you must maintain records as specified in § 63.8080(g) of each point at which you change from one operating limit to another, even if the duration of the monitoring for an operating limit is less than 15 minutes.

* * * * *

(g) Flow indicators. If flow to a control device could be intermittent, you must install, calibrate, and operate a flow indicator at the inlet or outlet of the control device to identify periods of no flow. Periods of no flow may not be used in daily or block averages.

(h) On and after the compliance date specified in § 63.7995(e), when determining compliance with the percent emission reduction requirements in Table 1 to this subpart, you must account for the time that the control device was bypassed. You must use Equation 1 of this section to determine the allowable total hours of bypass for each semi-annual compliance period. To demonstrate compliance, the actual total hours of bypass must not exceed the allowable total hours of bypass calculated by Equation 1 of this section.

$$T_{byp} = (R - OCE)/R^{*}T_{op} \quad \text{Eq. 1}$$

T_{byp} = Total allowable source operating time (hours) when the control device for stationary process vessels can be bypassed during the semiannual compliance period for any reason.

R = Control efficiency of control device, percent, as determined by Equation 6 in § 63.997(e)(2)(iv)(C).

OCE = The applicable percent emission reduction requirement in Table 1 to this subpart.

T_{op} = Total source operating time (hours) for stationary process vessels during the semiannual compliance period.

■ 7. Section 63.8010 is amended by revising paragraph (a) to read as follows:

§ 63.8010 What requirements apply to my storage tanks?

(a) You must meet each emission limit in Table 2 to this subpart that applies to your storage tanks, and you must meet each applicable requirement specified in § 63.8000(b). For each control device used to comply with Table 2 to this subpart, you must comply with subpart SS of this part 63 as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f), and paragraphs (b) through (d) of this section.

* * * * *

■ 8. Section 63.8025 is amended by revising paragraph (a) to read as follows:

§ 63.8025 What requirements apply to my transfer operations?

(a) You must comply with each emission limit and work practice standard in Table 5 to this subpart that applies to your transfer operations, and you must meet all applicable requirements specified in § 63.8000(b). For each control device used to comply with Table 5 to this subpart, you must comply with subpart SS of this part 63 as specified in § 63.8000(c), except as specified in § 63.8000(d) and (f), and paragraph (b) of this section.

* * * * *

■ 9. Section 63.8050 is amended by adding paragraphs (c)(3)(i) through (c)(3)(iii) to read as follows:

§ 63.8050 How do I comply with emissions averaging for stationary process vessels at existing sources?

* * * * *

(c) * * *

(3) * * *

(i) If emissions are routed through a closed-vent system to a condenser control device, determine controlled emissions using the procedures specified in § 63.1257(d)(3).

(ii) If emissions are routed through a closed-vent system to any control device other than a condenser, determine actual emissions after determining the efficiency of the control device using the procedures in subpart SS of this part 63 as specified in § 63.8000(c).

(iii) If the vessel is vented to the atmosphere, then actual emissions are equal to the uncontrolled emissions estimated in accordance with paragraph (c)(1) of this section.

* * * * *

■ 10. Section 63.8055 is amended by revising paragraphs (b)(1), (2), and (4) to read as follows:

§ 63.8055 How do I comply with a weight percent HAP limit in coating products?

* * * * *

(b) * * *

(1) Method 311 (appendix A to 40 CFR part 63). As an alternative to Method 311, you may use California Air Resources Board Method 310, Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products for use with aerosol cans.

(2) Method 24 (appendix A to 40 CFR part 60). You may use Method 24 to determine the mass fraction of volatile matter and use that value as a substitute for the mass fraction of HAP, or one of the alternatives in paragraph (b)(1)(i) through (iii) of this section.

(i) ASTM D2369–10(2015)e, (incorporated by reference, see § 63.14);

(ii) ASTM D2697–03 (2014) (incorporated by reference, see § 63.14); or

(iii) ASTM D3960–98 (incorporated by reference, see § 63.14).

* * * * *

(4) You may rely on formulation data from raw material suppliers if it represents each organic HAP that is present at 0.1 percent by mass or more for the HAP listed in Table 11 to this subpart, and at 1.0 percent by mass or more for other compounds. If the HAP weight percent estimated based on formulation data conflicts with the results of a test conducted according to paragraphs (b)(1) through (3) of this section, then there is a rebuttal presumption that the test results are accurate unless, after consultation, you demonstrate to the satisfaction of the permitting authority that the test results are not accurate and that the formulation data are more appropriate.

■ 11. Section 63.8070 is amended by revising paragraph (c) to read as follows:

§ 63.8070 What notifications must I submit and when?

* * * * *

(c) Notification of performance test. If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1). For any performance test required as part of the compliance procedures for process vessels in Table 1 to this subpart, you must also submit the test plan required by § 63.7(c) and the emission profile with the notification of the performance test.

■ 12. Section 63.8075 is amended by:

■ a. Revising paragraph (c)(1);

■ b. Revising paragraph (d) introductory text and paragraphs (d)(1) and (d)(2)(ii);

■ c. Revising paragraph (e)(5) introductory text and paragraph (e)(6)(ii)(B);

■ d. Adding paragraph (e)(6)(ii)(D);

■ e. Revising paragraph (e)(6)(iii) introductory text and paragraphs (e)(6)(iii)(C) and (e)(6)(iii)(E);

■ f. Adding paragraph (e)(6)(iii)(L);

■ g. Removing and reserving paragraph (e)(8)(ii)(B); and

■ h. Adding paragraphs (f) through (k).

The revisions and additions read as follows:

§ 63.8075 What reports must I submit and when?

* * * * *

(c) * * *

(1) Requests for approval to set operating limits for parameters other than those specified in §§ 63.8005 through 63.8030, including parameters for enhanced biological treatment units. Alternatively, you may make these requests according to § 63.8(f).

* * * * *

(d) Notification of compliance status report. You must submit a notification of compliance status report according to the schedule in paragraph (d)(1) of this section, and the notification of compliance status report must include the information specified in paragraph (d)(2) of this section.

(1) You must submit the notification of compliance status report no later than 150 days after the applicable compliance date specified in § 63.7995. You must submit a separate notification of compliance status report after the applicable compliance date specified in § 63.7995(e).

(2) * * *

(ii) The results of performance tests, engineering analyses, design evaluations, flare compliance assessments, inspections and repairs, and calculations used to demonstrate compliance according to §§ 63.8005 through 63.8030 and 63.8055. For performance tests, results must include descriptions of sampling and analysis procedures and quality assurance procedures.

* * * * *

(e) * * *

(5) For each SSM during which excess emissions occur, the compliance report must include the information specified in paragraphs (e)(5)(i) and (ii) of this section. On and after the compliance date specified in § 63.7995(e), these paragraphs (e)(5), (e)(5)(i), and (e)(5)(ii) of this section no longer apply.

* * * * *

(6) * * *

(ii) * * *

(B) Before the compliance date specified in § 63.7995(e), information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the

corrective action taken. On and after the compliance date specified in § 63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

* * * * *

(D) On and after the compliance date specified in § 63.7995(e), report the total bypass hours, as monitored according to the provisions of § 63.8080(h).

(iii) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to comply with the emission limit in this subpart, you must include the information in paragraphs (e)(6)(iii)(A) through (L) of this section. This includes periods of SSM.

* * * * *

(C) Before the compliance date specified in § 63.7995(e), the date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period. On and after the compliance date specified in § 63.7995(e), report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, a description of the method used to estimate the emissions, and the cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

* * * * *

(E) Before the compliance date specified in § 63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes. On and after the compliance date specified in § 63.7995(e), a breakdown of the total duration of the deviations during the reporting period into those that are due to control equipment problems, process problems, other known causes, and other unknown causes.

* * * * *

(L) A summary of the total duration of CMS data unavailability during the reporting period, and the total duration as a percent of the total source operating time during that reporting period.

* * * * *

(f) Performance test report. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], within 60 days after the date of completing each performance test required by §§ 63.8000, 63.8005, or 63.8010 of this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (f)(1) through (3) of this section. The requirements of this paragraph (f) do not affect the schedule for completing performance tests specified in §§ 63.8000, 63.8005, and 63.8010.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim that some of the performance test information being submitted under paragraph (f) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (f) of this section.

(g) Performance evaluation report. On and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], within 60 days after the date of completing each continuous monitoring system (CMS) performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (g)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under paragraph (a) of this section is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through

the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (a) of this section.

(h) You must submit to the Administrator initial compliance reports, notification of compliance status reports, and compliance reports of the following information. Beginning on and after [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], submit all subsequent reports following the procedure specified in paragraph (i) of this section.

(i) If you are required to submit reports following the procedure specified in this paragraph, you must submit reports to the EPA via CEDRI, which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*).

(1) Compliance reports. The requirements of this paragraph (i) do not affect the schedule for submitting the initial notification or the notification of compliance status reports. You must use the appropriate electronic compliance report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website.

(2) Initial notification reports and notification of compliance status reports.

You must upload to CEDRI a PDF file of each initial notification and of each notification of compliance status.

(3) All reports. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website, where applicable. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(j) Extensions for CDX/CEDRI Outages and Force Majeure Events. If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (j)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned/

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(k) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (k)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) Measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 13. Section 63.8080 is amended by:

■ a. Revising the introductory paragraph;

■ b. Revising paragraphs (c), (e), and (f); and

■ c. Adding paragraphs (h) through (j).

The revisions and additions read as follows:

§ 63.8080 What records must I keep?

You must keep the records specified in paragraphs (a) through (h) of this section.

* * * * *

(c) Before the compliance date specified in § 63.7995(e), a record of each time a safety device is opened to avoid unsafe conditions in accordance with § 63.8000(b)(2). On and after the compliance date specified in

§ 63.7995(e), the information in this paragraph (c).

(1) The source, nature, and cause of the opening.

(2) The date, time, and duration of the opening.

(3) An estimate of the quantity of total HAP emitted during the opening and the method used for determining this quantity.

* * * * *

(e) Before the compliance date specified in § 63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period. On and after the compliance date specified in § 63.7995(e), for each CEMS, you must keep the records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(f) Before the compliance date specified in § 63.7995(e), in the SSMP required by § 63.6(e)(3), you are not required to include Group 2 or non-affected emission points. For equipment leaks only, the SSMP requirement is limited to control devices and is optional for other equipment. On and after the compliance date specified in § 63.7995(e), the requirements of this paragraph (f) no longer apply.

* * * * *

(h) On and after the compliance date specified in § 63.7995(e), records of the total source operating time (hours) for stationary process vessels during the semiannual compliance period, and the source operating time (hours) when the control device for stationary process vessels was bypassed during the semiannual compliance period for any reason, as used in determining compliance with the percent emission reduction requirements in Table 1 to this subpart, as specified in § 63.8005(h).

(i) On and after the compliance date specified in § 63.7995(e), for each deviation from an emission limitation reported under § 63.8075(e)(5), a record of the information specified in paragraphs (i)(1) and (2) of this section, as applicable.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

(j) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 14. Section 63.8090 is amended by revising paragraph (b) to read as follows:

§ 63.8090 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

* * * * *

(b) Compliance with 40 CFR part 60, subpart Kb. After the compliance dates specified in § 63.7995, you are in compliance with this subpart for any storage tank that is assigned to miscellaneous coating manufacturing operations and that is both controlled with a floating roof and in compliance with the provisions of 40 CFR part 60, subpart Kb. You are in compliance with this subpart if you have a storage tank with a fixed roof, closed-vent system, and control device in compliance with 40 CFR part 60, subpart Kb, and you are in compliance with the monitoring, recordkeeping, and reporting requirements in this subpart. You must also identify in your notification of compliance status report required by § 63.8075(d) which storage tanks are in compliance with 40 CFR part 60, subpart Kb.

* * * * *

■ 15. Section 63.8105 is amended by:

■ a. In paragraph (g), revising the definitions for ''Deviation'' and ''Process vessel vent''; and

■ b. In paragraph (g), removing the definition for ''Small control device''.

The revisions read as follows:

§ 63.8105 What definitions apply to this subpart?

* * * * *

(g) * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limit, operating limit, or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Before the compliance date specified in § 63.7995(e), fails to meet any emission limit, operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart. On and after the compliance date specified in § 63.7995(e), this paragraph (3) no longer applies.

* * * * *

Process vessel vent means a vent from a process vessel or vents from multiple process vessels that are manifolded together into a common header, through which a HAP-containing gas stream is, or has the potential to be, released to the atmosphere. Emission streams that are undiluted and uncontrolled containing less than 50 ppmv HAP, as determined through process knowledge that no HAP are present in the emission stream or using an engineering assessment as discussed in § 63.1257(d)(2)(ii), test data using Method 18 of 40 CFR part 60, appendix A, or any other test method that has been validated according to the procedures in Method 301 of appendix A of this part, are not considered process vessel vents. Flexible elephant trunk systems when used with closed vent systems and drawing ambient air (*i.e.,* the system is not ducted, piped, or otherwise connected to the unit operations) away from operators when vessels are opened are not process vessel vents. Process vessel vents do not include vents on storage tanks, wastewater emission sources, or pieces of equipment subject to the requirements in Table 3 of this subpart. A gas stream going to a fuel gas system is not a process vessel vent. A gas stream routed to a process for a process purpose is not a § 63.8075 vent.

* * * * *

■ 16. Table 1 to Subpart HHHHH of Part 63 is amended by revising row 4 to read as follows:

* * * * *

TABLE 1 TO SUBPART HHHHH OF PART 63—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR PROCESS VESSELS

* * * * * * *

For each . . .	You must . . .	And you must . . .
* * *	*	* * *
4. Halogenated vent stream from a process vessel subject to the requirements of item 2 or 3 of this table for which you use a combustion control device to control organic HAP emissions.	a. Use a halogen reduction device after the combustion control device; or b. Use a halogen reduction device before the combustion control device.	i. Reduce overall emissions of hydrogen halide and halogen HAP by ≥95 percent; or ii. Reduce overall emissions of hydrogen halide and halogen HAP to ≤0.45 kilogram per hour (kg/hr). Reduce the halogen atom mass emission rate to ≤0.45 kg/hr.

■ 17. Table 3 to Subpart HHHHH of Part 63 is revised to read as follows:

As required in § 63.8015, you must meet each requirement in the following table that applies to your equipment leaks.

TABLE 3 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR EQUIPMENT LEAKS

For all . . .	You must . . .
1. Equipment that is in organic HAP service at an existing source.	a. Comply with the requirements in §§ 63.424(a) through (d) and 63.428(e), (f), and (h)(4), except as specified in § 63.8015(b); or b. Comply with the requirements of subpart TT of this part, except as specified in § 63.8000(f); or c. Comply with the requirements of subpart UU of this part, except as specified in §§ 63.8000(f) and 63.8015(c) and (d).
2. Equipment that is in organic HAP service at a new source.	a. Comply with the requirements of subpart TT of this part, except as specified in § 63.8000(f); or b. Comply with the requirements of subpart UU of this part, except as specified in §§ 63.8000(f) and 63.8015(c) and (d).

■ 18. The title of Table 8 to Subpart HHHHH of Part 63 is amended to read as follows:

Table 8 to Subpart HHHHH of Part 63—Soluble Hazardous Air Pollutants

As specified in § 63.8020, the soluble HAP in wastewater that are subject to management and treatment requirements of this subpart are listed in the following table:

* * * * *

■ 19. Table 9 to Subpart HHHHH of Part 63 is amended by adding rows 4 and 5 to read as follows:

As required in § 63.8075(a) and (b), you must submit each report that applies to you on the schedule shown in the following table:

TABLE 9 TO SUBPART HHHHH OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a . . .	The report must contain . . .	You must submit the report . . .
* *	* *	* * *
4. Performance test report	The information specified in § 63.8075(f).	Within 60 days after completing each performance test according to the requirements in § 63.8075(f).
5. Performance evaluation report	The information specified in § 63.8075(g).	Within 60 days after completing each continuous monitoring system (CMS) performance evaluation according to the requirements in § 63.8075(g).

■ 20. Table 10 to Subpart HHHHH of Pat 63 is revised to read as follows:

As specified in § 63.8095, the parts of the General Provisions that apply to you are shown in the following table:

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHH

Citation	Subject	Explanation
§ 63.1	Applicability	Yes.
§ 63.2	Definitions	Yes.
§ 63.3	Units and Abbreviations	Yes.
§ 63.4	Prohibited Activities	Yes.
§ 63.5	Construction/Reconstruction	Yes.
§ 63.6(a)	Applicability	Yes.

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHH—Continued

Citation	Subject	Explanation
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Yes.
§ 63.6(b)(5)	Notification	Yes.
§ 63.6(b)(6)	[Reserved]	
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	Yes.
§ 63.6(c)(3)–(4)	[Reserved]	
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Yes.
§ 63.6(d)	[Reserved]	
§ 63.6(e)(1)(i)	General Duty to minimize emissions	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See 63.8000(a) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to correct malfunctions as soon as possible.	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(e)(1)(iii)–(2)	Operation & Maintenance	Yes.
§ 63.6(e)(3)	Startup, shutdown, and malfunction plan	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(f)(1)	Compliance Except During SSM	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Yes.
§ 63.6(h)(1)	SSM Exemption	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.6(h)(2)–(9)	Opacity/Visible Emission (VE) Standards	Only for flares for which Method 22 observations are required as part of a flare compliance assessment.
§ 63.6(i)(1)–(14)	Compliance Extension	Yes.
§ 63.6(j)	Presidential Compliance Exemption	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Yes, except substitute 150 days for 180 days.
§ 63.7(a)(3)–(4)	CAA Section 114 Authority, Force Majeure	Yes, and these paragraphs also apply to flare compliance assessments as specified under § 63.997(b)(2).
§ 63.7(b)(1)	Notification of Performance Test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Yes, except the test plan must be submitted with the notification of the performance test if the control device controls process vessels.
§ 63.7(d)	Testing Facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests	Yes, before the compliance date specified in § 63.7995(e), except that performance tests for process vessels must be conducted under worst-case conditions as specified in § 63.8005. No, on and after the compliance date specified in § 63.7995(e). See § 63.8005(d).
§ 63.7(e)(2)	Conditions for Conducting Performance Tests	Yes.
§ 63.7(e)(3)	Test Run Duration	Yes.
§ 63.7(f)	Alternative Test Method	Yes.
§ 63.7(g)	Performance Test Data Analysis	Yes.
§ 63.7(h)	Waiver of Tests	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Yes.
§ 63.8(a)(2)	Performance Specifications	Yes.
§ 63.8(a)(3)	[Reserved]	
§ 63.8(a)(4)	Monitoring with Flares	Yes.
§ 63.8(b)(1)	Monitoring	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Yes.
§ 63.8(c)(1)(i)	Maintain and operate CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See § 63.8000(a) for the general duty to maintain and operate each CMS.
§ 63.8(c)(1)(ii)	Routine repairs	Yes.
§ 63.8(c)(1)(iii)	Requirement to develop SSM plan for CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHH—Continued

Citation	Subject	Explanation
§ 63.8(c)(4)	Requirements	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part. This subpart does not contain requirements for continuous opacity monitoring systems (COMS).
§ 63.8(c)(4)(i)	CMS Requirements	No. This subpart does not require COMS.
§ 63.8(c)(4)(ii)	CMS requirements	Yes.
§ 63.8(c)(5)	COMS Minimum Procedures	No. This subpart does not contain opacity or VE limits.
§ 63.8(c)(6)	CMS Requirements	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(c)(7)–(8)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(d)(1)–(2)	CMS Quality Control	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(d)(3)	Written procedures for CMS	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e). See § 63.8000(d)(8).
§ 63.8(e)	CMS Performance Evaluation	Section 63.8(e)(6)(ii) does not apply because this subpart does not require COMS. Other sections apply only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Yes, except you may also request approval using the precompliance report.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Only for CEMS.
§ 63.8(g)(1)–(4)	Data Reduction	Only when using CEMS, except § 63.8(g)(2) does not apply because data reduction requirements for CEMS are specified in § 63.8000(d)(4)(iv). The requirements for COMS do not apply because this subpart has no opacity or VE limits.
§ 63.8(g)(5)	Data Reduction	No. Requirements for CEMS are specified in § 63.8000(d)(4). Requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.9(a)	Notification Requirements	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Yes.
§ 63.9(c)	Request for Compliance Extension	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	Yes.
§ 63.9(e)	Notification of Performance Test	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	No. This subpart does not contain opacity or VE limits.
§ 63.9(g)	Additional Notifications When Using CMS	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	Yes, except this subpart has no opacity or VE limits, and § 63.9(h)(2) does not apply because § 63.8075(d) specifies the required contents and due date of the notification of compliance status report.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.
§ 63.9(j)	Change in Previous Information	No, § 63.8075(e)(8) specifies reporting requirements for process changes.
§ 63.10(a)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	Yes.
§ 63.10(b)(2)(i)–(ii)	Records related to SSM	No. Before the compliance date specified in § 63.7995(e), see §§ 63.998(d)(3) and 63.998(c)(1)(ii)(D) through (G) for recordkeeping requirements for periods of SSM. On and after the compliance date specified in § 63.7995(e), see § 63.8080(i).
§ 63.10(b)(2)(iii)	Records related to maintenance of air pollution control equipment.	Yes.
§ 63.10(b)(2)(iv)–(v)	Records related to SSM	Yes, before the compliance date specified in § 63.7995(e). No, on and after the compliance date specified in § 63.7995(e).
§ 63.10(b)(2)(vi), (x), and (xi)	CMS Records	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.10(b)(2)(vii)–(ix)	Records	Yes.
§ 63.10(b)(2)(xii)	Records	Yes.
§ 63.10(b)(2)(xiii)	Records	Yes.
§ 63.10(b)(2)(xiv)	Records	Yes.
§ 63.10(b)(3)	Records	Yes.
§ 63.10(c)(1)–(6),(9)–(14)	Records	Only for CEMS; requirements for CPMS are specified in referenced subpart SS of this part.
§ 63.10(c)(7)–(8), (15)	Records	No. Recordkeeping requirements are specified in § 63.8080.
§ 63.10(d)(1)	General Reporting Requirements	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	No. This subpart does not contain opacity or VE limits.

TABLE 10 TO SUBPART HHHHH OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART HHHHH—Continued

Citation	Subject	Explanation
§ 63.10(d)(4)	Progress Reports	Yes.
§ 63.10(d)(5)(i)	SSM Reports	No. Before the compliance date specified in § 63.7995(e), see § 63.8075(e)(5) and (6) for the SSM reporting requirements. On and after the compliance date specified in § 63.7995(e), these requirements no longer apply.
§ 63.10(d)(5)(ii)	Immediate SSM Reports	No.
§ 63.10(e)(1)–(2)	Additional CMS Reports	Only for CEMS, but § 63.10(e)(2)(ii) does not apply because this subpart does not require COMS.
§ 63.10(e)(3)	Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(i)–(iii)	Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(3)(vi–viii)	Excess Emissions Report and Summary Report.	No. Reporting requirements are specified in § 63.8075.
§ 63.10(e)(4)	Reporting COMS data	No. This subpart does not contain opacity or VE limits.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Yes.
§ 63.11	Control and work practice requirements	Yes.
§ 63.12	Delegation	Yes.
§ 63.13	Addresses	Yes.
§ 63.14	Incorporation by Reference	Yes.
§ 63.15	Availability of Information	Yes.

■ 21. Table 11 to Subpart HHHHH of Part 63 is added to read as follows:

TABLE 11 TO SUBPART HHHHH OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,37′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4

TABLE 11 TO SUBPART HHHHH OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

[FR Doc. 2019–18344 Filed 9–3–19; 8:45 am]

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